

HILLSBOROUGH COMMUNITY COLLEGE SEXUAL MISCONDUCT POLICY

NOTICE OF NON-DISCRIMINATION

Hillsborough Community College (HCC) expressly prohibits any form of discrimination and harassment on the basis of any protected classification, including sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital status, medical condition, veteran status, or disability in any decision regarding admissions, employment, or involvement in a College program or activity.

POLICY STATEMENT

HCC is committed to creating and maintaining an environment in which all persons who participate in HCC programs and activities can work together in an atmosphere free of all forms of harassment, exploitation, or intimidation. The College seeks to create an educational community in which the greatest academic potential of students and the professional potential of employees may be realized. Sexual harassment, sexual assault, sexual battery, sexual coercion, sexual abuse, gender-based harassment, stalking (including cyber-stalking), domestic violence, dating violence are all forms of gender-based misconduct, which can occur between strangers or acquaintances including people involved in an intimate or romantic relationship. Sexual violence as defined by the Office of Civil Rights (OCR), refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (due to student's age; use of drugs/alcohol or because of an intellectual or other disability prevents the student from having the capacity to give consent). Sexual violence can be carried out by employees, other students or third parties. All acts of sexual violence are forms of sex discrimination and are prohibited by Title IX.

Every member of the HCC community should be aware that such behavior is prohibited by law and by College policy, and that HCC will not tolerate sexual misconduct in any form. The College will take appropriate action to correct and discipline behavior that is found to violate College policy or regulations prohibiting any form of sexual misconduct.

This policy applies to all members of the College community, including students, employees, volunteers, independent contractors, visitors, and any individual regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the College. Further, this policy applies to conduct occurring on HCC property or at College-sanctioned events or programs that take place off campus, including study abroad and internship programs, as well as at Hawks Landing.

PROCEDURES FOR RESPONDING TO SEXUAL MISCONDUCT

This section outlines procedures the College follows in responding to reports of sexual misconduct committed by any person on or near campus (at an official College function or on College property, including Hawks Landing). HCC strongly encourages the prompt reporting of sexual misconduct. The following terms are used in this policy:

- A person who believes they experienced sexual misconduct (**the "Complainant"**);
- A person who has information that sexual misconduct has been committed (**the "Reporter"**); and
- A person who is alleged to have committed sexual misconduct (**the "Respondent"**).

If the complainant or reporter chooses not to participate in the College review of an incident, HCC may still pursue an investigation.

- A. Campus Reporting Options—The College recognizes that a student or employee may choose to report any form of sexual misconduct to any HCC employee. For example, a student may choose to confide in an assistant dean, a resident assistant, a faculty member, or a coach. An employee may choose to confide in a supervisor or colleague.
- B. Report—When an incident occurs, the person that receives the information shall report the incident to the Title IX Coordinator and Public Safety Department at their earliest awareness. HCC may receive notice from a victim, parent, friend, social media or the local community. The OCR deems a school has notice if a “responsible employee knew or should have known about sexual violence”. A “**responsible employee**” is an HCC employee who has the authority to address sexual violence, who has a duty to report incidents of sexual violence or other student conduct or who a student could reasonably believe has the authority or duty to report an incident. A responsible employee must report to the Title IX Coordinator all relevant details about alleged sexual violence provided by the victim. A responsible employee should ensure that a complainant understands their reporting obligation.

All College employees, including faculty, staff, administrators, and student employees or volunteers who have responsibility for the welfare of other students, are required to share any report of sexual assault or harassment they receive or of which they become aware with the Title IX Coordinator and/or the Public Safety Department to:

- Title IX Coordinator: Dr. Joan Holmes, Special Assistant to the President for Equity and Special Programs
Hillsborough Community College
39 Columbia Drive, Tampa, Florida 33606
813.253.7043
jholmes16@hccfl.edu

The Title IX Coordinator is responsible for coordinating the College’s overall response to sexual misconduct.

- Public Safety for all campus locations: 813.253.7911

Whether or not the criminal justice authorities choose to prosecute, the College can pursue formal disciplinary action against a student/employee alleged to have committed sexual misconduct. Responsibility for adjudicating campus disciplinary actions involving students rests with the Dean of Student Services and the Student Code of Conduct. Responsibility for disciplinary actions involving HCC employees rests with the Executive Director of Human Resources and HCC’s administrative procedure on discipline/applicable collective bargaining agreement. HCC’s internal investigation will proceed irrespective of whether criminal justice authorities choose to prosecute a case.

- C. Reports to Law Enforcement—The HCC Public Safety Department will contact local law enforcement if a crime including one involving sexual misconduct occurs on campus, or to local law enforcement for assaults and other crimes occurring off-campus. Collection and preservation of evidence relating to the reported sexual assault is essential for law enforcement investigations, so prompt reporting of the incident to law enforcement is especially critical. HCC staff can assist an individual in making a report to local law enforcement. For assaults occurring at Hawks Landing, the Assistant to the Dean can assist in making a report to HCC Public Safety. For reports relating to off-campus assaults, HCC Public Safety can assist in identifying the appropriate law enforcement agency to which to make the report.

- D. Timely Warning—Once notified of a potential sexual assault or other form of sexual misconduct, HCC, through their crisis response team, will determine if and how a timely warning will be issued. This is determined based on a case-by-case determination considering if there is an ongoing threat to the College community. The Clery Act requires that HCC alert the College community to certain crimes (which includes sexual assault) in a manner that is timely and will aid in the prevention of similar crimes. The intent of the warning regarding a criminal incident is to enable the College community to protect themselves. HCC will issue a warning as soon as the pertinent information is available and will be decided on a case-by-case basis considering on factors that include: The nature of a crime; the continuing danger to the campus community and the possible risk of compromising law enforcement efforts. The HCC Executive Director Public Information/Marketing, the Vice President for Administration/CFO, the Director of Risk and Emergency Management and Campus Services, and the appropriate Campus President, in conjunction with the HCC Public Safety Department, are designated as a campus security authority under the Clery Act and may issue a timely warning to the HCC community. The HCC Public Safety Department will also be responsible for the maintenance of accurate statistics for the annual Clery Report.
- E. Respect for Privacy—Information regarding sexual misconduct reports and any investigation or review of those reports, including any sanctioning determinations, will only be shared among HCC employees with a legitimate educational interest or with external individuals or entities only on a need-to-know basis; and only as permitted under HCC Policy and applicable law.
- F. Confidentiality—Confidentiality and recognition of the concern for privacy in allegations of sexual misconduct will be maintained to the extent permitted. To protect the individual's privacy rights, the names of students or other identifying information, especially that which is contained in written documents and notes, will only be disclosed to third parties if prior written permission is given by the individual concerned or to those authorized by state or federal law to receive such information. Documents will be redacted consistent with College Policy. The Coordinator will explain where necessary, if a victim's request for confidentiality limits HCC's ability to investigate an incident. HCC may take steps to limit the effects of sexual misconduct and prevent reoccurrence without formal action against an alleged respondent or revealing a complainant's name (i.e. provide increased monitoring, supervision or security at locations/activities where misconduct occurred; providing training/education materials, revising the sexual misconduct policy and procedures and conducting climate surveys on sexual misconduct).
- G. Coordination of Campus Response—The Title IX Coordinator will coordinate the campus response with the Dean of Student Services at the campus and Public Safety Department (Human Resources, where appropriate). Deputy Title IX Coordinators may be designated at HCC campuses/sites by the Title IX Coordinator, as needed.
- H. HCC Crisis Response Team—HCC has a designated crisis response team for sexual misconduct incidents that are contacted by the Title IX Coordinator/Public Safety Department/VP for Administration/CFO, when an incident occurs. This team will work with the Title IX Coordinator/Public Safety, which includes providing information and immediate assistance to the complainant. This team will designate a person to work with the complainant and the respondent. This team is composed of various departments who are included on an as-needed basis, as determined by an incident. Positions that may be included are the Executive Director of Marketing/Public Relations; Vice President for Administration/CFO; representatives from Public Safety; College Attorney; Campus President; Deans and Human Resources.
- I. Emergency Support Services in the Event of a Sexual Misconduct—The first responsibility in responding to reports of sexual misconduct is attending to the needs of the students involved (employee where applicable). All reports of any form of sexual misconduct will be taken with the

utmost seriousness and all students involved will be assisted with obtaining the appropriate assistance needed.

(1) Immediate Assistance—The College encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible after a sexual assault. This is the best option to provide physical safety, emotional support, and medical care to the complainant. It is also the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. HCC will escort any HCC community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the College and community resources and the complaint processes. Medical attention should be sought even if the victim is unsure he/she wishes to notify law enforcement. The appropriate staff will work to try to ensure a safe environment for a student or employee which includes but is not limited to:

- a. Public Safety/Student Services will provide contact information to HCC Campus Assistant Deans/Counselors who can provide information; obtain needed resources; explain reporting options and help navigate the reporting process.
- b. HCC will provide and assist the complainant with contacting public safety; local law enforcement and other first responders.
- c. Assistance is available from the College and local law enforcement 24 hours a day, year-round, by calling the Public Safety Department at 813.253.7911, and 911. HCC personnel shall assist the victim in notifying local law enforcement.
- d. HCC will identify the healthcare options in the community:
 - Provide options for treatment of any injuries; health services; preserving evidence.
 - Provide contact information for local hospitals and local rape crisis center.
- e. At the time a report is made, a complainant does not have to decide whether or not to request disciplinary action concerning a respondent. Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time. To the extent possible, the College will respect an individual's autonomy in making these important decisions and provide support that will assist each individual in making that determination.

(2) Ongoing Assistance

- a. Counseling, Advocacy and Support (on/off campus)
 - HCC will identify counseling and support for victims of sexual misconduct even if victim decides not to make a report or participate in the HCC disciplinary or criminal process.
 - HCC will identify options for disclosing confidentially with counseling, advocacy, health, mental health or sexual misconduct related sources.
- b. Academic Accommodations and Interim Measures (also refer to "Sanctions/Intervention" of this policy)
 - HCC can provide interim measures immediately to ensure safety and well-being of a complainant (relocate an apartment at Hawks Landing; change work and/or

academic schedules; withdraw from/retake a class with no penalty; access academic support like tutoring, etc.).

- c. **Administrative Measures After Incident**—Pending a formal disciplinary hearing, the campus may take a variety of administrative measures for the individual(s) involved, including but not limited to restriction of privileges and services, interim suspension, and exclusion from certain campus areas, such as classrooms and residence facilities. To prevent further conflict between the parties, the campus may utilize administrative reassignment procedures to change classes or if a resident, to move students to another apartment at Hawks Landing, limit access to an apartment/building during the course of a campus or criminal investigation, or make academic accommodations as appropriate for either party.
- J. **Filing/HCC Responsibility Under Title IX**—HCC has a grievance procedure for students/employees to file complaints of sex discrimination, including complaints of sexual harassment or sexual misconduct. These procedures provide for prompt, impartial and equitable investigation and resolution.
- To file a complaint, contact Dr. Joan Holmes, Special Assistant to the President for Equity and Special Projects at (813) 253-7043 or at jholmes16@hccfl.edu. Dr. Holmes is the Title IX Coordinator.
 - HCC procedure for filing a complaint: <http://www.hccfl.edu/gwsc/equity--diversity-office.aspx>
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- K. **Respondent**—HCC is also responsible for ensuring that the person charged with committing sexual assault is also treated fairly. The alleged respondent will be presumed innocent until proven responsible.
- L. **Investigative Process**—The Title IX Coordinator will determine the most effective method for investigating allegations raised by the complainant, which will involve conducting a thorough fact-finding investigation, with separate meetings with the complainant, the respondent and witnesses with first-hand knowledge. The investigation will also review any relevant records related to allegations. Both the respondent and complainant will have equitable rights during the investigation process. The complainant, respondent and witnesses can present evidence including documents and witness information. Participants in the process may be requested to document their statements. If someone declines to provide a written statement or sign a statement taken by the investigation that documents the account of the incident, the investigator will complete the investigation on all available information. At all times, those involved will receive procedurally fair, prompt and thorough investigation, with the outcome documented in writing. Upon completion of the investigation, both the complainant and respondent will be notified of the outcome. The investigation will be completed within thirty (30) days but may be extended an additional thirty (30) days as needed.
- The investigator shall determine if there was sexual misconduct which is unlawful discrimination, based on “a preponderance of evidence” standard. This standard means that it is more likely than not that the unlawful discrimination occurred.
- M. **Disciplinary Process**—The procedures outlined in the Student Code of Conduct will be followed in resolving allegations against a student concerning sexual misconduct, which include a list of all possible sanctions. The procedures outlined in HCC administrative rules and procedures (applicable Collective Bargaining Agreement) will be followed in resolving allegations against an employee, which include a list of possible sanctions.

- Both parties may have others present during the disciplinary proceeding and any related meeting, including an advisor or support person of their choice. This person is not entitled to represent the person.
- A complainant has the right to present his or her case. This includes the right to adequate, reliable, and impartial investigation of complaints, the right to have an equal opportunity to present witnesses and other evidence, and the right to the same appeal processes, for both parties.
- A complainant has the right to be notified of the time frame within which: (a) the College will conduct a full investigation of the complaint; (b) the parties will be notified of the outcome of the complaint; and (c) the parties may file an appeal, if applicable.
- A complainant has the right for the complaint to be decided using a preponderance of the evidence standard (i.e., it is more likely than not that sexual misconduct occurred).
- Both parties have the right to be notified, in writing, of the outcome of the disciplinary proceedings at the same time.
- As noted in the Clery Act, both parties are to be informed of the outcome, including sanction information, of any institutional proceeding alleging a sex offense. HCC may not require a complainant to abide by a non-disclosure agreement, in writing or otherwise.
- The grievance procedures may include voluntary informal methods (e.g., mediation) for resolving some types of sexual misconduct complaints. However, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In cases involving allegations of sexual assault, mediation is not appropriate.

N. Sanction Statement—Any student found responsible for violating the policy on sexual misconduct is subject to the Student Code of Conduct and Disciplinary procedure and may be subject to disciplinary sanctions ranging from probation to expulsion, depending on the incident. HCC reserves the right to broaden or lessen any range of disciplinary sanctions depending on the circumstances of each case. HCC will determine the appropriate corrective action.

Sanctions or interventions may include, but are not limited to, one or more of the following:

- 1) Formal Reprimand: A formal notice that the student has violated college policy and that future violations may be dealt with more severely.
- 2) Disciplinary Probation: A designated period of time during which the student is not in good standing with the College. The terms of probation may involve restrictions of student privileges and/or set specific behavioral expectations.
- 3) Restitution: Reasonable and limited compensation for loss, damage, or injury to the appropriate party in the form of money or material replacement.
- 4) Restriction from Employment at the College: Prohibition of or limitation on HCC employment.
- 5) Class/Workshop/Training/Program Attendance: Enrollment in and completion of a class, workshop, training, or program that could help the student.
- 6) Educational Project: Completion of a project specifically designed to help the student understand why certain behavior was inappropriate and to prevent its recurrence.
- 7) Hawks Landing Housing Transfer or Removal: Placement in another room or housing unit or removal from Hawks Landing housing. Housing transfers or removals may be temporary or permanent depending on the circumstances.

- 8) Professional Assessment: Completion of a professional assessment that could help the student or the College ascertain the student's ongoing supervision or support needs to successfully participate in the HCC community.
- 9) Removal from Specific Courses or Activities: Suspension or transfer from courses or activities at the College for a specified period of time.
- 10) No Contact: Restriction from entering specific areas and/or from all forms of contact with certain persons.
- 11) Suspension: Separation from the College for a specified period of time or until certain conditions are met.
- 12) Expulsion: Permanent separation from the College.
- 13) In addition to the sanctions/interventions applied to students found responsible for sexual misconduct, the College may find it helpful or necessary to request or require others to undertake specific steps designed to eliminate the misconduct, prevent its recurrence, or remedy its effects. Examples include, but are not limited to, the following:
 - a. Requesting or requiring a College department to conduct training for its staff or members;
 - b. Making involved parties aware of academic support services available;
 - c. Making involved parties aware of counseling or medical services available;
 - d. Arranging, where possible, for a party to re-take or withdraw from a course without penalty; and
 - e. Revising College policies, procedures or practices where necessary.
- 14) Any employee found responsible for violating this policy or sexual misconduct is subject to HCC administrative rules and procedures (and any related collective bargaining agreement, if applicable), and may be subject to disciplinary sanction up to and including termination. HCC reserves the right to broaden or lessen any range of disciplinary sanctions depending on the circumstances of each case.

O. Annual Reporting—The HCC Public Safety Department will issue an annual report to the HCC community about actions taken by the College in response to reports of sexual misconduct by students. The report will inform the College community of response efforts and engage the community in education and prevention initiatives. Reports of past actions will provide an overview of information, with removal of confidential details to the extent necessary to respect the privacy of affected parties. The annual report is also provided to the U.S. Department of Education.

P. Timeliness of Process—Upon receipt of a sexual misconduct report, HCC will strive to complete its review of the sexual misconduct report within thirty (30) calendar days, which may be extended an additional thirty (30) days, if needed, and its sanctions/intervention process with fifteen (15) calendar days after HCC shares the findings with the complainant and respondent. There are many factors that affect the length of time needed to complete various portions of the process fairly and equitably. As such, some matters will be resolved before timeframe and others afterwards, as needed.

EDUCATION AND PREVENTION PROGRAMS

Throughout the year, programs designed to promote awareness are presented by a variety of College resources. Prevention programs include an overview of the College's policies and procedures, relevant definitions, including prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention, and information about risk reduction.

Incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive information on a periodic basis. HCC's Title IX Coordinator will oversee the education and prevention calendar and provide programming to campus needs and climate in conjunction with the Campus Dean of Student Services/HCC Human Resources Department. All educational programs include a review of resources and reporting options available for students, faculty, and staff. As part of "Violence against Women Reauthorization Act of 2013" and the Clery Act, educational programs at HCC are required to include:

- A. Primary prevention and awareness programs for new students and new employees, including safe and possible options for intervention for a bystander(s):
 - 1) A statement that HCC prohibits the offense of domestic violence, date violence, sexual assault and stalking;
 - 2) The definition of domestic violence, date violence, sexual assault and stalking under Florida law;
 - 3) The definition of consent under Florida Law, in reference to sexual activity;
 - 4) Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, stalking or any form of sexual misconduct against a person;
 - 5) Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and
 - 6) Ongoing prevention and awareness programs for HCC's students, faculty and staff.
- B. Training for Title IX Coordinator; Public Safety Officers, HCC designated "responsible employees"; victim advocates and other staff involved with responding to, investigating or adjudicating sexual misconduct.

FEDERAL LAWS CONCERNING THIS POLICY

- A. Title IX—Title IX of the Education Amendments of 1972 ("Title IX") is a federal law that mandates that colleges and universities create an environment free from sexual discrimination and harassment for all community members.

Title IX prohibits discrimination on the basis of sex in education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any Federal funds must comply with Title IX. Under Title IX, discrimination on the basis of sex can include sexual harassment, gender-based harassment, sexual violence, sexual assault, other forms of sexual misconduct, stalking, and intimate partner violence.

Title IX says that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

- B. The Clery Act—The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act) is a Federal statute enacted in 1990 that requires colleges and universities to keep and publish information about crime on or near their campuses. The annual security and fire report must contain information on where and when a crime occurred; the type of crime and when a crime was reported. The Clery Act also requires timely warning notification to the college community of all Clery Act crimes reported that the College considers represent a series of continuing threats to students and employees. The Clery Act also requires that HCC publish statements of policies, procedures and programs regarding sex offenses.

Timely warnings are triggered by crimes that have already occurred but represent an ongoing threat. HCC will issue a timely warning for a Clery crime committed at HCC (or within HCC

geography, as defined by the Clery Act) that is reported to HCC or a local law enforcement agency, and is considered by HCC to represent a serious or continuing threat to HCC students and employees.

(Clery timely warnings are different from emergency notifications that HCC will follow for any significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus.)

HCC will use our HawkAlert system for timely warnings under Clery and for emergency notifications (may include a Clery crime).

All students and staff at HCC are strongly encouraged to sign up for HawkAlert.

C. The Campus SaVE Act—In March of 2013, the Violence against Women Act became law was approved, which includes the Campus Violence Elimination Act (Campus SaVE Act). This Act requires that domestic violence, sexual assault and stalking be included in our annual campus crime statistics report (Clery) and that victims be provided their written rights to:

- 1) Be assisted by HCC with reporting crimes to law enforcement with reporting crimes to law enforcement.
- 2) To change academic, living, transportation or working situation to avoid a hostile environment.
- 3) To obtain or enforce a no contact directive or restraining order.
- 4) To have a clear description of HCC's disciplinary process which includes all possible sanctions.

Compliance with these provisions does not constitute a violation of FERPA or applicable State law.

A victim will also receive contact information on available counseling, health, victim advocacy, legal assistance and other services available at HCC and in our community.

DEFINITIONS

- **Alcohol or Other Drugs**—In general, sexual contact while under the influence of alcohol or other drugs is risky behavior. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, misconduct, or intimate-partner violence and does not diminish one's responsibility to obtain informed and freely given consent.

- **Consent** is a voluntary agreement to engage in sexual activity. Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent; consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another; consent can be withdrawn at any time; and coercion, force or threat invalidates consent.

Consent as defined by [Section 794.011, Florida Statutes](#), as relates to sexual activity means intelligent, knowing, and voluntary consent and does not include coerced submission. Consent

does not mean or should not be construed to mean the failure by an alleged victim to offer physical resistance to the offender or person accused of a sexual assault.

- **Date violence** as defined by [Section 784.046, Florida Statutes](#), is violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of the relationship is determined by a relationship that existed within past six (6) months; the nature or relationship was characterized by an expectation of affection or sexual involvement between the parties; and the frequency and type of interaction between the parties included their involvement over time and on a continuous basis.
- **Domestic violence** is the use of physical violence, coercion, threats, intimidation, isolation, stalking, or other forms of emotional, sexual or economic abuse directed towards a partner in an intimate or romantic relationship constitute intimate partner violence. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

Domestic violence as defined by [Section 741.28, Florida Statutes](#), is 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.

- **Gender-based harassment** is acts of verbal, nonverbal, or physical aggression, intimidation, stalking, or hostility based on gender or gender-stereotyping constitute gender-based harassment. Gender-based harassment can occur if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity or femininity. In order to constitute harassment, the conduct must be such that it has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning, or offensive academic or living environment.
- **Hostile environment**—For the purposes of this policy, sexual harassment that is sufficiently severe or pervasive as to disrupt a person's ability to participate in educational programs is a special type of sexual harassment that creates a hostile environment. To determine if a hostile environment has been created, OCR's standards require that the conduct be evaluated from the perspective of a reasonable person in the alleged victim's position, considering all the circumstances. A single or isolated incident of sexual violence may create a hostile environment.
- **Incapacitation** due to use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability prevents the complainant from having the capacity to give consent.
- **Intimidation** are words and/or actions that cause fear in another person and can cause other person to restrain from responding or taking action. This includes intentionally and maliciously causing another person to feel inadequate or afraid. It includes verbal threats, unjust criticisms, sabotage, sexual harassment and physical violence and other actions that erode confidence and someone's abilities to work, continue at school and other life activities.
- **Retaliation** against any person or group who makes a complaint, cooperates with an investigation, or participates in a resolution process is a violation of College policy. Retaliation should be reported promptly to the Title IX Coordinator for investigation, which may result in disciplinary action. The Title IX Coordinator may file charges for violation of the Student Code of Conduct/HCC Employee Disciplinary procedure.

Retaliation is any act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of a sexual assault or harassment

allegation. Retaliation can take many forms, including continued abuse or violence, threats, and intimidation. Any individual or group of individuals, not just a complainant or respondent, can engage in retaliation. HCC does not tolerate retaliation in any form.

- **Sexual assault** is physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (due to a person's age, use of drugs/alcohol or because of an intellectual or other disability):
 - i. by the use or threat of force or coercion;
 - ii. without effective consent; or
 - iii. where that individual is incapacitated.

Sexual assault includes non-consensual sexual contact and sexual intercourse.

Sexual assault as defined by [Section 784.046, Florida Statutes](#), includes any forcible felony whenever a sexual act is committed or attempted.

- **Sexual battery** as defined by [Section 794.011, Florida Statutes](#), 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 object (exception for a bonafide medical device).
- **Sexual exploitation** is the sexual abuse of children and youth through the exchange of sex or sexual acts for drugs, food, shelter, protection and other basics of life and/or money. This includes involving children/youth in creating pornography and sexually explicit websites.
- **Sexual harassment** is the unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:
 - i. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or educational activities; or
 - ii. submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting that individual; or
 - iii. such conduct has the effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, demeaning, or offensive academic or living environment.
- **Stalking** is a course of conduct directed at a specific person that would cause that person to feel fear. Stalking involves repeated and continued harassment made against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear and apprehension. Stalking behaviors may include: pursuing or following; non-consensual (unwanted) communication or contact, including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.

Stalking as defined by [Section 784.048, Florida Statutes](#), is any person who willfully, maliciously and repeatedly follows, harasses, or cyber-stalks another person.