



**Civil Rights Equity  
&  
Sex/Gender-Based Harassment,  
Discrimination, and Sexual Misconduct**

**Resolution Process**

**2019 – 2020**

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# Process for Title IX Investigations & Resolutions

## I. Introduction

Embry-Riddle Aeronautical University (ERAU) does not permit discrimination, harassment, or sexual misconduct in its programs and activities on the basis of race, color, national origin, sex, gender identity, gender expression, sexual orientation, disability, veteran status, predisposing genetic characteristic, age, religion, pregnancy status or any other characteristic protected by University policy or state, local, or federal law. Anyone who believes they have been subjected to harassment, discrimination, or an act of sexual misconduct as described in the University's Civil Rights Equity & Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct Policy should file a report and follow the below process.

## II. Definitions

Full definitions of Title IX terminology can be found in the Civil Rights Equity and Sex / Gender Based Harassment, Discrimination, and Sexual Misconduct Policy. The definitions of the parties involved with a Title IX investigation are listed below.

**Reporting Party (Reporter):** The individual(s) who is the recipient of unwelcome sexual, gender related, discriminatory, and/or other harassment behaviors by another person(s). While a **“Third Party Reporter”** is a person that files a report on behalf of, or out of concern for another; where they believe another person(s) is the recipient of alleged policy violations.

**Responding Party (Respondent):** The individual(s) who has been alleged / accused of violating the Civil Rights Equity and Sex / Gender Based Harassment, Discrimination, and Sexual Misconduct Policy.

**Employee:** Any faculty, staff, administrator, board member, trustee, volunteer, contractor employed, or anyone on whom the University formally confers a title or is contracted with Embry-Riddle Aeronautical University to carry out University official business or act on the University's behalf.

**Mandatory Reporters<sup>1</sup>:** All University employees (not limited to faculty, staff, coaches, and administrators) are Mandatory Reporters and **MUST** immediately report actual or suspected sexual misconduct, discrimination, and/or harassment to the Title IX Coordinator.

**Confidential Reporters:** There are three (3) classifications of employees at ERAU that are exceptions to being Mandatory Reporters, which are: Clergy, Health / Wellness Services, and Mental Health Services / Counselors. All other University officials and staff are Mandatory Reporters.

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<sup>1</sup> All Embry-Riddle employees and contractors are mandated reporters unless otherwise designated as a Confidential Reporter. Mandated reporters must report incidents to a Title IX Coordinator within one (1) business day of receiving notice.

### III. Process for Reported Incidents

This process applies to any member of the University community (student, faculty, staff, administration, and organizations) who are aware of, or effected by, any form of discrimination, harassment, sexual misconduct, or retaliation.

All allegations of misconduct not involving discrimination, harassment, or sexual misconduct will be addressed through the process elaborated in the respective student, faculty, and employee handbooks. Some reports that are received by Title IX may be referred to the Dean of Students, Housing and Residence Life, Campus Safety and Security, Disability Support Services, or Human Resources as deemed appropriate by Title IX.

#### Reporting Options

Any member of the ERAU community may file a notice of discrimination, harassment, or sexual misconduct by completing the online incident form or reporting it directly to the Title IX Coordinator as indicated below:

##### [Daytona Beach Reporting Website](#)

Linda Dammer, Title IX Coordinator, 386-226-7971, [dbtitle9@erau.edu](mailto:dbtitle9@erau.edu)  
Student Union, Suite 324, 1 Aerospace Boulevard, Daytona Beach, FL 32114

##### [Prescott Reporting Website](#)

Dr. Elizabeth Frost, Title IX Coordinator, 928-777-3747, [prtitle9@erau.edu](mailto:prtitle9@erau.edu)  
Building 49, Office 103, 3700 Willow Creek Road, Prescott, AZ 86301

*Prescott Campus Only: Anonymous Reporting Hotline: (928) 777-4688 (HOTT)\**

*\* Note that these anonymous reports may prompt a need for the institution to investigate.*

##### [Worldwide Reporting Website](#)

Linda Dammer, Title IX Coordinator, 386-226-7971, [wwtitle9@erau.edu](mailto:wwtitle9@erau.edu)  
1 Aerospace Boulevard, Daytona Beach, FL 32114

**The University encourages submission of online reports or written reports when possible<sup>2</sup>.**

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<sup>2</sup> Embry-Riddle will not ask individuals to put the allegation in writing, but rather the Title IX Coordinator or Investigator will write a summary of the complaint after interviewing the reporting party. If the reporting party chooses to submit a written report, that is acceptable.

### **Participation of Advisors in the Resolution Process**

All parties are entitled to an Advisor of their choosing to guide and accompany them throughout the campus resolution process. The Advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to support them. Title IX Coordinators maintain a list of trained (non-attorney) Advisors who are available to the parties. Parties on any of the campuses may choose Advisors from outside the pool, or outside the campus community, but those Advisors may not have the same level of insight and training on the University process as do those trained by the University. Outside Advisors may seek role clarification from the Title IX Coordinator.

The parties are entitled to be accompanied by their Advisor in all meetings and interviews at which the party is present. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

All Advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not present on behalf of their advisee in a meeting or interview and should request or wait for a break in the meeting or interview if they wish to interact with University officials. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their Advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given a timely opportunity to meet in advance of any meeting or interview with the administrative officials conducting that meeting or interview. This pre-meeting will allow Advisors to clarify any questions they may have, and allows the University an opportunity to clarify the role the Advisor is expected to take.

Advisors are expected to refrain from interference with the University investigation and resolution process. Any Advisor who steps out of their role during any part of the campus resolution process will be warned once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the Advisor will be asked to leave the meeting or interview or withdraw as the Advisor. When an Advisor is removed from a meeting or interview, that meeting or interview will typically continue without the Advisor present. Subsequently, the Title IX Coordinator will determine whether the Advisor may participate in future meetings or interviews, if they may be replaced by a different Advisor, or whether the party will forfeit the right to an Advisor for the remainder of the process.

The Advisor will make every effort to adjust their schedule to allow for their attendance of the Title IX meetings or interviews. The University does not typically change scheduled meetings to accommodate an Advisor's inability to attend. The University will, however, make provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change Advisors during the process, and is not committed to using the same Advisor throughout.

Where an employee is a member of a union and entitled to a union representative in the process, that employee may be accompanied by the union representative as their Advisor or may choose an Advisor in addition to their union representative. In such cases, the other party may have two (2) Advisors as well. The union representative will be held to the same standards as an Advisor indicated above.

The parties should provide the Title IX Coordinator or the Title IX Investigator with advance notice if they are bringing an Advisor or supporter to a meeting. No audio or video recording of any kind will be permitted by the Responding Party, Reporting Party, witnesses, or Advisors during meetings or interviews with University officials. The Title IX Coordinator or the Title IX Investigator(s) may record the session, with the other party's approval, to ensure accuracy of report writing only.

### **Investigation and Determination Process**

The Title IX Coordinator is responsible for designating a trained Investigator to investigate any and all reports or notifications of discrimination, harassment, or sexual misconduct. If the Reporting Party wishes to pursue a formal process with the University, or if the University, based on the alleged policy violation(s), wishes to pursue a resolution, the Title IX Coordinator appoints a trained Investigator to conduct the investigation. All investigations will be conducted in an equitable, impartial, and timely manner.

This process involves a preliminary inquiry to determine if there is reasonable cause to believe the Civil Rights Equity & Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct Policy may have been violated. If so, the University will initiate an investigation that is thorough, reliable, impartial, prompt, and fair. This investigation determines if the University's Civil Rights Equity & Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct Policy has been violated.

The University's findings / decisions will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the University may be delayed (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

### **Informal Process**

While not required, individuals are first encouraged to address behaviors of concern directly with the appropriate ERAU individual or organization. It is recommended that, the person(s) impacted by the behavior / action keep a written log that can aid in later inquiry, investigation, and resolution.

Utilizing the informal process option for resolution, if deemed safe, the Title IX Coordinator, or designee, will facilitate conversations, between the Reporting Party and the Responding Party upon request, to discuss the

behaviors of concern and monitor meeting for safety. During the meeting, both parties will discuss the concerned behaviors and possible resolutions. If both parties agree to the resolutions discussed, the Title IX Coordinator or designee will create the necessary agreements for both parties to sign. If no agreement is reached, the Reporting Party may choose to enter into a formal process.

*The Reporting Party has the right to end the informal process and begin the formal investigation process at any time.*

### **Formal Process**

The Title IX Coordinator or designee has determined that there is enough information to move forward to launch an investigation into the alleged violations of the University's Civil Rights Equity and Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct Policy. When entering into the formal process, a Responding Party will be formally notified of an investigation in writing. A formal notification of investigation consists of notification of the name(s) of the involved party, date, location of the alleged incident, the alleged allegations, and the alleged University policies and where the policies may be located. There will also be a date and a time for a meeting to discuss the alleged incident.

ALL INVESTIGATIONS WILL BE THOROUGH, RELIABLE, AND IMPARTIAL.

The following evidence may be included, but is not limited to:

- statements
- police reports
- medical records
- counseling notes
- social media posts
- text messages
- voicemails
- pictures, etc.

**If the Reporting Party, Responding Party, or named witnesses do not respond by the established date and time, the Investigator may continue their investigation without the meeting and/or evidence and proceed to completing the investigative report.**

The Investigator will take the following steps (not necessarily in order):

1. Determine the identity and contact information of the Reporting Party and Responding Party;
2. In coordination with campus partners (e.g.: the campus Title IX Coordinator or Human Resources), conduct an immediate initial inquiry to determine if there is reasonable cause to pursue an investigation, implement interim measures if necessary, and determine if the allegations are policy violations;
  - a. If there is insufficient evidence to support an investigation, the case will be closed with no

further action;

3. Meet individually with the Reporting Party and Responding Party to finalize their statement;
4. Prepare the notice of allegations for both the Reporting and Responding Party(s) on the basis of the initial inquiry.
5. Additional allegations may be added at a later time (with notification to the Responding Party) based on new discovery during the investigation;
6. Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the Responding Party, who may be given notice prior to or at the time of the interview;
7. Provide regular updates to both the Reporting Party and Responding Party, as appropriate, throughout the investigation;
8. Identify the exact policies allegedly violated;
9. Each party will have the opportunity to view the other's statement, after both parties have provided statements. If either party elects not to provide a statement, or if the University is acting as the Reporting Party, they will be provided with a summary describing the alleged incident.
10. The Investigator will submit a report to the Title IX Coordinator, which may include the following:
  - a. Summary of the case, including allegations of policy violations
  - b. Credibility assessment
  - c. Impact statements of reporting and responding parties
  - d. New discovery

At any point during the investigation, if it is determined by the Title IX Coordinator that there is no reasonable cause to believe that University Policy has been violated, the Title IX Coordinator has the authority to terminate the investigation, end resolution proceedings, notifying each involved party.

Where the Responding Party is found not responsible for the alleged violation(s), the investigation will be closed. Where a violation is found, the University will act to end the harassment, discrimination, and sexual misconduct, prevent its recurrence, and remedy its effects on the Reporting Party and the University community to the best of its ability. The Title IX Coordinator, or designee, will be the administrator rendering a decision on findings and possible sanctions.

Written notification will be made by the Title IX Coordinator to reporting and responding parties of the outcome, to the extent permitted by or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting responsive actions, and the rationale for the decision. This written notification of final decision will be provided in person and/or emailed to the parties' University- issued email accounts, without undue delay between the notifications. Once received in person or emailed, the notice of decision will be deemed presumptively delivered. Within the written notifications, there will be an explanation of the request for reconsideration process along with any changes to the results that could occur before the decision is



finalized. Please note, some situations that may cause a delay in the finalization of the resolution process may include, but is not limited to, tenure revocation proceedings, mandatory arbitration, union proceedings, etc.

### **Policy Violations: Interim Measures, Actions, and Sanctions**

The Title IX Coordinator, or designee<sup>3</sup>, may place interim measures on the Responding Party to address the short-term effects of the alleged harassment, discrimination, sexual misconduct and/or retaliation. The Title IX Coordinator will give consideration to the individual(s) bringing forward a grievance with respect to how the grievance is pursued, but reserves the right, when necessary, to protect the community, to investigate and pursue a resolution when the Reporting Party chooses not to initiate or participate in the resolution process. If any of the involved parties are an employee, Human Resources, the supervisor, or other administrator may be involved in the investigation process.

ERAU will take additional prompt interim measures and actions with respect to any member of the community who has been found to engage in harassing, discriminatory behavior, sexual misconduct, or retaliation. Deliberately false or malicious accusations of harassment, as opposed to grievances which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

#### **Student Interim Measures**

The University may interim suspend student(s) or student organization(s), pending the completion of an investigation and resolution, particularly, when in the judgment of the Title IX Coordinator, the safety or well-being of any member(s) of the campus community, may be jeopardized by the presence of the Responding Party on-campus, or the ongoing activity of a student organization. In all cases in which an interim suspension is imposed, the student(s) or student organization(s) will be given the opportunity to meet with the Title IX Coordinator, or designee, prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show just cause why the suspension should not be implemented.

Violation of interim measures under this process may be grounds for additional sanctions, which could include: suspension or dismissal. Please note: Procrastinating or missing meetings does not preclude someone from being suspended.

#### **The interim measures may include, but are not limited to:**

- No contact orders\*
- Referral to ERAU Counseling Center and Health/Wellness Center
- Altering the housing situation of the Responding Party (resident student or resident employee (or the Reporting Party, if desired) \*
- Suspension from University owned or operated housing\*

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<sup>3</sup> Designees for employees may include: Human Resources, Supervisor, or other administrators.

- Altering class assignments for students\*
- Suspensions from class\*
- Providing campus escorts\*
- Offering adjustments to academic deadlines, course schedules, course substitutions, work schedules, etc.\*
- Eagle card access may be restricted and in some cases the Eagle card, Ramp Badges or keys may be collected\*
- Access to ERNIE or Blackboard/CANVAS may also be restricted or removed\*

*\*The above measures may be implemented in order to separate parties involved.*

### **Employee Interim Measures**

An employee may be suspended with or without pay on an interim basis until the investigation is completed. Employee(s) will be given the opportunity to meet with the Title IX Coordinator, or designee, prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show just cause why the suspension should not be implemented.

#### **The interim measures may include, but are not limited to:**

- No contact orders\*
- Referral to the Employee Assistance Program (EAP)
- Modifying work schedules, offices, and responsibilities for employees\*
- Education to the community
- Eagle card access may be restricted and in some cases the Eagle card, Ramp Badges or keys may be collected\*
- Access to ERNIE or Blackboard/CANVAS may also be restricted or removed\*
- Suspensions from class, if enrolled in or teaching classes\*
- Suspension from work\*

*\*The above measures may be implemented in order to separate parties involved.*

During interim measures or administrative leave, a student or employee may be denied access to University campus/facilities/events. Embry-Riddle Aeronautical University will strive to maintain confidentiality to the best of its abilities, in relation to interim measures.

### **Sanctions**

The following sanctions may be imposed upon any member of the community found to have violated the Civil Rights Equity & Sex/Gender-based Harassment, Discrimination and Sexual Misconduct Policy. The Title IX Coordinator will consider the impact upon the Reporting Party, other individual witnesses, the campus community, and any prior misconduct in determining the appropriate sanctions.

The following are the typical sanctions that may be imposed upon students or organizations singly or in combination with any intermediate actions already administered:

**Student and Organization Sanctions**

- Warning
- Organizational Suspension
- Housing Suspension
- Withholding Diploma
- Probation
- Administrative Withdrawal from Class(es)
- Suspension
- Dismissal
- Other Actions

**Employee Sanctions**

- Written Warning
- Probation
- Performance Improvement Plan
- Referral to the Employee Assistance Program
- Required Training or Education
- Removal from supervisory roles
- Demotion
- Loss of Annual Pay Increase
- Suspension with Pay
- Suspension without Pay
- Revocation of Tenure
- Termination

**Failure to Complete Sanctions/Comply with Responsive Actions**

All Responding Parties are expected to comply with conduct sanctions, responsive, corrective actions within the time frame specified in the outcome letter.

Failure to follow through on conduct sanctions, responsive, corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions, responsive, corrective actions or suspension, dismissal or termination from the University. A suspension will only be lifted when compliance is achieved to the satisfaction of the University Official issuing the suspension in conjunction with the Title IX Coordinator.

**Request for Reconsideration (Appeal)**

Any party who files a request for reconsideration must do so in writing to the Title IX Coordinator within 7 (seven) business days<sup>4</sup> of receiving the original written decision.

**Requests for reconsideration will be granted only on the following grounds:**

1. New information is discovered (Case will be sent back to the Investigator for additional review and reconsideration; A summary of this new evidence and its potential impact must be included in the request). (Please note that we understand information from outside agencies may not be available within the Request for Reconsideration time frame of five (5) business days. In those situations, the Title IX Coordinator may reopen the case.)
2. The Responding Party or Reporting Party provides evidence that the Investigator(s) demonstrated bias against them (e.g. substantiated bias, material deviation from established process, etc.).
3. A Civil Rights violation occurred under the Civil Rights Equity & Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct Policy (e.g. the sanctions imposed fall outside the range of sanctions typically given for this offense, the Responding or Reporting Party's rights were not met).

**All sanctions imposed will be in effect during the reconsideration process.**

A request may be made to the Title IX Coordinator to delay implementation of the sanctions until the reconsideration is decided, but the presumptive stance of the University is that the sanctions will go into effect immediately. Graduation, study abroad, internships / externships, professional conferences, vacation, etc., **DO NOT** in and of themselves constitute extenuating circumstances, and employees and/or students may not be able to participate in those activities during the reconsideration process. In cases where the reconsideration results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the student or employee to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

The original finding and sanction will stand if the request for reconsideration is not timely or substantively eligible, and that decision is final. The party requesting the reconsideration must show clear error within the guidelines established for reconsideration. Both the finding and sanction are presumed to have been decided reasonably and appropriately during the original outcome.

Once the request for reconsideration is received by the Title IX Coordinator, the request will be forwarded to the other Title IX Coordinator that serves the other campus for review and evaluation. If for some reason the other Title IX Coordinator is unable to review the case, a University Official may serve as the reviewer. The Title IX Coordinator or University Official (hereafter referred to as the "University Official") reviewing

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<sup>4</sup> Business day is defined to mean normal operating hours, Monday through Friday, excluding recognized national holidays and summer hours of Monday - Thursday. In cases where additional time is needed in the investigation of a report, all parties will be notified accordingly. The University reserves the right to make changes and amendments to this policy and process as needed, with appropriate notice to the community.

the request will determine if the threshold has been met to undergo a reconsideration of the findings and/or sanctions.

The University Official will share the request for reconsideration with the other party if the request is granted based on it meeting at least one of the three (3) applicable grounds (listed on the previous page). The other party will have five (5) business days to provide a response to the request for reconsideration from the date of notification that the request for reconsideration for the other party was approved.

The University Official may take one of two (2) possible actions for a granted reconsideration.

1. Re-open the case for further investigation and reconsideration
2. Modify a sanction

If the decision is made to re-open the investigation the original investigator will conduct a revised review, based on new information or proof of a civil rights violation. In rare cases, where bias is determined to exist by the original investigator, another investigator will be assigned to conduct a review of the investigation. The results of the revised investigation will be provided to the University Official overseeing the reconsideration. The decision by the University Official is final.

Each party may only file for Reconsideration once. For example: If the Responding Party or Reporting Party files for reconsideration (meeting the criteria) after the initial Findings and Sanctioning they cannot file for another reconsideration after a reviewed investigation. The results of a reviewed investigation can only be reconsidered by the opposing party on any of the three (3) applicable grounds for reconsideration.

In cases where the Responding Party is found not to be responsible, the investigation will be closed. If new information is discovered at a later time, the case may be reopened.

The process governing the approval for reconsideration include the following:

- Every opportunity to return the reconsideration to the original investigator for reconsideration (remand) should be pursued.
- Reconsiderations are not intended to be full re-investigations of the allegation (de novo). In most cases, reconsiderations are confined to a review of the written documentation or record of the original outcome, and pertinent documentation regarding the grounds for reconsideration.
- Reconsideration decisions are to be deferential to the original Title IX Coordinator, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.
- A reconsideration is not an opportunity for the University Official to substitute their judgment for that of the original outcome merely because they disagree with its finding and/or sanctions.
- Sanctions imposed are implemented immediately unless the University Official delayed their implementation in extraordinary circumstances, pending the outcome of the reconsideration.
- The University Official will typically render a written decision to both parties on whether a request

for reconsideration meets the criteria within five (5) business days. The University Official's (overseeing the reconsideration) decision to deny a request for reconsideration is final.

- If the reconsideration is granted, all parties will be notified in a timely manner.
- All parties will be informed of the status and decision.

The Title IX Coordinator has final decision-making authority with regard to requests for reconsideration.

### **Additional Notes**

University students, faculty, staff, and administrators are responsible for knowing the information, policies and process outlined in this document.

The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. Students, faculty, staff, and administrators are encouraged to check online at [Civil Rights & Sex/Gender-Based Harassment, Discrimination and Sexual Misconduct Policy and Resolution Process](#) for the updated versions of all policies and process. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form. Reports of misconduct made after the fact may raise issues of policy and process application, if policies and process have changed. Unless the parties accept current policies, all reports are governed by the policies that were in place at the time the alleged misconduct occurred.

*This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.*

### **Special Resolution Process Provisions**

#### **A. University-Initiated Proceedings**

As necessary, the University reserves the right to initiate a report and to initiate resolution proceedings without a report or participation by the Reporting Party of misconduct.

#### **B. Notification of Outcomes**

The outcome of this process is part of the education record of the Responding and Reporting Party (if a student), and is protected from release under a federal law, the Family Educational Rights and Privacy Act (FERPA). However, the University observes the legal exceptions as follows:

- Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and intimate partner violence incidents have an absolute right to be informed of the outcome, essential findings/rationale, and any sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each party.
- The University may release publicly the name, nature of the violation and the sanction for

any student or employee who is found in violation of a University policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, intimate partner violence, stalking and kidnapping/abduction. In doing so, the University will use sound judgment and just cause for releasing the name of the Responding Party.

**C. Past Sexual History/Character<sup>5</sup>**

The past sexual history or sexual character of a party will not be admissible by the other party in the investigation unless such information is determined to be highly relevant by the Title IX Coordinator. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be submitted to the Title IX Coordinator for review. If appropriate, the information will be shared with the Investigator assigned to the case. While previous conduct violations by the Responding Party or Reporting Party are not generally admissible as information about the present allegation, the Title IX Coordinator may supply previous reports of good faith allegations and/or findings to the investigator to consider as evidence of pattern and/or predatory conduct. Both parties will be notified if prior sexual history/character will be considered as evidence.

**D. Participation in an Investigation**

All parties are expected to cooperate with and participate in the University’s investigation. Parties may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person.

- **Reporting Party:** When a Reporting Party elects not to participate in the process, the University’s response in addressing the alleged behaviors may be limited.
- **Responding Party:** If a Responding Party chooses not to participate in the process, an interim measure may be issued up to and including suspension during the investigation process.
- **Witnesses:** Failure to respond to requests to participate in the process or offer evidence prior to a decision does not constitute grounds for reconsideration on the basis of new evidence.

**E. Training for those implementing these processes**

Personnel tasked with implementing these processes, e.g. Title IX Coordinators and Investigators will participate in trainings on an annual basis, with a minimum of eight (8) hours of Civil Rights / Title IX Training. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to harassment and discrimination allegations; know the University’s Policy; understand confidentiality and

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<sup>5</sup> The reporting party’s sexual history with others may be relevant to the allegation – largely because the reporting party may raise the issue by claiming they would never engage in certain behaviors (when evidence indicates otherwise).

privacy; and be aware of applicable laws, regulations and federal regulatory guidance.

**F. Conflicts of Interest and Bias**

The University is committed to ensuring that its resolution processes (e.g.: investigation, reconsiderations, etc.) are free from actual or perceived bias or conflicts of interest that would substantially impact the outcome. Any party who feels that there is actual or perceived bias or conflict of interest that would substantially impact the outcome may submit a written petition to the Title IX Coordinator for the person's removal from the process, prior to findings. The petition should include specifics as to the actual or perceived bias or conflict of interest, as why the petitioner believes the bias or conflict could substantially impact the outcome. Such petitions may also be made to the Vice President and General Counsel in the event that the potential conflict or bias involves the Title IX Coordinator.

**G. Recordkeeping**

In implementing this Title IX Process, records of all allegations, inquiries, investigations, and resolutions will be kept by the Title IX Coordinator indefinitely in the electronic Title IX Coordinator database for the Campus the alleged behavior was reported.



## **V. Rights of the Reporting Party**

1. The right to an investigation and appropriate resolution of all credible reports or notice of sexual misconduct, harassment, or discrimination made in good faith to University officials.
2. The right to be informed in advance of any public release of information regarding the incident.
3. The right not to have any personally identifiable information released to the public, without their consent.
4. The right to be treated with respect by University officials.
5. The right to have University policies and process followed without substantial deviation.
6. The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
7. The right not to be discouraged by University officials from reporting sexual misconduct, harassment, or discrimination to both on-campus and off-campus authorities.
8. The right to be informed by University officials of options to notify proper law enforcement authorities, including local police, and the option to be assisted by campus authorities in notifying such authorities, if the student, faculty or staff so chooses. This also includes the right not to report, if this is the desire.
9. The right to have reports of sexual misconduct, harassment, or discrimination responded to in a timely manner and with sensitivity by University officials.
10. The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services for victims of sexual assault, both on campus and in the community.
11. The right to a campus No Contact Order between University affiliated parties (or a trespass order against non-University affiliated parties) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of others.
12. The right to notification of and options for, and available assistance in, changing work, academic and living situations after an alleged sexual misconduct incident, if so requested and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available).

Accommodations for students may include:

- Change of University owned or operated housing to a different location;
- Assistance from University support staff in completing the relocation;
- Arranging to dissolve a housing contract and pro-rating a refund;
- Exam (paper, assignment) rescheduling;
- Taking an incomplete in a class;
- Transferring class sections;
- Temporary withdrawal;
- Alternative course completion options.

Accommodations for employees may include:

- Change of an office or other work location;
- Rescheduling or reassigning work tasks or committee assignments;
- Alternative parking assignment;
- Leave with pay.

13. The right to have the University maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.
14. The right to be fully informed of campus policies and process as well as the nature and extent of all alleged violations contained within the report.
15. The right to ask the investigators to identify and question relevant witnesses, including expert witnesses.
16. The right to be informed of all evidence available regarding the allegation(s), and the Responding Party and witness statements, subject to the privacy limitations imposed by state and federal law.
17. The right to a fundamentally fair resolution, as defined in these processes.
18. The right to view the Title IX Investigator's report and provide a written statement about the investigative report prior to a decision being made by the Title IX Coordinator.
19. The right to be informed of the names of all witnesses who will be interviewed.
20. The right not to have irrelevant prior sexual history considered in determining responsibility. (Exceptions may be made when the Reporting Party's sexual history with others may be relevant to the allegation. For example: The Reporting Party claims they would never engage in certain behaviors when evidence indicates otherwise).

21. The right to regular updates on the status of the investigation and/or resolution.
22. The right to have reports heard by investigators who have received at least eight (8) hours of annual Civil Rights/Title IX training.
23. The right to preservation of privacy, to the extent possible and permitted by law.
24. The right to petition that any Investigator or Title IX Coordinator be recused on the basis of demonstrated bias.
25. The right to bring an Advisor or support person of their choosing to all phases of the investigation and resolution proceedings.
26. The right to provide evidence by means other than being in the same room with the Responding Party.
27. The right to have the University compel the participation of student, faculty, staff, and administrator witnesses, during an investigation.
28. The right to make or provide an impact statement in person or in writing to the Investigator prior to the completion of the investigation.
29. The right to be informed of the outcome, sanctions and the right to make a request for reconsideration of the resolution process in writing, without undue delay between the notifications to the parties, and usually within seven (7) business days of the end of the process for any sexual misconduct/sexual harassment violation.
30. The right to be informed in writing when a decision by the University is considered final.

## **VI. Rights of the Responding Party**

1. The right to an investigation and appropriate resolution of all credible reports of sexual misconduct, harassment or discrimination made in good faith to University administrators.
2. The right to be informed in advance, when possible, of any public release of information regarding the incident.
3. The right to be treated with respect by University officials.
4. The right to have University policies and process followed without material deviation.
5. The right to be informed of and have access to resources for medical, health, counseling, and Advisory services.
6. The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
7. The right to be fully informed of the nature, policies and process of the campus resolution process and to timely written notice of all alleged violations within the report.
8. The right to ask the investigators to identify and question relevant witnesses, including expert witnesses.
9. The right to have reports of sexual misconduct, harassment, or discrimination responded to in a timely manner and with sensitivity by University officials.
10. The right to be informed of all evidence available regarding the allegation(s), and the Reporting Party and witness statements, subject to the privacy limitations imposed by state and federal law.
11. The right to view the Title IX Investigators' report and provide a written statement about the investigative report prior to a decision being made by the Title IX Coordinator.
12. The right to notification of changes on campus work schedules, academic class changes, living arrangements, if such changes are needed or requested by the Reporting Party or the Title IX Coordinator.
13. The right to be informed of the names of all witnesses who will be interviewed, except in cases where a witness' identity will not be revealed for compelling safety reasons.
14. The name of the Reporting Party will always be revealed.

15. The right not to have irrelevant prior sexual history considered in a campus resolution process. (Exceptions may be made when the Responding Party's sexual history with others may be relevant to the allegation. For example: The Responding Party claims they would never engage in certain behaviors when evidence indicates otherwise.)
16. The right to have reports heard by investigators who have received at least eight (8) hours of annual Civil Rights/Title IX training.
17. The right to petition that any Investigator or Title IX Coordinator be recused on the basis of demonstrated bias.
18. The right to have the University compel the participation of student, faculty, staff, and administrator witnesses and the right to challenge documentary evidence.
19. The right to bring an Advisor or support person of their choosing to all phases of the investigation and resolution proceedings.
20. The right to provide evidence by means other than being in the same room with the Reporting Party.
21. The right to a fundamentally fair resolution, as defined in these processes.
22. The right to make or provide an impact statement in person or in writing to the Investigator prior to the completion of the investigation.
23. The right to regular updates on the status of the investigation and/or resolution.
24. The right to preservation of privacy, to the extent possible and permitted by law.
25. The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based on fact, and without prejudice.
26. The right to be informed of the outcome, sanctions and the right to make a request for reconsideration of the resolution process in writing, without undue delay between the notifications to the parties, and usually within seven (7) business days of the end of the process for any sexual misconduct/sexual harassment violation.
27. The right to be informed in writing of when a decision of the University is considered final.

## **VII. Federal Information & Responsible Authority**

Certain campus officials – those deemed Campus Security Authorities (please contact Campus Safety and Security for more information) - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities/student engagement staff, human resources staff, Advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the Reporting Party and may be done anonymously.

### **Federal Timely Warning Reporting Obligations**

Reporting parties of sexual misconduct should also be aware that University administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The University will ensure that a Reporting Party's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

### **Responsible Authority**

Embry-Riddle Aeronautical University's Vice President and General Counsel and Title IX Coordinators (Daytona Beach / Worldwide and Prescott).

This universal policy, resolution process, and investigation protocol should be applied to all reports of civil rights violations and discrimination reports, especially those governed by Title IX, including sexual violence, sexual harassment, intimate partner violence, stalking, and/or gender-based bullying or hazing.

### **Previous Publications of Policy**

The previous publications of this policy were on 11/6/2018, 8/9/2017, 7/2016, and 8/6/2015.

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