



# Title IX Procedures

Adopted July 20, 2017



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## **Important Information for Victims of Sexual Misconduct Needing Immediate Assistance**

If you or anyone you know may have been the victim of Sexual Misconduct (including harassment and violence), North Florida Community College (“NFCC”) strongly encourages you to **call 911 to immediately seek law enforcement and medical assistance**. NFCC’s Office of Campus Safety and Security is available from 7:30 a.m. until 11:30 p.m. on weekends and holidays and from 6:30 a.m. until 12:00 a.m. on weekdays. NFCC’s Office of Campus Safety and Security can be reached by calling (850) 973-0280.

During the hours of 8:30 a.m. to 4:30 p.m. on weekdays, NFCC’s Title IX Coordinator, Tyler Coody, is available by telephone (850-973-1639), email ([coodyt@nfcc.edu](mailto:coodyt@nfcc.edu)), or in person (325 NW Turner Davis Dr., Building 12, Room 128B, Madison, FL). NFCC’s Deputy Title IX Coordinator, Jhan Reichert, is available by telephone (850-973-9485), email ([reichertj@nfcc.edu](mailto:reichertj@nfcc.edu)), or in person (325 NW Turner Davis Dr., Building 4, Room 102, Madison, FL).

More information regarding available medical and emotional support, as well as the contact information for local law enforcement agencies, is attached to this policy as **Appendix C**.

## **Title IX**

Title IX of the Education Amendments of 1972 (“Title IX”) was created to protect individuals in federally funded education programs or activities from sex-based discrimination. 20 U.S.C. §1681. Title IX states, in pertinent part, as follows:

no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.

20 U.S.C. §1681; 34 C.F.R. §106.31.

Title IX protects all students and employees at NFCC from sex discrimination, including sexual violence.

## **Section 1. Introduction**

### **a. Notice of Non-Discrimination and Identity of Title IX Coordinator**

NFCC is dedicated to the concept of equal opportunity and access to all programs and activities. In accordance with federal and state laws, including Title IX, NFCC does not discriminate in any of its programs and activities on the basis of age, color, gender, sex, religion, ethnicity, national origin, race, marital status, genetic information, physical or mental disability or any other characteristic protected by law. In accordance with Title IX, NFCC prohibits Sexual Misconduct (including sexual harassment and/or sexual violence) in its programs and activities.

NFCC is required to designate at least one employee (“Title IX Coordinator”) to coordinate NFCC’s efforts to comply with and carry out its responsibilities under Title IX including any investigation of any complaint communicated to NFCC alleging its noncompliance with Title IX or alleging any actions which would be prohibited by Title IX.

NFCC’s Title IX Coordinator and Deputy Title IX Coordinator are as follows:

<b>Title IX Coordinator</b>	<b>Deputy Title IX Coordinator</b>
Tyler Coody 325 NW Turner Davis Dr. Building 12, Room 128B Madison, FL 850-973-1639 coodyt@nfcc.edu	Jhan Reichert 325 NW Turner Davis Dr. Building 4, Room 102 Madison, FL 850-973-9485 reichertj@nfcc. du

Individuals may also contact the United States Department of Education’s (“US DOE”) office for Civil Rights (“OCR”) as follows:

Atlanta Office  
Office for Civil Rights  
U.S. Department of Education

61 Forsyth St. S.W., Suite 19T10  
Atlanta, GA 30303-8927  
Telephone: 404-974-9406  
FAX: 404-974-9471; TDD: 800-877-8339  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)

## **b. Definitions**

**Business Day** – Means Monday through Friday, excluding any day when NFCC is closed.

**Consent** – Pursuant to F.S. §794.011, “consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

Consent also occurs when individuals willingly, unambiguously, and knowingly agree to engage in sexual activity in a clear and affirmatively communicated way, understood by all of the parties involved. Consent is active, not passive. Signals of consent must be part of a mutual and ongoing process. Consent must be informed, freely given and mutual. There should be no coercion, intimidation, threats or acts of physical force. Whether a person has taken advantage of a position of influence over an alleged victim will be a factor in determining consent. The person shall not be mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation. This includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. Inducement of incapacitation of another with the intent to affect the ability of an individual to act or refuse to act in sexual contact negates consent. Silence does not necessarily constitute consent. Relying solely on non-verbal communication can lead to misunderstandings and harmful consequences for all of the parties involved because this form of communication may be unclear. Individuals should be able to clearly articulate why and how they knew that they had received consent and what they considered to be indications of consent before they engaged in sexual behavior. It is important to remember:

- (1) Consent to one sexual act does not constitute or imply consent to another act;
- (2) Previous consent cannot imply consent to future sexual acts;
- (3) Consent is always required and cannot be assumed based on the parties’ relationship status or sexual history together; and
- (4) Consent can be withdrawn at any time before or during sexual activity by either party.

**Dating Violence** - Pursuant to F.S. §784.046, “dating violence” means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a

relationship shall be determined based on the consideration of the following factors:

- (1) A dating relationship must have existed within the past 6 months;
- (2) The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- (3) The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

**Domestic Violence** – Pursuant to F.S. §741.28, “domestic violence” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

**Hostile Environment** – Conduct that is sufficiently serious to deny or limit a person's ability to participate in or benefit from NFCC's programs based on sex. Relevant factors to determine whether a hostile environment exists includes, but is not limited to, the following: (1) the degree to which the conduct affected one or more individuals ability to participate in or benefit from NFCC's programs; (2) the type, frequency, and duration of the conduct; (3) the identity of and relationship between the alleged harasser and the subject or subjects of the harassment; (4) the number of individuals involved; (5) the age and sex of the alleged harasser and the subject of the harassment; (6) the size of NFCC, location of incidents, and context in which they occurred; (7) other incidents at NFCC; and (8) incidents of gender-based, but nonsexual harassment.

**Sexual Battery (a/k/a Sexual Assault in Florida)** - Pursuant to F.S. §784.011, “sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. NFCC also considers unwanted sexual touching an act of Sexual Battery for purposes of this policy.

**Sexually Cyberharass** – Pursuant to F.S. §784.049, “sexually cyberharass” means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.

**Sex Discrimination (including Gender-Based/Gender-Identity Discrimination)** - Treating someone unfavorably because of that person's sex, gender, or gender identity.

**Sexual Harassment** – Unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, or physical conduct of a sexual nature, including but not limited to sexual activity, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual’s employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or (2) such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person’s ability to participate in or benefit from NFCC’s education or work programs or activities (hostile environment). Title IX’s prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct.

**Sexual Misconduct** – Includes the definitions of Dating Violence, Domestic Violence, Sexual Battery, Sexually Cyberharass, Sex Discrimination, Sexual Harassment, Sexual Violence, and Stalking.

**Stalking** – Pursuant to F.S. §784.048, a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking. A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking. NFCC further believes that stalking can occur on a one time basis. As used in this definition, the term:

- (1) “Harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
- (2) “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.
- (3) “Credible threat” means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.
- (4) “Cyberstalk” means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a



specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

In addition to the Florida law definition of “stalking,” NFCC also considers stalking to occur when a person willfully or maliciously follows, harasses, or cyberstalks another person even if such acts occur only occur on one occasion.

**Sexual Violence** – Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (*e.g.*, due to the student’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

### **c. Policy Statement**

Sexual Misconduct involves acts which NFCC will not tolerate as they are forms of discrimination that violate the norms of society and the expectations of NFCC. NFCC is committed to providing the NFCC community with a positive environment free of Sexual Misconduct. NFCC will not permit discrimination in any of its programs and activities on the basis of sex, sexual orientation, or gender.

This policy addresses NFCC’s responsibilities to provide students and employees with a non-discriminatory environment in compliance with Title IX, the Violence Against Women Reauthorization Act, Title VII of the Civil Rights Act of 1964, and the Florida Educational Equity Act.

It is the policy of NFCC to implement preventative measures to curb acts of sexual harassment and sexual violence through education and training. NFCC will also provide services and programs to assist victims of Sexual Misconduct.

As part of its policy on providing a non-discriminatory environment, NFCC strongly encourages anyone who believes they are or knows someone who may be a victim of Sexual Misconduct to report the incident immediately to NFCC’s Title IX Coordinator. Upon receipt of any such information, NFCC will take immediate action to eliminate the harassment or violence, prevent its recurrence, and address its effects. NFCC will promptly and equitably resolve all complaints of Sexual Misconduct. Violations of this Policy may result in discipline up to and including termination from employment or expulsion from NFCC. Submission of false or bad faith complaints may also subject individuals to discipline up to and including termination from employment or expulsion from NFCC.

NFCC strictly prohibits retaliatory actions being taken against an individual for raising issues of Sexual Misconduct or participating in NFCC's investigation related thereto. Retaliation is not acceptable, and individuals engaging in such behavior may be subject to discipline up to and including termination from employment or expulsion from NFCC.

**d. Applicability and Statement of Jurisdiction**

This policy is applicable to students, employees, and third parties when such third parties are within NFCC's control. This policy and NFCC's jurisdiction applies to acts of Sexual Misconduct committed by or against students, employees, and third parties in the following situations:

(1) the Sexual Misconduct occurs in an NFCC employment or education program; and

(2) the Sexual Misconduct occurs on property owned or controlled by NFCC.

Additionally, this policy also applies when acts of Sexual Misconduct occur outside on an NFCC employment or education program but the Sexual Misconduct adversely impacts an NFCC employment or educational program for students, employees or third parties, or adversely impacts students, employees or third parties located on property owned or controlled by NFCC.

### **Section 3. Privacy and Confidentiality**

NFCC is aware of the private and sensitive nature of matters involving Sexual Misconduct. In carrying out its Title IX responsibilities and to the extent permitted under federal and state laws, NFCC will work with individuals to preserve the confidentiality of matters involving Sexual Misconduct. However, certain circumstances may require that NFCC disclose the identification of complainants in order to carry out its federal and state law obligations (including Title IX) to protect imminent harm to the community. NFCC's non-consensual disclosure of Sexual Misconduct reports will be limited and the information will only be shared with individuals who are responsible for handling NFCC's response to incidents of Sexual Misconduct or to whom NFCC has a responsibility to disclose.

More information regarding privacy and confidentiality of Sexual Misconduct matters under Title IX are addressed in **Section 5** of this Policy.

## **Section 4. Prohibited Conduct**

NFCC prohibits any conduct which would serve as Sexual Misconduct or a violation of Title IX. NFCC also prohibits retaliation against individuals for the purpose of interfering with any right or privilege secured by these procedures or Title IX. Examples of prohibited conduct includes, but is not limited to, the following:

- (1) Engaging in any form of Sexual Misconduct as defined herein;
- (2) Knowingly engaging in non-consensual sex;
- (3) Making lewd or sexually suggestive comments or jokes and sexual advances;
- (4) Transmitting inappropriate images or videos that are sexually suggestive;
- (5) Recording in any form (audio, video, digital, etc.) sexual activity or nudity without the knowledge and consent of all individuals participating in the activity when a reasonable expectation of privacy exists;
- (6) Sexually suggestive or inappropriate touching;
- (7) Treating an individual unfavorably or taking adverse employment or educational action because of someone's gender or refusal to participate in sexual acts or provide sexual favors;
- (8) Treating an individual unfavorably or taking adverse employment or educational action because of someone's filing of a complaint under this Policy or exercise of any right or privilege afforded under these procedures or Title IX; and
- (9) Promising benefits or favorable treatment in exchange for sexual acts or favors.

The examples set forth herein are not inclusive and merely being provided to alert individuals about the types of conduct that is prohibited. As noted herein, any form of Sexual Misconduct is prohibited.

## **Section 5. Complaint Process and Applicable Procedures for Students**

NFCC is committed to the prompt and equitable resolution of student and employee complaints of Sexual Misconduct. As part of the resolution process, NFCC will provide for adequate, reliable, and impartial investigations of all complaints which include the opportunity for both the complainant and respondent to present witnesses and evidence. Complainants seeking to file a complaint involving Sexual Misconduct should follow the procedures outlined in the sections below.

### **a. Filing a Complaint with NFCC**

Complainants should be aware that in addition to filing a complaint with NFCC involving allegations of Sexual Misconduct, they may also file complaints with local law enforcement and are certainly encouraged to do so. Students and employees may file complaints against other students, employees, or third parties. Complaints against third parties will be handled if the allegations set forth in the complaint arose during a program or activity related to NFCC. NFCC does not limit the timeframe within which an individual must file a complaint; however, individuals should file complaints as promptly as possible. Any unnecessary delay in filing may impact the ability to gather evidence and address the incident. NFCC will also be limited in applying its disciplinary procedures against individuals who graduate or leave the employment of NFCC.

NFCC may also choose to independently initiate an investigation if it learns of acts which suggest an act of Sexual Misconduct or violation of these procedures Policy occurred even if a formal complaint is not filed. NFCC may also notify local law enforcement.

Complaints involving Sexual Misconduct should be filed with NFCC’s Title IX Coordinator or Deputy Title IX Coordinator as follows:

<b>Title IX Coordinator</b>	<b>Deputy Title IX Coordinator</b>
Tyler Coody 325 NW Turner Davis Dr. Building 12, Room 128B Madison, FL 850-973-1639 coodyt@nfcc.edu	Jhan Reichert 325 NW Turner Davis Dr. Building 4, Room 102 Madison, FL 850-973-9485 reichertj@nfcc.edu

Anonymous complaints may be made through NFCC’s Silent Witness Program (“Silent Witness”). Silent Witness allows concerned NFCC members to report information about campus safety issues to The College and University Behavioral Intervention Team (CUBIT) anonymously. CUBIT consists of a group of NFCC employees who are concerned about the safety and well-being of each

member of the NFCC family. The team is made up of members who have specific skills and backgrounds in the area of public safety, mental health and student affairs. Please know that any information you submit will be handled confidentially with the purpose of assisting the student, faculty or staff person you have named. Individuals anonymously reporting an act of Sexual Misconduct through Silent Witness are advised that NFCC will be limited in its ability to respond as it will be unable to communicate with the complainant. NFCC may also need to contact local law enforcement based on the details contained in an anonymous complaint made to Silent Witness.

If an individual elects to disclose concerns involving Sexual Misconduct to an NFCC employee other than those identified hereinabove, such employees have a responsibility to report the concerns to the Title IX Coordinator. Failure of any employee to report concerns of Sexual Misconduct to the Title IX Coordinator are subject to termination from employment.

#### **b. Requests for Informal Resolution or to Withdraw a Complaint**

Requests for Informal Resolution – Complainants may request an informal resolution when reporting an act of Sexual Misconduct or during the investigation and resolution process. NFCC’s Title IX Coordinator will determine whether the nature and severity of the alleged act of Sexual Misconduct may be appropriately addressed through an informal resolution. The Title IX Coordinator will take into consideration the severity of the act and the possible risk the respondent poses to the NFCC community. If the complainant requests informal resolution and the Title IX Coordinator determines that an informal resolution is appropriate, the Title IX Coordinator will refer the matter to the Deputy Title IX Coordinator. The Deputy Title IX Coordinator will interview the complainant and respondent, gather relevant information, implement any appropriate protective measures, and attempt to assist the complainant and respondent in reaching a mutually agreeable resolution to the complaint.

Complainants may withdraw their request for informal resolution at any time. If a request is withdrawn, the formal investigation and resolution process will re-initiate.

Requests to Withdraw a Complaint - Complainants who choose to withdraw their complaint or discontinue the resolution process may make such requests in writing to the Title IX Coordinator. Individuals are advised that requesting that a complaint be withdrawn may limit NFCC’s ability to address the issues set forth in the complaint. Upon receipt of a request that a complaint be withdrawn, NFCC’s Title IX Coordinator will consider the following:

- (1) The nature and seriousness of the allegations set forth in the complaint;
- (2) Whether the respondent has been the subject of past complaints;

- (3) The potential harm that may result if the complaint is withdrawn;
- (4) Whether a safe and non-discriminatory environment will exist at NFCC if the complaint is withdrawn; and
- (5) The rights of those involved, including the right of the respondent to receive notice of the allegations as required by the Family Educational Rights and Privacy Act (“FERPA”) and other applicable laws.

Complainants should be aware that NFCC has a responsibility to investigate and take action when it becomes aware of information that suggests violations of Title IX are occurring at NFCC. Thus, NFCC may choose to continue its investigation or notify law enforcement if necessary to comply with Title IX.

### **c. Privacy and Confidentiality**

If a complainant requests that his or her name not be revealed to the respondent or asks that NFCC not investigate or seek action against the respondent, NFCC will inform the complainant that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action the respondent. NFCC will determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students and employees, including the individual who reported the Sexual Misconduct. NFCC’s Title IX Coordinator will evaluate confidentiality requests.

There are situations in which NFCC must override an individual’s request for confidentiality in order to meet its Title IX obligations. Factors that will be considered when weighing an individual’s request for confidentiality include, but are not necessarily limited to, the following:

- (1) Circumstances that suggest there is an increased risk of the respondent committing additional acts of Sexual Misconduct;
- (2) Whether there have been other sexual violence complaints about the same respondent;
- (3) Whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
- (4) Whether the respondent threatened further sexual violence or other violence against the victim or others, and whether the sexual violence was committed by multiple respondents;
- (5) Circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (examples include, but are not limited to, whether the victim’s report reveals a pattern of perpetration

or whether the circumstances involved illicit use of drugs or alcohol at a given location or by a particular group);

- (6) Whether the sexual violence was perpetrated with a weapon;
- (7) The age of the victim subjected to the sexual violence; and
- (8) Whether NFCC possesses other means to obtain relevant evidence (e.g., security cameras, physical evidence, or through individuals).

If NFCC determines that it can respect a request not to disclose a complainant's identity to the respondent, it will take all reasonable steps to respond to the complaint consistent with the request. Although an individual's request to have his or her name withheld may limit NFCC's ability to respond fully to an individual allegation, other means may be available to address the Sexual Misconduct.

#### **d. Retaliation**

Title IX includes protections against retaliation. NFCC will take steps to prevent retaliation and strong responsive action if it occurs including, but not limited to, termination from employment or dismissal from NFCC. This includes retaliatory actions taken by NFCC employees and officials. If NFCC becomes aware of possible retaliation by other students, employees, or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it will take immediate and appropriate steps to investigate or otherwise determine what occurred.

#### **e. Procedures Upon Receipt of a Complaint**

NFCC's Title IX Coordinator is the individual responsible for overseeing the handling of all complaints involving Sexual Misconduct. If the Title IX Coordinator is the subject of the complaint, the Deputy Title IX Coordinator or Dean of Student Services will oversee the handling the complaint. The Title IX Coordinator's duties upon receipt or report of a complaint of Sexual Misconduct include, but are not limited to, the following:

- (1) Assigning and/or retaining a Title IX Investigator after consultation with NFCC's senior management;
- (2) Assigning responsibilities to the Deputy Title IX Coordinator;
- (3) Ensuring that a prompt, fair and impartial investigation is conducted;
- (4) Ensuring that a prompt, fair and impartial resolution of the complaint of Sexual Misconduct; and



(5) Communicating and coordinating with local law enforcement if necessary.

NFCC's Title IX Coordinator and others handling disciplinary proceedings involving allegations of Sexual Misconduct will receive required training under Title IX, including on issues related to prevention and compliance.

The same rights afforded to the complainant during the investigation and hearing process will be afforded to the respondent.

Absent unique or extenuating circumstances, including delays attributable to voluntary participation in the informal resolution process, NFCC's investigation (including the hearing) and resolution of complaints involving Sexual Misconduct will be completed within **sixty (60) calendar days** from the date of receipt of the complaint.

### Phase 1 - The Investigation

NFCC's investigation is designed to resolve complaints in a prompt, fair and impartial manner. The purpose of the investigation and any subsequent hearing or decision is to determine: (1) whether or not the conduct occurred; and (2) if the conduct occurred, what actions NFCC will take to end the Sexual Misconduct, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the respondent and providing remedies for the complainant and broader student population. NFCC's investigation will include the opportunity for both parties to present witnesses and other evidence. Since instances of Sexual Misconduct may include possible criminal issues, NFCC will, to the extent possible, coordinate with any other ongoing NFCC or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator.

At the onset of the investigation, the Title IX Coordinator shall assign a neutral investigator after consultation with NFCC's senior management and provide the investigator with a copy of the complaint, unless it is evident from the complaint that it does not fall within the confines of these procedures. In such a case, the Title IX Coordinator will meet separately with the complainant and respondent to advise them of the decision and the next steps involving the complaint.

If the complaint is ultimately forwarded to the investigator because it falls within the confines of these procedures, the contact information of the investigator shall be provided to the complainant and respondent. The complainant and respondent must notify the Title IX Coordinator within three (3) business days if there is any conflict of interest with the investigator. The Title IX Coordinator will determine whether a conflict exists and, if so, shall assign a different individual to serve as the investigator.

The Title IX Coordinator and/or Deputy Title IX Coordinator shall meet separately with the complainant and respondent as soon as possible after a

complaint is received. During the meetings, the Title IX Coordinator and/or Deputy Title IX Coordinator will:

- (1) provide the parties with a copy of NFCC's Title IX Policy and Procedures;
- (2) explain the investigative and hearing process;
- (3) address concerns with confidentiality and rights of each party;
- (4) identify whether either party is interested in an informal resolution of the complaint;
- (5) explain the role of the Title IX Coordinator and Deputy Title IX Coordinator;
- (6) identify available protective measures for the complainant, interim accommodations for the respondent, and available counseling for the complainant and respondent; and
- (7) provide the respondent with the name of the complainant (or victim if the complainant is not the victim)(unless confidentiality is requested and deemed appropriate by NFCC), the date of the alleged incident, and details regarding the alleged incident.

The complainant and respondent may be accompanied at any meeting during the investigation with a representative, including legal counsel; however, any such individual must be retained by the party at their own cost. NFCC will make available advisors to each party if requested. Representatives and legal counsel are prohibited from participating in or interfering with NFCC's investigation.

NFCC's investigation of any complaint received pursuant to this policy will include, but is not necessarily limited to, the following:

- (1) conducting interviews of the complainant, the respondent, and any witnesses;
- (2) reviewing law enforcement investigation documents, if applicable;
- (3) reviewing student and personnel files;
- (4) reviewing electronic communications; and
- (5) gathering and examining other relevant documents or evidence.

During the course of an investigation it is possible that information may become known by the Title IX Coordinator or investigator that leads to a reasonable belief that an immediate and substantial threat exists to the NFCC community

(including the complainant or respondent). When such situations arise, the following interim actions may be taken:

(1) Student Perpetrators –

- (a) Immediate restriction on campus access by the Director of Campus Safety and Security or his/her designee until such time as the Final Outcome of Complaint of Sexual Misconduct is issued.
- (b) Immediate, temporary suspension by the Director of Campus Safety and Security or his/her designee when information is known which demonstrates that the respondent is an immediate and substantial threat to the NFCC community.

(2) Employee Perpetrators –

- (a) Immediate restriction on campus access by the Director of Campus Safety and Security or his/her designee until such time as the Final Outcome of Complaint of Sexual Misconduct is issued.
- (b) Immediate reassignment or placement on administrative leave with pay by the Executive Director of Human Resources or his/her designee when information is known which demonstrates that the respondent is an immediate and substantial threat to the NFCC community.

(3) Challenges to Interim Actions Taken when an Immediate and Substantial Threat is Reasonably Believed to Exist -

- (a) Any student or employee who wishes to challenge interim actions taken when it is determined that an immediate and substantial threat is reasonably believed to exist may do so by appealing in writing to the Dean of Academic Affairs or his/her designee
- (b) The Dean of Academic Affairs or his/her designee will consider the appeal and issue a decision in writing to the appellant within two (2) business days. The decision of the Dean of Academic Affairs is final and not subject to further challenge.

Phase 2 - The Conclusion of the Investigation

The investigator will prepare a report at the conclusion of his or her investigation that contains, at a minimum, any summaries of interviews, summaries and copies of documents contained (hard copy and electronic), a timeline of events, and an opinion regarding his or her interpretation of the events. The final investigative report will be provided to the Title IX Coordinator who will then contemporaneously provide copies to the complainant, victim, and respondent.

### Phase 3 – The Hearing

Within three (3) business days of providing a copy of the final investigative report to the complainant, victim, and respondent, the Title IX Coordinator will provide the parties with a written Notice of Hearing advising the parties of the date, time, and location of the hearing, which will typically be held within ten (10) business days of the date of the Notice of Hearing.

The hearing will be conducted by a three (3) person hearing panel (“Hearing Panel”) comprised of two (2) faculty and or staff members and one (1) student. The Notice of Hearing shall identify the individuals serving on the Hearing Panel. The parties shall have two (2) business days from receipt of the Notice of Hearing to challenge the participation of any panelist if a perceived conflict of interest exists. The Title IX Coordinator shall make the determination as to whether any panelist should be replaced.

No later than five (5) business days before the hearing, the parties shall be provided with hearing materials consisting of the investigative report and any subsequent findings or communication from the parties or NFCC. If the complainant or respondent desire to submit additional information in writing to the hearing panel, it must be provided no less than two (2) business days before the hearing to the panel and the opposing party.

The applicable standard of evidence in hearings under these procedures is “preponderance of evidence.” “Preponderance of evidence” means the greater weight of the evidence or evidence that more likely than not tends to prove a certain proposition.

The complainant and respondent are permitted, but not required, to attend the hearing. If requested by either party, the complainant and the respondent do not have to be present in the same room at the same time.

During the hearing, each party shall have the following rights:

- (1) Each party shall have an equal opportunity to present relevant witnesses and other evidence;
- (2) Each party shall have the opportunity to cross examine witnesses; however, neither the complainant nor the respondent are permitted to personally question or cross-examine each other or any witnesses. The parties may submit questions to the Hearing Panel to ask questions on their behalf;
- (3) Each party may be represented by legal counsel or a representative at the hearing; however, representatives and counsel are not permitted to argue or speak to the Hearing Panel or witnesses during the hearing. If either

party is represented by legal counsel, NFCC reserves to right to have its legal counsel present; and

(4) Each party may submit third-party testimony.

The hearing will begin with an introduction by all Hearing Panel members. The hearing will then proceed as follows:

- (1) The Hearing Panel shall provide an overview of the process;
- (2) Opening statement from the complainant;
- (3) Opening statement from the respondent;
- (4) Testimony and witnesses by or on behalf of the complainant, including cross examination;
- (5) Testimony and witnesses by or on behalf of the respondent, including cross examination;
- (6) Closing comments from the complainant;
- (7) Closing comments from the respondent; and
- (8) The Chair of the Hearing Panel shall provide closing remarks.

Hearing Panel members are free to question either party or any witnesses at any time during the proceedings.

Questioning about the complainant's sexual history with anyone other than the respondent is not permitted.

#### Phase 4 – The Hearing Decision

The Hearing Panel will determine if any sanctions are necessary based on a majority vote. The complainant and respondent will receive written notification of the Final Decision of Complaint of Sexual Misconduct no later than five (5) business days from the date the hearing is concluded. The decision will be provided contemporaneously to the parties. The timelines set forth herein may be extended upon a showing of good cause. Any requests for an extension of these timeframes must be submitted in writing to the Title IX Coordinator who will approve or deny the request for extension within two (2) business days.

The Final Decision of Complaint of Sexual Misconduct will:

- (1) Inform the parties as to whether or not the Hearing Panel found that the alleged conduct occurred;
- (2) Include information regarding any individual remedies offered or provided to the complainant or any sanctions imposed on the respondent that directly relate to the complainant; however, the respondent will not be notified of the individual remedies offered or provided to the complainant. and
- (3) Inform the parties of other steps NFCC has taken to eliminate the hostile environment, if one is found to exist, and prevent recurrence.

Remedial action may include, but is not limited to, disciplinary action against the respondent (including termination from employment or expulsion), counseling for the respondent, remedies for the complainant and others, as well as changes to NFCC's overall services or policies. NFCC will also eliminate the hostile environment (if one exists), prevent its recurrence, and, as appropriate, remedy its effects.

Remedies for the complainant may include, but are not limited to:

- (1) Providing an effective escort to ensure that the complainant can move safely between classes and activities;
- (2) Ensuring the complainant and respondent do not share classes or extracurricular activities;
- (3) Providing available supports such as counseling and academic support;
- (4) Attempts to accommodate the complainant's academic schedule and scheduling needs to the extent possible;
- (5) Requiring that the respondent stay away from the complainant until both parties graduate; and
- (6) Prohibiting the respondent from attending school for a period of time, or transferring the respondent to other classes.

Complainants will also be informed of NFCC's final determination and any disciplinary sanctions imposed on the respondent.

#### Phase 5 – Appealing the Final Decision of Complaint of Sexual Misconduct

Any party seeking to appeal the Final Decision of Complaint of Sexual Misconduct rendered following a hearing shall submit such a request in writing within five (5) business days of receipt of the decision to the President of NFCC

and the appellee. The written appeal must be based on one or both of the following grounds:

- (1) The Hearing Panel's decision regarding whether respondent violated this policy. If appealing this decision, the appealing party must demonstrate:
  - (a) Newly discovered evidence that was not available at the time of the hearing that would have materially impacted the Hearing Panel's decision;
  - (b) Evidence of prejudice or bias on the part of a member of the Hearing Panel. This includes, but is not limited to, conflicts of interest, undue pressure or influence, or conduct that impacted the appealing party's right to a fair and impartial hearing; or
  - (c) Procedural errors that occurred during the hearing before the Hearing Panel that materially impacted the decision of the Hearing Panel.
- (2) The Hearing Panel's sanctions are extremely disproportionate to the magnitude of the policy violation.

The appellee shall have five (5) business days from receipt of the written appeal to submit a response to the President of NFCC and the appellant. The President of NFCC shall either (1) render a decision based on the record (the Complaint, investigative findings, the official record from the hearing before the Hearing Panel, the written appeal, and the response to the written appeal) or (2) schedule an appeal hearing to obtain additional information.

**Appeals without a Hearing** - If the President of NFCC elects to render a decision based on the record, a written Final Decision of Appeal of Complaint of Sexual Misconduct shall be issued stating his or her findings within three (3) business days of receipt of the appellee's response or, if not response is provided by the appellee, no later than ten (10) business days following receipt of the written appeal.

The decision of the President of NFCC is a final action and not subject to further review through NFCC's internal procedures.

Students subjected to suspension or expulsion may seek to externally challenge the final decision of the President in accordance with the provisions and timeframes set forth in Florida law.

**Appeals with a Hearing** - If the President of NFCC elects to schedule an appeal hearing to obtain additional information, the hearing shall be scheduled within five (5) working days of receipt of the written appeal. The hearing shall be audio recorded, and the audio recording shall serve as the official record of the

hearing. The President and the parties may call witnesses to testify. During the hearing, each party shall have the following rights:

- (1) Each party shall have an equal opportunity to present relevant witnesses and other evidence pertaining to the appeal;
- (2) Each party shall have the opportunity to cross examine witnesses; however, neither the appellant nor the appellee are permitted to personally question or cross-examine each other or any witnesses. The parties may submit questions to the President to ask questions on their behalf;
- (3) Each party may be represented by legal counsel or a representative at the hearing; however, representatives and counsel are not permitted to argue or speak to the President or witnesses during the hearing. If either party is represented by legal counsel, NFCC reserves the right to have its legal counsel present; and
- (4) Each party may submit third-party testimony.

The hearing will proceed as follows:

- (1) The President shall provide an overview of the process;
- (2) Opening statement from the appellant;
- (3) Opening statement from the appellee;
- (4) Testimony and witnesses by or on behalf of the appellant, including cross examination;
- (5) Testimony and witnesses by or on behalf of the appellee, including cross examination;
- (6) Testimony and witnesses called by the President, including cross examination of witness from appellant and appellee;
- (7) Closing comments from the appellant;
- (8) Closing comments from the appellee; and
- (9) The President may provide closing remarks.

The President is free to question either party or any witnesses at any time during the proceedings. Questioning about the complainant's sexual history with anyone other than the respondent is not permitted.



Within five (5) working days from the date of the appeal hearing, the President will render a written Final Decision of Appeal of Complaint of Sexual Misconduct.

The decision of the President of NFCC is a final action and not subject to further review through NFCC's internal procedures.

Students subjected to suspension or expulsion may seek to externally challenge the final decision of the President in accordance with the provisions and timeframes set forth in Florida law.

#### **f. Protective Measures for Victims**

Title IX requires NFCC to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. NFCC will take these steps promptly once it has notice of a Sexual Misconduct allegation and will provide the complainant with periodic updates on the status of the investigation.

Complainants will be notified of their options to avoid contact with the respondent. NFCC will notify the complainant of his or her Title IX rights and any available resources and the right to report a crime to campus security or local law enforcement.

### **Section 6. Complaint Process and Applicable Procedures for Employees**

The procedures set forth in **Section 5** shall apply equally to students and employees with certain exceptions. Specifically, employees who file complaints against other employees or employees who are the subject of complaints from students under these Procedures will not follow the same processes as is set forth in **Phases 1 through 5 of Section 5**. The follow procedures shall apply:

#### **Phase 1 - The Investigation**

NFCC's investigation is designed to resolve complaints in a prompt, fair and impartial manner. The purpose of the investigation and any subsequent hearing or decision is to determine: (1) whether or not the conduct occurred; and (2) if the conduct occurred, what actions NFCC will take to end the Sexual Misconduct, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the respondent and providing remedies for the complainant and broader NFCC population. NFCC's investigation will include the opportunity for both parties to present witnesses and other evidence. Since instances of Sexual Misconduct may include possible criminal issues, NFCC will, to the extent possible, coordinate with any other

ongoing NFCC or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator.

At the onset of the investigation, the Title IX Coordinator shall assign a neutral investigator after consultation with NFCC's senior management and provide the investigator with a copy of the complaint, unless it is evident from the complaint that it does not fall within the confines of these procedures. In such a case, the Title IX Coordinator will meet separately with the complainant and respondent to advise them of the decision and the next steps involving the complaint.

If the complaint is ultimately forwarded to the investigator because it falls within the confines of these procedures, the contact information of the investigator shall be provided to the complainant and respondent. The complainant and respondent must notify the Title IX Coordinator within three (3) business days if there is any conflict of interest with the investigator. The Title IX Coordinator will determine whether a conflict exists and, if so, shall assign a different individual to serve as the investigator.

The Title IX Coordinator and/or Deputy Title IX Coordinator shall meet separately with the complainant and respondent as soon as possible after a complaint is received. During the meetings, the Title IX Coordinator and/or Deputy Title IX Coordinator will:

- (1) provide the parties with a copy of NFCC's Title IX Policy and Procedures;
- (2) explain the investigative process;
- (3) address concerns with confidentiality and rights of each party;
- (4) identify whether either party is interested in an informal resolution of the complaint;
- (5) explain the role of the Title IX Coordinator and Deputy Title IX Coordinator;
- (6) identify available protective measures for the complainant, interim accommodations for the respondent, and available counseling for the complainant and respondent; and
- (7) provide the respondent with the name of the complainant (or victim if the complainant is not the victim)(unless confidentiality is requested and deemed appropriate by NFCC), the date of the alleged incident, and details regarding the alleged incident.

The complainant and respondent may be accompanied at any meeting during the investigation with a representative, including legal counsel; however, any such individual must be retained by the party at their own cost. Representatives and legal counsel are prohibited from participating in or interfering with NFCC's investigation.

NFCC's investigation of any complaint received pursuant to this policy will include, but is not necessarily limited to, the following:

- (1) conducting interviews of the complainant, the respondent, and any witnesses;
- (2) reviewing law enforcement investigation documents, if applicable;
- (3) reviewing student and personnel files;
- (4) reviewing electronic communications; and
- (5) gathering and examining other relevant documents or evidence.

During the course of an investigation it is possible that information may become known by the Title IX Coordinator or investigator that leads to a reasonable belief that an immediate and substantial threat exists to the NFCC community (including the complainant or respondent). When such situations arise, the following interim actions may be taken:

- (1) Student Perpetrators –
  - (a) Immediate restriction on campus access by the Director of Campus Safety and Security or his/her designee until such time as the Final Outcome of Complaint of Sexual Misconduct is issued.
  - (b) Immediate, temporary suspension by the Director of Campus Safety and Security or his/her designee when information is known which demonstrates that the respondent is an immediate and substantial threat to the NFCC community.
- (2) Employee Perpetrators –
  - (a) Immediate restriction on campus access by the Director of Campus Safety and Security or his/her designee until such time as the Final Outcome of Complaint of Sexual Misconduct is issued.
  - (b) Immediate reassignment or placement on administrative leave with pay by the Executive Director of Human Resources or his/her designee when information is known which demonstrates that the

respondent is an immediate and substantial threat to the NFCC community.

(3) Challenges to Interim Actions Taken when an Immediate and Substantial Threat is Reasonably Believed to Exist -

- (a) Any student or employee who wishes to challenge interim actions taken when it is determined that an immediate and substantial threat is reasonably believed to exist may do so by appealing in writing to the Dean of Academic Affairs or his/her designee
- (b) The Dean of Academic Affairs or his/her designee will consider the appeal and issue a decision in writing to the appellant within two (2) business days. The decision of the Dean of Academic Affairs is final and not subject to further challenge.

Phase 2 - The Conclusion of the Investigation

The investigator will prepare an Investigative Report at the conclusion of his or her investigation that contains, at a minimum, any summaries of interviews, summaries and copies of documents contained (hard copy and electronic), a timeline of events, an opinion regarding his or her interpretation of the events, and whether a violation of Title IX occurred (as determined by the preponderance of evidence). "Preponderance of evidence" means the greater weight of the evidence or evidence that more likely than not tends to prove a certain proposition. The Investigative Report will be provided to the Title IX Coordinator who will then contemporaneously provide copies to the complainant, victim, and respondent.

The President of NFCC shall also receive a copy of the Investigative Report. The President of NFCC shall take action on the Investigative Report unless an appeal is timely filed in accordance with Phase 3 below. If an appeal is not timely filed and, if employee discipline is warranted, NFCC's policies on employee discipline and any applicable State Board of Education rules shall be applied.

The respondent will not be notified of the individual remedies offered or provided to the complainant. Remedial action may include, but is not limited to, disciplinary action against the respondent (including termination from employment), counseling for the respondent, remedies for the complainant and others, as well as changes to NFCC's overall services or policies. NFCC will also eliminate the hostile environment (if one exists), prevent its recurrence, and, as appropriate, remedy its effects.

Remedies for the complainant may include, but are not limited to:

- (1) Providing an effective escort to ensure safety;

- (2) Ensuring the complainant and respondent do not share the same area in the workplace;
- (3) Providing available supports;
- (4) Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined;
- (5) Requiring that the respondent stay away from the complainant within NFCC's jurisdiction; and
- (6) Prohibiting the respondent from attending work for a period of time or transferring the respondent to another workplace within NFCC.

Complainants will also be informed of NFCC's final determination and any disciplinary sanctions imposed on the respondent.

### Phase 3 – Appeal of Investigator's Findings

Either party may elect to appeal the investigator's findings by submitting an appeal in writing to the Title IX Coordinator, the President of NFCC, and the appellee no later than five (5) business days from the date of receipt of the Investigative Report. The written appeal must address the findings and the basis of the appeal. The appellee shall have five (5) business days from receipt of the written appeal to submit a response to the Title IX Coordinator, the President of NFCC, and the appellant. The President of NFCC shall issue a written decision regarding the appeal stating his or her findings within three (3) business days of receipt of the appellee's response or, if not response is provided by the appellee, no later than ten (10) business days following receipt of the written appeal. The President of NFCC's decision will be provided to the Title IX Coordinator, appellant, and appellee.

### Phase 4 – Discipline Following Appeal

If discipline is warranted after consideration of an appeal by the President, such discipline will be handled in accordance with NFCC's policies on employee discipline and any applicable State Board of Education rules.

#### **a. Protective Measures for Victims**

Title IX requires NFCC to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. NFCC will take these steps promptly once it has notice of a Sexual Misconduct allegation and will provide the complainant with periodic updates on the status of the investigation.

Complainants will be notified of their options to avoid contact with the respondent and modify the working situation as appropriate. NFCC will notify the complainant of his or her Title IX rights and any available resources and the right to report a crime to campus security or local law enforcement.

## **Section 7. Training**

To promote a positive working and learning environment free of Sexual Misconduct, NFCC will publish this policy on its website, in the Student Handbook, in the Faculty Handbook, and at student and new employee orientation. The Title IX Coordinator and other designated employees will receive training as required under Title IX, including on issues pertaining to prevention and compliance.

## **Section 8. Counseling, Advocacy, Campus Support, and Local Law Enforcement Agencies**

NFCC provides victims (students and employees) of dating violence, domestic violence, sexual assault or stalking with written information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available, both within NFCC and the community. As of the submission of this report, current available resources include the following:

<b>City of Madison Police Department Dispatch</b>	823 SW Pinckney St Madison, FL 32340 Dispatch (850) 973-4001 (Select Option 1)  Office: (850) 973-5077	Provides law enforcement and other assistance to students and employees who report dating violence, domestic violence, sexual assault or stalking.
<b>NFCC Campus Security</b>	325 NW Turner Davis Drive Madison, FL 32340 (850) 973-0280	Provides assistance to students and employees who report dating violence, domestic violence, sexual assault or stalking.
<b>Madison County Memorial Hospital</b>	224 NW Crane Ave Madison, FL 32340 (850) 973-2271	Provides medical assistance 24-hours per day, 7 days per week.

<p><b>Refuge House (Madison)</b></p>	<p>Toll-Free:1-800-500-1119 (Domestic Violence)</p> <p>Toll-Free:1-888-956-7273 (Sexual Assault)</p> <p><a href="http://www.refugehouse.com">http://www.refugehouse.com</a></p>	<p>Serves all people affected by domestic violence and sexual assault across the eight counties of the Big Bend. Refuge House offers support and resources to people who have been hurt by abuse or violence.</p>
<p><b>Three Rivers Legal Services, Inc.</b></p>	<p>334 NW Lake City Avenue Lake City, FL 32055 (386) 752-5960</p> <p><a href="http://www.trls.org">http://www.trls.org</a></p>	<p>Works with shelters and victims' advocates at law enforcement agencies to help survivors of intimate partner violence (domestic violence).</p> <p>Three Rivers Legal Services, Inc. is a local, non-profit corporation which provides free civil legal services to low-income, eligible clients in seventeen counties throughout North Florida.</p>
<p><b>U.S. Citizenship and Immigration Services - Jacksonville Field Office</b></p>	<p>4121 Southpoint Blvd. Jacksonville, FL 32216 (800) 375-5283</p>	<p>Provides citizenship and immigration information.</p>
<p><b>Financial Aid Department at North Florida Community College</b></p>	<p>325 NW Turner Davis Drive Madison, FL 32340 (850) 973-1621</p>	<p>Provide information about financial aid and necessary resources to successfully apply for and receive financial assistance.</p>
<p><b>Title IX Coordinator</b></p>	<p>Tyler Coody 325 NW Turner Davis Dr. Building 12, Room 128B Madison, FL 850-973-1639 <a href="mailto:coodyt@nfcc.edu">coodyt@nfcc.edu</a></p>	<p>Responsible for coordinating NFCC's compliance with Title IX and this policy.</p>

<b>Deputy Coordinator</b>	<b>Title</b>	<b>IX</b>	Jhan Reichert 325 NW Turner Davis Dr. Building 4, Room 102 Madison, FL 850-973-9485 reichertj@nfcc.edu	Responsible for assisting the Title IX Coordinator with coordinating NFCC's compliance with Title IX and this policy.
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NFCC will provide written notification to victims about options and available assistance. NFCC will make accommodations determined to be necessary and appropriate if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus security or local law enforcement.

Additionally, when a student or employee reports that they have been the victim of dating violence, domestic violence, sexual assault, or stalking, regardless of the location of the offense, NFCC will provide a written explanation of the student's or employee's rights and options. NFCC will also provide victims with information regarding the following:

- (1) Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred;
- (2) Information about how NFCC will protect the confidentiality of victims and other necessary parties;
- (3) Written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within NFCC and in the community;
- (4) Written notification to victims about options for, available assistance in, and how to request changes to academic and working situations or protective measures. If requested by a victim and if they are reasonable and available, NFCC will make such accommodations or provide such protective measures; and
- (5) Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

\*\*\* END OF PROCEDURES \*\*\*