POLICY AND PROCEDURES: Equal Opportunity, Harassment and Nondiscrimination

Embry-Riddle Aeronautical University affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the University’s Grievance Process, as detailed below. The Grievance Process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators and/or staff. The University reserves the right to act on incidents occurring on-campus or off-campus, when the off-campus conduct could have an on-campus impact or impact on the educational mission of the University.

The Associate Dean of Students, Liz Higgins Frost, serves as the Title IX Coordinator for Prescott, the Associate Dean of Students, Cathy Downs for Daytona Beach and the Director of Student Affairs, Linda Dammer for the World Wide campus, oversees the implementation of each campus’s Title IX efforts and the University’s policy on equal opportunity, harassment and nondiscrimination. Reports of discrimination, harassment and/or retaliation should be made to the Title IX Coordinator promptly, but there is no time limitation on the filing of grievances, as long as the accused individual remains subject to the University’s jurisdiction. All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports. Reporting is addressed more specifically in Section 7, below. Reports of discrimination by the Title IX Coordinator should be reported to the respective chancellor at each campus.

This policy applies to behaviors that take place on the campus, at university-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

a) Any action that constitutes criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where the University is located;

b) Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;

c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or

d) Any situation that is detrimental to the educational interests of the University.
Off-campus discriminatory or harassing speech by employees may be regulated by the University only when such speech is made in an employee’s official or work-related capacity.

Inquiries about this policy and procedure may be made internally to:

Liz Higgins Frost
Associate Dean of Students and Title IX Coordinator – Prescott Campus
Building 17, Suite 102, Office 103
928-777-3747
froste@erau.edu

Cathy Downes
Associate Dean of Students and Title IX Coordinator – Daytona Beach
Building 31, Mod 2
386-226-6326
downesc@erau.edu

Linda Dammer
Director of Student Affairs and Title IX Coordinator – Worldwide
Building 1, office 119 (Daytona Beach Campus)
386-226-6396
dammerl@erau.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

Equal Employment Opportunity Commission (EEOC)
Contact: http://www.eeoc.gov/contact/

1. University Policy on Nondiscrimination

Embry-Riddle Aeronautical University adheres to all federal and state civil rights laws banning discrimination in private institutions of higher education. Embry-Riddle is an affirmative action/equal opportunity drug-free workplace and does not discriminate on the
basis of race, religion, gender, age, national origin, disability, veteran status, or sexual orientation.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, and/or social access, benefits and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, any such discrimination will be appropriately remedied by the University according to the procedures below.

2. University Policy on Accommodation of Disabilities

Embry-Riddle Aeronautical University is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

The Director of Equal Employment Opportunity and Affirmative Action, Kenny Corbin, has been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any grievance alleging noncompliance.

a. Students with Disabilities

Embry-Riddle Aeronautical University is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the University.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Disability Services on their campus, who coordinates services for students with disabilities. The director reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student’s particular needs and academic programs.
b. Employees with Disabilities

Pursuant to the ADA, Embry-Riddle Aeronautical University will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to the Human Resources office on their campus and will need to provide appropriate documentation. The Director of Human Resources or designee will work with the employee’s supervisor to identify which essential functions of the position are affected by the employee’s disability and what reasonable accommodations could enable the employee to perform those duties.

3. University Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Embry-Riddle Aeronautical University’s harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University policy.

a. Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by law. Embry-Riddle Aeronautical University will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, Embry-Riddle may also impose sanctions on the harasser. The University’s harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent/pervasive and objectively offensive that it interferes with limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.¹

¹ This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at http://www.ed.gov/about/offices/list/ocr/docs/race394.html.
Offensive conduct and/or harassment that does not rise to the level of discrimination or that is of a generic nature not on the basis of a protected status may not result in the imposition of discipline under University policy, but will be addressed through civil confrontation, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Director of Human Resources and students should contact the Associate Dean of Students (Prescott and Daytona Beach) or the Director of Student Affairs (World Wide).

Embry-Riddle Aeronautical University condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by university policy or law.

b. Sexual Harassment

Both the Equal Employment Opportunity Commission and the State of Arizona and Florida regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Embry-Riddle aeronautical University has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.²

Sexual harassment is:

- unwelcome, sexual or gender-based verbal, written, online and/or physical conduct.³

² Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, “Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX,” which can be found at [http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html](http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html), as well as the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: [http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf](http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf)

³ Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor’s office or on the exterior of a residence hall door
- Two supervisors frequently ‘rate’ several employees’ bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus
- Male students take to calling a particular brunette student “Monica” because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, “sexual relations” and Weight Watchers.
Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the campus Title IX Coordinator.

Sexual harassment creates a hostile environment, and may be disciplined when it is:

- sufficiently severe, persistent/pervasive and objectively offensive that it,
  - has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the university’s educational, social and/or residential program, and is
  - based on power differentials (quid pro quo), the creation of a hostile environment or retaliation.

**POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS**

**Purpose and Scope**

It is a goal of the University to minimize or eliminate actual or perceived bias, favoritism, and conflicts of interest. When two employees or an employee and a student engage in a consensual sexual or romantic relationship that coexists with supervisory or academic authority, opportunity exists for actual or apparent conflict of interest, exploitation, favoritism, or bias. Such consensual amorous relationships can undermine respect and trust among members of the University community, and damage the integrity of the institution itself.

**Employees and Students**

The University does not condone and strongly discourages consensual amorous relations between an employee and any student. Consensual amorous relationships include those of a sexual nature, as well as those of a romantic nature that may exist without physical intimacy. For the purposes of this section, "employee" means any member of the faculty or staff in a position to control or confer an educational, economic or co-curricular benefit or advantage on students. The term includes but is not limited to faculty, administrators, coaches, program directors, and advisors or counselors.

The actual or apparent conflict of interest to which the policy refers includes, for example, decisions on grades, discipline, the award of financial aid or an assistantship, career opportunities, letters of recommendation, and playing time on the athletic field. A consensual relationship creates an appearance destructive of the impartiality and objectivity upon which the educational experience and the university experience rest.

- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.
The apparent or actual conflict of interest remains whether a faculty member is or is not currently the student's instructor. The potential for a conflict of interest not only arises because the faculty member may instruct and grade the student in the future, but also because the faculty member's colleagues in the department may be aware of the relationship and act non-objectively. Should they become aware of the relationship, other students may perceive the student involved is receiving preferential or special treatment. Conversely, when a consensual relationship ends, the student involved may feel as though the faculty member's colleagues will retaliate against him or her. Both parties to the relationship should be mindful of these potential costs to the student.

When an employee finds himself or herself in such a relationship, the employee(s) should (a) immediately terminate the relationship or the supervisory/evaluative aspects of the relationship, or (b) immediately inform his/her supervisor so that appropriate and effective steps can be taken to eliminate the supervisory/evaluative role.

It is the obligation of the employee to inform his/her supervisor of a situation in which the student may be deprived of educational services, advising services, or career opportunities. If necessary, the Chair/Director of the relevant department -- in consultation with the Dean of Students and/or the Dean of the student's college -- will evaluate the student's situation and address a possible deprivation of such services and opportunities. A written record of the resolution of a situation covered by this policy shall be maintained in the files of Human Resources and the Title IX Coordinator at the respective campus.

Supervisors and Employees

The University does not condone and strongly discourages consensual relations between a supervisor and an employee within his or her supervision. Consensual amorous relationships include those of a sexual nature, as well as those of a romantic nature that may exist without physical intimacy.

For the purposes of the policy, a "supervisor" is any person in a position to hire, retain, make employment or compensation decisions for, or control the work of another employee. Within this policy, faculty members may be considered "supervisors" in those instances in which a consensual amorous relationship develops between senior and junior faculty members, or with a staff member over whose work the faculty member has sole or shared control.

A conflict of interest will occur if adverse treatment is given or is perceived to be given to an employee engaged in a consensual relationship with his or her supervisor. When such a relationship develops, both employees are obligated to inform the supervisor's supervisor and/or Human Resources so that the conflict of interest can be eliminated. In consultation with Human Resources, the supervisor's supervisor will determine the appropriate course of action to remove the possible or potential favorable treatment. Therefore, in entering the relationship, both employees deem to consent to possible changes in their positions. A written record of the disposition shall be kept in the files of Human Resources.

It is possible that employees began a consensual amorous relationship before the promulgation of this policy. The disclosure requirements above apply to any relationship,
even those that began before the promulgation of the policy. Human Resources will work with the supervisor and employee to eliminate the conflict of interest in a timely manner.

The University may, in the exercise of its sole discretion, take any appropriate remedial, preventive, or corrective action to minimize the risks or effects or apparent impropriety, bias, favoritism, or conflict of interests.

This policy does not impose upon the University the obligation to police the behavior of members of this community.

c. Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. Additionally, Embry-Riddle Aeronautical University has defined categories of sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, the University considers Non-Consensual Sexual Intercourse violations to be the most serious, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, Embry-Riddle Aeronautical University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other gender-based offenses, including intimate partner or relationship (dating and/or domestic) violence, non-consensual sexual contact and stalking based on the facts and circumstances of the particular grievance. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. Violations include:

i. Sexual Harassment (as defined in section b above)

ii. Non-Consensual Sexual Intercourse

Defined as:
- any sexual penetration or intercourse (anal, oral or vaginal)
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

iii. Non-Consensual Sexual Contact
Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

iv. **Sexual Exploitation**

Sexual exploitation is an act or omission to act that involves taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, either for his or her own advantage or to benefit or advantage anyone other than the Complainant. Examples of sexual exploitation include but are not limited to the following:

- Creating a picture(s), movie(s), webcam, tape recording(s), graphic written narrative(s), or other means of memorializing sexual behavior or a state of undress of another person without the other’s knowledge and consent;

- Sharing items described in the paragraph above beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only;

- Observing or facilitating observation by others of sexual behavior or a state of undress of another person without the knowledge and consent of that person;

- “Peeping Tom” or voyeuristic behaviors;

- Engaging in sexual behavior with knowledge of an illness or disease (HIV or STD) that could be transmitted by the behavior without full and appropriate disclosure to the partner(s) of all health and safety concerns;

- Engaging in or attempting to engage others in “escort services” or “dating services” which include or encourage in any way sexual behavior in exchange for money or other benefit or reward;

- Intentionally, knowingly, or surreptitiously providing drugs or alcohol to a person for the purpose of sexual exploitation; or
○ Exposing another person to pornographic material without the person’s advance knowledge or consent.

v. **INTIMATE PARTNER VIOLENCE**

Intimate partner violence is also sometimes known as dating violence, domestic violence, or relationship violence. The University recognizes that sexual assault, sexual exploitation, sexual harassment, stalking, and retaliation may all be forms of intimate partner violence when committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. In general, intimate partner violence includes physically, sexually, economically and/or psychologically abusive behavior that arises in the form of a direct violent act, or indirectly as acts that expressly or implicitly threatens violence. Intimate partner violence also occurs when one partner attempts to maintain power and control over the other through one or more forms of abuse, including sexual, physical, verbal, or emotional abuse. Intimate partner violence affects individuals without regard to gender or sexual orientation, and does not discriminate by racial, social, or economic background.

vi.

vii. **Consent**

Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

An individual is incapacitated when he or she is not able to make rational, reasonable judgments and therefore is incapable of giving consent. Incapacitation is the inability, temporarily or permanently, to give consent, because the individual is mentally and/or physically impaired due to alcohol or other drug consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring.
In addition, an individual is incapacitated if he or she demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, being unaware of circumstances or surroundings, or being unable to communicate for any reason.

An individual in a blackout state may or may not meet the definition of incapacitation. Such an individual may appear to act normally, but later may not have recall of the events in question. The extent to which a person in this state affirmatively gives words or actions indicating a willingness to engage in sexual activity and the other person is unaware – or reasonably could not have known – of the alcohol consumption or blackout, must be evaluated in determining whether consent could be considered as having been given.

It is not an excuse that the individual responding party of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

**COERCION** ~ Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would compromise an individual’s ability to exercise his or her own free will to choose whether or not to engage in any sexual activity. Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm or severe and/or pervasive emotional intimidation, which (a) places an individual in fear of immediate or future harm or physical injury or (b) causes a person to engage in unwelcome sexual activity. A person’s words or conduct amount to coercion if they wrongfully impair the other’s freedom of will and ability to choose whether or not to engage in sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance that impairs the person’s ability to give consent. When person
“A” makes it clear they do not want to engage in sexual activity, continued pressure by person “B” is considered coercion.

4. Other Civil Rights Offenses, When the Act is Based Upon the Status of a Protected Class

- Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a protected class
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the hazing policy) on the basis of actual or perceived membership in a protected class; hazing is also illegal under Arizona and Florida State law and prohibited by University policy
- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class
- Violence between those in an intimate relationship to each other on the basis of actual or perceived membership in a protected class (this includes romantic relationships, dating, domestic and/or relationship violence)
- Stalking, defined as a course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome and would cause a reasonable person to feel fear

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4 Examples:
- Employee A has been in an intimate relationship with Employee B for over a year; Employee A punches Employee B in the face during an argument (Dating Violence).
- Student A has been in an intimate relationship with Student B for over a year; Students A & B live together. During an argument, Student A shoves Student B to the ground (Domestic Violence).

5 Examples
- Employee A recently ended an intimate relationship with Employee B. For the past three weeks, B has been sending A 100 text messages per day and waits by A’s car at the end of each day to beg and plead with her to take him back. When she refuses, he loses control, makes threatening gestures, and tells her she will regret this. Employee A indicates she is fearful of what B might do to her (Stalking).
- Mark is a student on campus who has always been fascinated by women who dye their hair. One day, he notices MaryLou, whose hair is dyed a very bright purple. He follows her home to see where she lives,
• Any other University rules, when a violation is motivated by the actual or perceived membership of the victim on the basis of sex or gender or in a protected class, may be pursued using this policy and process.

Sanctions for the above-listed “Other Civil Rights Behaviors” behaviors range from reprimand up through and including expulsion (students) or termination of employment.

5. Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing a grievance or for assisting in providing information relevant to a claim of harassment is a serious violation of University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator. Embry-Riddle Aeronautical University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

6. Remedial Action

Embry-Riddle Aeronautical University will implement initial remedial and responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medical services, academic support, living arrangement adjustments, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

Embry-Riddle Aeronautical University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described below. Deliberately false and/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.

7. Confidentiality and Reporting of Offenses Under This Policy
University officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for you to report crimes and policy violations and these resources will take action when you report victimization to them. Most resources on campus fall in the middle of these two extremes; neither the University, nor the law, requires them to divulge private information that is shared with them, except in rare circumstances. The following describes the three reporting options at the University:

a. **Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus, licensed, mental health counselors or clergy/chaplain hired by the University, off-campus local rape crisis counselors, domestic violence resources, local or state assistance agencies, or on or off-campus members of the clergy/chaplains who will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors and/or the Employee Assistance Program are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient or parishioner.

b. **Private Reporting**

Those seeking to report misconduct may seek advice from certain resources who are not required to initially tell anyone else your private, personally identifiable information unless there is a pattern of abuse, cause for fear for your safety or the safety of others. These resources include employees without supervisory responsibility or remedial authority to address discrimination, harassment, retaliation and/or sexual misconduct, such as the Sexual Misconduct Resource Team Coordinator (Prescott). If a reporting party is unsure of someone’s duties and ability to maintain privacy, ask them before talking to them. They will be able to explain and help a reporting party to make decisions about who is in the best position to help. If personally identifiable information is shared, it will be shared with as few people as possible and all efforts will be made to protect privacy to the greatest possible extent.

c. **Formal Reporting Options**

Individuals bringing grievances are encouraged to speak to University officials, such as the Title IX Coordinator, Deputy Title IX Coordinators, Director of Human Resources, Dean of Students, or Campus Safety to make formal reports of incidents of sexual misconduct. The
individual(s) bringing a grievance forward has the right, and can expect, to have grievances taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve an individual bringing a grievance’s rights and privacy.

8. Federal Timely Warning Obligations

Victims of sexual misconduct should be aware that Embry-Riddle Aeronautical University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a victim’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 potential danger.

EQUITY GRIEVANCE PROCESS FOR RESOLVING GRIEVANCES OF HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION

Embry-Riddle Aeronautical University will act on any formal or informal grievance or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, that is received by the Title IX Coordinator, Deputy Title IX Coordinators, Director of Human Resources or a member of the administration.

The procedures described below will apply to all grievances involving students, staff or faculty members. Redress and requests for responsive actions for grievances brought involving non-members of the community are also covered by these procedures.

1. Filing a grievance

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated should contact the Title IX Coordinator, a Deputy Title IX Coordinator, or the Director of Human Resources. It is also possible for employees to notify a supervisor, or for students to notify a staff or faculty member, or any member of the community may contact Campus Safety. These individuals will in turn notify the Title IX Coordinator.
All employees receiving reports of a potential violation of University policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy: specific information on any grievances received by any party will be reported to the Title IX Coordinator, but, subject to the University’s obligation to redress violations, every effort will be made to maintain the privacy of those initiating a report of a grievance. In all cases, Embry-Riddle Aeronautical University will give consideration to the individual(s) bringing 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 an alleged victim chooses not to initiate or participate in a formal grievance.

3. Grievance Intake

Following receipt of notice or a grievance, the Title IX Coordinator will, promptly assign an advocate to the person who reported the grievance or the party bringing a grievance may choose from the Sexual Misconduct Resource Team pool, or choose a non-trained advisor from outside the pool, if preferred, or precede without an advisor. Normally, within two business days, an initial determination is made whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the grievance does not appear to allege a policy violation or if conflict resolution is desired by the party bringing a grievance, and appears appropriate given the nature of the alleged behavior, then the grievance does not proceed to investigation.

A full investigation will necessarily be pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the community or any of its members. The University aims to complete all investigations within a 60 calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties.

4. Investigation

If a party bringing a grievance wishes to pursue a formal grievance or if the University based on the alleged policy violation, wishes to pursue a formal grievance, then the Title IX Coordinator appoints an investigator to conduct the investigation, usually within two business days of determining that a grievance should proceed. Investigation of grievances brought directly by those alleging harm should be completed expeditiously, normally within 10 business days of notice to the Title IX Coordinator. Investigation may take longer when initial grievances fail to provide direct first-hand information. The University may undertake

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7 If circumstances require, the Chancellor or Title IX Coordinator may designate another person to oversee the process below, should a grievance be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.
a short delay (3-10 days, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. Embry-Riddle Aeronautical University action will not 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. All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

5. Interim Remedies

If, 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 on-campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Title IX Coordinator (or designee) may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. These remedies may include referral to counseling and health services or to the Employee Assistance Program, education to the community, altering the housing situation of an accused student or resident employee (or the alleged victim, if desired), altering work arrangements for employees, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc.

The University may in the interim suspend a student, employee or organization pending the completion of an investigation and procedures. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator (and Director of Human Resources if an employee) prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension under the policy on Equal Opportunity, Harassment and Nondiscrimination, and to determine its conditions and duration. Violation of an interim suspension under this policy could be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined by the Title IX Coordinator or designee, this restriction includes classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the appropriate administrative officer and Title IX Coordinator or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student.

6. Grievance Resolution
During or upon the completion of investigation, the investigators will meet with the Title IX Coordinator. Based on that meeting, the Title IX Coordinator will make a decision on whether there is reasonable cause to proceed with the grievance. If the Title IX Coordinator decides that no policy violation has occurred or that the preponderance of evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation) does not support a finding of a policy violation, then the process will end unless the party bringing a grievance requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation or to forward the matter for a hearing. This decision lies in the sole discretion of the Title IX Coordinator. If there is reasonable cause, the Title IX Coordinator will direct the investigation to continue, or if there is a preponderance of evidence of a violation, then the Title IX Coordinator may recommend conflict resolution, a resolution without a hearing or a formal hearing, based on the below criteria.

**a. Conflict Resolution**

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, the Title IX Coordinator or designee will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address grievances of sexual misconduct or violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to make a formal grievance, and anyone participating in conflict resolution can stop that process at any time and request a formal hearing.

**b. Formal Hearing**

For any grievances that are not appropriate for conflict resolution, the Title IX Coordinator will initiate a formal hearing or for employees for whom no hearing process is available, will refer his/her findings to the Director of Human Resources for implementation.

**a. Hearings**

The Title IX Coordinator will appoint two administrators (usually a faculty or staff
member of the Student Appeals Board or trained hearing officers) for students as the respondent and the Director of Human Resources and the Title IX Coordinator will serve this role when an employee is the respondent for the initial hearing. Hearing officers or other administrators who served as investigators may also serve the role of hearing officers adjudicating the case. No member of the hearing process may be a practicing attorney. The panel will meet at times determined by the Title IX Coordinator.

b. Notification of Charges

At least one week prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Title IX Coordinator or designee will send a letter to the parties with the following information. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result.
- The time, date and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. This hearing may take place in person, on the phone or via virtual meeting capabilities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Title IX Coordinator may authorize rescheduling of the hearing.
- The parties may have the assistance of an advisor or advocate, at the hearing. Typically, advisors and advocates are members of the campus community, but the Title IX Coordinator may grant permission for an outside advisor or advocate upon request. The parties to the hearing are expected to ask and respond to questions on their own behalf, without representation by their advisor or advocate. The advisor or advocate may consult with the advisee quietly or in writing, or outside the hearing during breaks, but may not speak on behalf of the advisee to the hearing officers.
- Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-day goal for resolution.

c. Hearing Procedures

Hearings will be convened, usually within one to two weeks of the completion of the investigation, and will be conducted in private. The hearing officers have the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination,
harassment and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within this format. Accordingly, investigations should be conducted with as wide a scope as necessary.

Participants in this process will include the two hearing officers, the investigator(s) who conducted the investigation on the grievance if different from the hearing officers, the party bringing a grievance and responding party(ies) (or the president and advisor of the organization in a case where an organization is charged), advisors or advocates to the parties and any called upon witnesses.

In hearings involving more than one accused individual or in which two parties bringing a grievance have accused the same individual of substantially similar conduct, the standard procedure will be to hear the grievances jointly; however, the Title IX Coordinator may permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings, subject to University consequences for failure to do so. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors or advocates.

No person will be given or be allowed to make a copy of the recording if one is made as well as copies of any materials presented in case.

d. Decisions

The hearing officers will deliberate in closed session to determine whether the responding party is responsible or not responsible for the violation(s) in question. The hearing officers will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation). If an individual responding party or organization is found responsible by the hearing officers, the hearing officers will recommend appropriate sanctions to the Title IX Coordinator.

The hearing officers will prepare a written deliberation report and deliver it to the Title IX Coordinator, detailing the finding, the information cited by the hearing officers in support of its recommendation and any information the hearing panel excluded from its consideration and why. The report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the Title IX Coordinator within two (2) days of the end of deliberations.
The Title IX Coordinator will inform the accused individual and the party bringing a grievance of the final determination within 2-3 business days of the hearing, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties’ University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

e. Sanctions

Sanctions or responsive actions will be determined by the hearing officer(s) in conjunction with the Title IX Coordinator. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual’s disciplinary history
- Previous grievances or allegations involving similar conduct
- Any other information deemed relevant by the hearing officer(s)
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the victim and the community

i. Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning**: A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure or directive will result in more severe sanctions/responsive actions.
- **Probation**: A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- **Suspension**: Termination of student status for a definite period of time not to exceed two years, and/or until specific criterion is met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at University.
Expulsion: Permanent termination of student status, revocation of rights to be on campus for any reason or attend University-sponsored events.

Withholding Diploma. The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a grievance pending, or as a sanction if the student is found responsible for an alleged violation.

Revocation of Degree. The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

Organizational Sanctions. Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.

Other Actions: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

ii. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include warning, reassignment, required counseling, demotion, suspension with pay, suspension without pay and termination.

f. Withdrawal/Stop-out or Resignation While Charges Pending

Students: The University does not permit a student to withdraw/stop-out if that student has a grievance pending for violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, or for charges under the Code of Student Conduct. Should a student decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student’s absence to a reasonable resolution and that student will not be permitted to return to University unless all sanctions have been satisfied.

Employees: Should an employee resign while charges are pending, the records of the Title IX Coordinator and the Director of Human Recourses will reflect that status, as will University responses to any future inquiries regarding employment references for that individual. The Title IX Coordinator will act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

g. Appeals

All requests for appeal considerations must be submitted in writing to the Title IX Coordinator within two business days of the delivery of the written finding.
The Title IX Coordinator and the Director of Human Resources or designees will consider all appeal requests. Any party may appeal, but appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed are substantially disproportionate to the severity of the violation.
- Substantiated bias on the part of the hearing officers(s)

The appeals panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party requesting the appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately.

Where the Title IX Coordinator finds that at least one of the grounds is met, and proceeds, additional principles governing the hearing of appeals include the following:

- Appeals decisions by the panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings of the grievance. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be referred to the original hearing body for reconsideration. Other appeals may be referred at the discretion of the Title IX Coordinator.
- Sanctions imposed are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The Title IX Coordinator will normally, after conferring with the appeals panel, render a written decision on the appeal to all parties within 2-3 business days from hearing of the appeal.
- All parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, the outcome is final: further appeals are not permitted.
h. 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 by the Title IX Coordinator. 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 and/or suspension, expulsion and/or termination from the University and may be noted on a student’s official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

i. Records

In implementing this policy, records of all grievances, resolutions, and hearings will be kept by the Title IX Coordinator and indefinitely in the Title IX Coordinator database.

j. Statement of the Rights of a Party Bringing a Grievance

- To be treated with respect by University officials.
- To take advantage of campus support resources (such as Counseling for student, or EAP services for employees or Chaplain’s).
- To experience a safe living, educational and work environment.
- To have an advisor or advocate during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug consumption violations) that is ancillary to the incident.
- To be free from retaliation.
- To have grievances heard in substantial accordance with these procedures.
- To full participation of the injured party in any process whether the injured party is serving as the party bringing a grievance or the University is serving as party bringing a grievance.
- To be informed in writing of the outcome/resolution of the grievance, sanctions where permissible and the rationale for the outcome where permissible.
- Refer to law enforcement and have assistance.
- Housing and living accommodations.
- No contacts.

k. Statement of the Rights of the Responding Party

- To be treated with respect by University officials.
- To take advantage of campus support resources (such as Counseling & Psychological Services, the Office of the Chaplains, and University Health Services for students, or EAP services for employees).
• To have an advisor or advocate during this process.
• To refuse to have an allegation resolved through conflict resolution procedures.
• To have grievances heard in substantial accordance with these procedures.
• To be informed of the outcome/resolution of the grievance and the rationale for the outcome, in writing.

8. Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. However, the Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of its implementation will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy.

This policy and procedure was implemented on August 17, 2015.