

Title IX Policy & Grievance Procedures:

The 2013 Violence Against Women Reauthorization Act amended the Jeanne Clery Act to afford additional rights to campus victims of sexual assault, domestic violence, and stalking. In 2014 the United States Department of Education issued final regulations for implementation of the changes to the Clery Act.

Under VAWA, colleges and universities are required to:

- Report domestic violence, dating violence, and stalking, beyond crime categories the Clery Act already mandates;
- Adopt certain student discipline procedures, such as notifying purported victims of their rights; and
- Adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel.

All students, staff, and members of the public participating in school activities have a right to an environment free of sexual misconduct. Violence, abuse, intimidation and/or retaliation, directed toward another person violates Academy Of Cosmetology's Code of Conduct and Florida State Laws. Members of the community are expected to comply with school policies and guidelines in addition to federal, state, and local laws whether on or off the campus. Sexual misconduct is a type of sexual discrimination which is prohibited in any school-related activity. Sexual discrimination violates the basic right of each individual to be treated as a person worthy of respect and is in direct contradiction to the school's mission.

Students and staff are entitled to learn and work in an environment free of sexual harassment. Sexual harassment is prohibited in any school-related activity. Sexual harassment is defined as unwelcomed sexual advances (including sexual violence), requests for sexual favors, and/or physical, verbal, or written conduct of a sexual nature when:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, education, or participation in Academy of Cosmetology's programs or activities.
- Submission to or rejection of such conduct by an individual is used as a basis for decisions pertaining to an individual's employment, education, or participation in Academy of Cosmetology's programs or activities.
- Such speech or conduct is directed against another and is abusive or humiliating and persists after the objection of the person targeted by the speech or conduct.
- Such conduct would be regarded by a reasonable person as creating an intimidating, hostile, or offensive environment that substantially interferes with an individual's work, education, or participation in Academy of Cosmetology programs or activities.

Notice of Non-Discrimination:

Academy of Cosmetology does not discriminate on the basis of race, creed, color, religion, sex, disability, age, marital status, national origin, or Vietnam-era disabled veteran, or any other basis prohibited by federal or state law. This policy extends to employment with and admission to the school, and school related activities.

Furthermore, Academy of Cosmetology is required by the Title IX of the Higher Education Act not to discriminate on the basis of sex in such manner. Questions regarding the Title IX may be referred to the school's Title IX Coordinator, or to the US Department of Education's Office of Civil Rights ("OCR"). Academy of Cosmetology Title IX Coordinator is:

Stephanie Wolfe
P.O. Box 1057
Cape Canaveral FL, 32920
Ph: 321-452-8490
Fax: 321-453-7552

Violations:

Sexual Misconduct is defined as any activity of a sexual nature that violates another individual's physical and/or emotional well-being or personal space without that person's explicit consent. Sexual misconduct incorporates a range of behaviors including rape, sexual assault (which includes any kind of nonconsensual sexual contact), sexual harassment, relationship violence, stalking, and any other conduct of a sexual nature that is nonconsensual or has the purpose or effect of threatening, intimidating, or coercing a person(s). Sexual misconduct occurs when there is a lack of mutual consent about sexual activity or if there is ambiguity about whether consent has been given.

Consent is defined in Florida within the criminal statute related to sexual battery. Fla. Statute 794.011 Sexual battery.-(a) "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. To be valid the consent must be:

- Freely and actively given
- In mutually understandable words or actions
- Consent to one form of activity can never imply consent to other forms of sexual activity.
- Consent is not the lack of resistance: there is no duty to fight off a sexual aggressor.
- Consent can be withdrawn at any time, as long as the withdrawal is clearly communicated by the person withdrawing consent through words or actions.

Sexual Assault: Any type of sexual contact or behavior that occurs without the explicit consent of the other person or is obtained through the use of force, threat of force, intimidation or coercion. Defined for the purposes of this policy, "sexual assault" encompasses a wide range of criminalized sexual conduct, including rape and sexual battery. Florida statutes 741.28 defines "sexual conduct" as actual or simulated sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals, pubic area, buttocks, or, if such person is a female, breast if the intent is to arouse or gratify the sexual desire of either party; or any act of conduct which constitutes sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

- **Rape:** Sexual Intercourse by forcible compulsion or threat of forcible compulsion.
 - 1) Compulsion can be use of physical, intellectual, moral, emotional or psychological force, either expressed or implied.
 - 2) It also includes sexual intercourse with a person who is unconscious or unaware that sexual intercourse is occurring or when their power to resist has been substantially impaired by drugs, alcohol or other means.
- **Sexual Contact:** Includes intentional contact with breasts, buttocks, groin, genitals, mouth or other bodily orifices of another person or touch another person with any of these body parts or making another person touch you or themselves with any of these body parts. It also includes intentional contact with any bodily part in a sexual manner.

Sexual Violence: Physical contact or other non-physical conduct of a sexual nature in the absence of clear, knowing and voluntary consent.

Examples including but not limited to:

- Non-consensual sexual intercourse, defined as any sexual penetration (anal, oral, or vaginal), however slight, with any body part or object by any person upon any person without consent.
- Non-consensual sexual contact, defined as any intentional sexual touching, with any body part or object by any person upon any person without consent.

Sexual exploitation, defined as taking non-consensual, unjust or abusive sexual advantage of another. Examples include, but are not limited to, prostituting another student, non-consensual video or audio-taping of sexual activity, going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity), engaging in non-consensual voyeurism, and knowingly transmitting or exposing another person to a sexually transmitted infection (STI) without the knowledge of the person.

- Sexual harassment, as defined in applicable school policy.
- Indecent exposure, defined as the exposure of the private or intimate parts of the body in a lewd manner in public or in private premises when the accused may be readily observed.

Stalking: Defined as in the Florida statutes 784.048.

- "Harass" means to engage in a course of conduct directed at a specific person which cause substantial emotional distress to that person and has no legitimate purpose.
- "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.
- "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats made by electronic communication or 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.
- "Cyber stalking" 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.

Relationship Violence: Includes Domestic Violence and Dating Violence:

Domestic Violence, defined in Florida Statutes 741.28, 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.

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of the relationship shall be determined based on a consideration of the following factors: Length of the relationship; Type of relationship; and the frequency of interaction between the persons involved in the relationship.

Sexual Harassment: Involves the behavior of a person of the opposite or same sex, and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical behavior of a sexual nature and is so severe, pervasive and objectively offensive that it has the purpose or effect of substantially interfering with a person's academic performance, employment or equal opportunity to participate in or benefit from school programs or activities or by creating an intimidating, hostile or offensive working or educational environment.

Examples of sexual harassment include, but are not limited to the following behaviors.

- Sexually degrading words or gestures to describe an individual.
- Unnecessary touching, patting, pinching, or brushing another's body or clothing.
- Comments about an individual's body, clothing or lifestyle which have sexual implications.
- Repeated offensive sexual flirtation, leering or ogling.
- Display of sexually demeaning objects, pictures, or cartoons in hallways, outdoor areas and rooms publicly accessible to members of the school community, including offices.
- Conduct of a sexual nature that interferes with an individual's academic or work performance or creates an intimidating, hostile or offensive environment.
- Implied or direct threats or insinuations that an individual's refusal to submit to sexual advances will adversely affect the individual's status, evaluation, wages, advancement, duties or career development.

Hate Crimes: Florida statutes 775.085(1)(a), 775.085(2) and 877.19 provides for the reclassification of any felony or misdemeanor, including property crimes, where the commission of such offense "evidences prejudice based on race, color, ancestry, religion, sexual orientation, national origin, mental or physical disability, or advanced age of the victim," creates a civil remedy allowing treble damages, and mandates collection and dissemination by the governor on "incidents of criminal acts that evidence prejudice based on race, religion, ethnicity, color, ancestry, sexual orientation or national origin."

Definitions:

Advisor – The role of the advisor is to advise and support the student during the course of the complaint process. The advisor may accompany the student to all meetings relating to the disciplinary proceedings. The advisor may not appear in lieu of the student or otherwise represent their advisee during the process.

Coercion – The use of emotional manipulation to persuade someone to do something they do not want to do. Can take the form of pressure, threats, intimidation, or the use of physical force, either expressed or implied, which places a person in fear of immediate harm or physical injury. Can also take the form of pressure to consume alcohol or other drugs prior to engaging in a sexual act.

Complaint – A formal allegation of wrongdoing or violation of the sexual misconduct policy that may result in a formal investigation.

Complainant – For the purposes of this policy, the recipient or target of alleged sexual misconduct will be referred to as the complainant. They are also often referred to as the victim or survivor in sexual misconduct investigations. It should be noted that an investigation of sexual misconduct may be initiated by someone who is not necessarily the recipient or target of the sexual misconduct. Filing a complaint does not automatically imply that formal disciplinary charges will occur.

Incapacitation – The inability, temporarily or permanently, to give consent, because someone is mentally and/or physically helpless, unconscious, or unaware due to drug or alcohol consumption (voluntarily or involuntarily), or for some other reason. Incapacitation means a person does not have the ability to give consent.

Investigation – A fact finding inquiry into a complaint.

Investigation Summary – A summary written, based on interviews with the respondent, witness, complainant and any other source of information obtained during the investigation. This summary will be part of the documentary record and will be presented to the Sexual Misconduct Committee.

Respondent – A person against whom a complaint of sexual misconduct is made.

Retaliation – Intimidating conduct or other acts against anyone involved in or connected to an allegation of sexual misconduct. This can include, but is not limited to texts, emails, conversations, phone calls or other contact, whether directly or through a third party, friends or acquaintances. All forms of retaliation are prohibited.

Sexual Misconduct Committee (SMC) – The school body charged with resolving complaints of student-to-student sexual misconduct. The committee is composed of staff and administrators.

Witness – Any person (as determined by the investigation) who may have information about the incident in question.

Informal and Formal Procedures:

Informal Procedures

A complainant may elect to pursue an informal resolution for all allegations of sexual misconduct except for sexual assault. An informal resolution is designed to resolve complaints quickly and efficiently and to the mutual satisfaction of all parties involved. Informal resolutions include, but are not limited to:

1. Mediation of the complaint conducted by the Title IX Coordinator in appropriate cases.
2. Agreement in which one or more of the parties involved agrees to accept discipline in the form of a warning, censure, probation, or other such disciplinary action as may be warranted by the circumstances.
3. The right to a prompt and equitable resolution to the complaint. All investigations will examine the preponderance of the evidence presented.
4. The right to have an advisor present during all meetings relating to the disciplinary proceedings.
5. The right, upon request, to have a no-contact order filed prohibiting any communication or contact including but not limited to verbal, written, electronic or third-party communication.
6. The right to request an academic assignment change and minimize burden on the alleged victim.
7. The right to present witnesses or other relevant evidence during a school investigation.
8. Accommodations will be made for the complainant if they are not comfortable being in the same room as the other party.
9. The right to be notified of the outcome of sexual misconduct committee proceedings in writing.
10. The right to simultaneously file a Title IX and criminal complaint.

Rights of Respondent of a Sexual Assault

1. The right to have any and all alleged violations treated with seriousness, dignity and confidentiality. This includes an adequate, reliable, and impartial investigation by school officials and/or law enforcement adjudication, or mediation to bring closure to the incident.
2. The right to be informed of resources, including, but not limited to, the police and counseling services.
3. The right to prompt and equitable resolution to the complaint. All investigations will examine the preponderance of the evidence presented.
4. The right to have an advisor present during all meetings relating to the disciplinary proceedings.
5. The right, upon request, to have a no-contact order filed prohibiting any communication or contact including but not limited to verbal, written, electronic or third-party communication.
6. The right, upon request, to review options for academic assignment changes after an alleged sexual assault.
7. The right to present witnesses or other relevant evidence during a school investigation.
8. Accommodations will be made for the respondent if they are not comfortable with being in the same room as the other party.
9. The right to be notified of the outcome of sexual misconduct committee proceedings in writing.

Formal Procedures

Investigation: The school will investigate complaints in a timely manner and aims to complete all sexual misconduct cases within 45 days. The school strives to complete the investigative process within the time frame listed below. This time period may be shorter or longer depending on the circumstances including, but not limited to, the complexity of the case and the availability of witnesses. If, for any reason, the investigation is not completed within the time frames, a written explanation will be provided to both the complainant and the respondent. All days listed below are school business days.

- Investigation Phase 30 days from the complainant making the initial report
- Investigative Report 5 days from the completion of the investigation
- Review Process 5 days from completion of the investigative report

Once a report has been made, an investigation will be conducted. The school aims to complete the investigation within 30 business days. At times the investigation may take longer. The school's investigative process is not a criminal investigation, and it does not take away the complainant's right to pursue a criminal investigation. The school process may be conducted separately or congruently with a criminal investigation. It will be the complainant's discretion to make a criminal report.

The school will investigate all complaints of sexual misconduct. The steps of the investigative phase are listed below. The school director will meet with the respondent to provide notification of the complaint and the procedures that will follow.

1. The respondent may elect to take responsibility for a violation at the onset of the investigation. The school will still follow the investigative procedures.
2. Respondents may choose not to participate in the investigation; however the investigation will proceed and the findings will be based on all available evidence.
3. The Title IX Coordinator will investigate the complaint and determine and compile the facts.
 - The Title IX Coordinator will meet with the complainant and the respondent to gather facts regarding the incident.
 - The Title IX Coordinator will ask both the complainant and respondent to provide a list of witnesses. It is at the discretion of the Title IX Coordinator to interview witnesses.
 - The Title IX Coordinator may meet with other parties who have information regarding the incident as the Title IX Coordinator so elects.
 - All available information relevant to the complaint will be reviewed, including but not limited to emails, videos, text messages, social media, etc.
4. The complainant and respondent will meet separately with the Title IX Coordinator to review the investigative report. The complainant and respondent will review the report and may:
 - Request that additional information be added to the report.
 - Ask questions or request clarification.
 - Recommend additional witnesses to be interviewed.
5. The Title IX Coordinator will consider the request of the complainant and respondent and add clarification to the report, add additional information or interview additional witnesses as the Title IX Coordinator deems reasonable.
6. If any changes are made to the report the complainant and respondent will again review the report. Once the report is reviewed by both parties and no additional changes need to be made as determined by the Title IX Coordinator, the report will be presented to the sexual misconduct committee.
7. The Title IX Coordinator will submit its report summarizing the information from the investigation to the Sexual Misconduct Committee. The SMC may;
 - Accept the report.
 - Request clarification and ask questions.
 - Request additional information is gathered.
8. If additional information is requested the Title IX Coordinator will gather the information and repeat steps 4, 5, and 6.

Investigative Report

The investigative report will be compiled by the Title IX Coordinator, will be maintained in a confidential manner, and will be made available for review by the hearing committee and complainant and respondent prior to the hearing. The investigative report may include, but is not limited to the following:

- Complainant's Written Statement
- Respondent's Written Statement
- Investigative Summary
- Pertinent Policies
- Other documents utilized by the Title IX Coordinator that he/she deems relevant to the adjudication.

Once the investigation is complete the school strives to complete the investigative report within 5 business days. The investigative report is made up of confidential information. Therefore, the complainant and respondent may review the report, but it will not be copied, and may not be removed by any party. Those reviewing the investigative report will be permitted to take notes.

Reporting Policies and Protocols

An individual who believes that he or she is the victim of sexual misconduct or has witnessed an incident of sexual misconduct is encouraged to make a report. The school encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual misconduct. This is the best option to ensure preservation of evidence and to begin timely investigative and remedial response.

Campus Reporting Options

Anyone who believes that he or she is the victim of sexual misconduct or has witnessed an incident of sexual misconduct is encouraged to follow these procedures to report the incident. To file a complaint students or staff should first speak to either:

- School Manager
- Title IX Coordinator – 321-452-8490

A Title IX complaint form must be complete, and an investigation will then take place. If you are in immediate danger or an emergency situation you should always call 911.

Interim Measures

At any time during the grievance procedures the Title IX Coordinator may recommend that interim measures be taken such as separating the parties, or placing limitations on contact between the parties. Failure to comply with the terms of interim protections could be considered a separate violation of applicable school policies.

Reporting Options

A Title IX complaint form is available through the School Manager or the Title IX Coordinator. This form can be hand delivered to the School Manager or Title IX Coordinator. Also may be e-mailed to MerrittIsland_Melbourne_Academy@cfl.rr.com, or faxed to 321-453-7552. Please make sure all information is completed so that we can contact you as needed.

Confidential Reporting

All reports of sexual misconduct will be handled in confidence to the extent allowed by law. The information reported will be shared only with those school employees who will assist in aiding the victim, conducting the investigation and/or the resolution of the complaint. The school will respect the privacy of all parties involved in a report of sexual misconduct.

The student may request confidentiality when reporting an assault by requesting that his or her identity be omitted from the report. When a victim requests confidentiality, it may limit the schools ability to thoroughly investigate and respond. A witness reporting an assault to the school may remain anonymous by requesting that his or her identity be omitted from the report. The request will be reviewed by the Title IX Coordinator.

Although rare, there are times when the school may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
- Whether there have been other sexual violence complaints about the same alleged perpetrator;
- Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- Whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
- Whether the sexual violence was committed by multiple perpetrators;
- Whether the sexual violence was perpetrated with a weapon;
- Whether the victim is a minor;
- Whether the school possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- Whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors may lead the school to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the school will likely respect the victim's request for confidentiality.

If the school (Title IX Coordinator) determines that it cannot maintain a victim's confidentiality, the school (Title IX Coordinator) will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the school's response. The school will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. A safety plan is tailored for the individual depending on the nature of the circumstances. Retaliation against the victim, whether by students or school employees, will not be tolerated and is strictly prohibited under Title IX.

False Reporting

Knowingly filing a false report is cause for disciplinary and potentially criminal and civil action. The school prohibits an individual from knowingly filing a false report or making misrepresentations of sexual misconduct (including sexual assault, sexual discrimination and sexual harassment). However, a report made in good faith is not considered false merely because the evidence of the allegation does not ultimately support the allegation of sexual misconduct.

Standard for Determining Responsibility

The standard used to determine accountability is the preponderance of the evidence that, more likely than not, the accused has violated the sexual misconduct policy.

Sanctions:

The complainant and the alleged perpetrator will be notified in writing of the outcome of the complaint. When considering sanctions the committee will consider whether the sanction will: (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the complainant and the school community. The following represent the range of sanctions. Possible sanctions are not limited to those listed below. Sanctions may be combined.

- **Counseling** – Students may be required to attend counseling. If mandated to attend counseling, the student will be responsible for any costs.
- **Disciplinary** – Students will be placed on probation for a specific period of time. During this time if there are additional violations they may be dismissed from school.
- **Formal Apology** – A written statement in which the student reflects and apologizes for their behavior.

- **No-Contact Order** – A directive that mandates a student not to contact another student. A no-contact order includes contact, including in person, via e-mail, telephone, text messaging, Facebook or any other method of electronic or direct communication. The order also includes third parties acting on the person’s behalf. It warns the student that any contact could be considered a violation of school policy.
- **Suspension** – The student may be excluded from participation in any academic or other activities of the school for a specified period. Students who have been suspended from the school forfeit all school fees, are withdrawn from school courses contingent on the academic calendar (if after the withdrawal date, students receive F grades), and are not permitted on campus or at school sponsored events without the permission of the school Director. Students who are suspended are permitted to reapply to the school as long as they fulfill all requirements of the suspension.
- **Expulsion** – Expulsion is permanent exclusion of the school. Students who have been expelled forfeit all school fees, are withdrawn from school courses contingent on the academic calendar (if after the withdrawal date, students receive F grades), and are not permitted on campus without the permission of the school Director. Students who are expelled are not permitted to reapply at the school.

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Emergency and External Reporting Options:

Merritt Island Campus

Brevard County Sherriff	321-454-7151
Salvation Army Brevard Domestic Violence Center	321-724-0494
24 Hour Domestic Abuse Helpline/Hotline	321-631-2764
Cape Canaveral Hospital	321-799-7111
Women’s Center, Titusville	321-607-6831

West Melbourne Campus

Melbourne Police Department	321-984-7272
Women’s Center Melbourne	321-242-3110
Women’s Center Melbourne, Counseling	321-242-1526
24 Hour Domestic Abuse Hotline	321-607-6809
Holmes Regional Medical Center	321-434-7000