I. INTRODUCTION

To ensure that our University community is free from unlawful discrimination, unlawful harassment, and protected category retaliation, all faculty, staff, and students are expected to follow the University’s three equal opportunity policies. The University’s three equal opportunity policies are not federal or state law.

Students, staff, and faculty are strongly encouraged to report allegations of discrimination, harassment, and/or retaliation covered under the University’s Diversity and Equal Opportunity Policy #0-007, Sexual Misconduct/Sexual Harassment (Including Battery) Policy #0-004, and the Disability and Accommodations (Public/Employees/Students) Policy #0-108. These three equal opportunity policies of the University will be referred to as “Policies” within this document.

Delaying the immediate reporting of an allegation often hinders a proper investigation and can also unnecessarily subject the Complainant to continued unlawful discrimination, harassment, and/or retaliation.

If the person the allegation has been made against is a student, then that complaint must be referred to the Office of Student Rights and Responsibilities (“OSRR”). It is outside the Diversity, Inclusion and Equal Opportunity Office’s (“DIEO”) jurisdiction to process allegations made against students.

The confidentiality and privacy of all parties involved during the DIEO Complaint Process will be maintained to the fullest extent possible. However, DIEO does not promise absolute confidentiality.

The Complainant may, at any time, withdraw an allegation or complaint by notifying DIEO in writing. However, DIEO reserves the right to continue an investigation if it is considered to be in the best interests of the University.

Filing a complaint with DIEO will not extend the time for filing the same complaint with any external agency such as the Florida Commission on Human Relations, the Equal Employment Opportunity Commission, a University union under the applicable collective bargaining agreement, Department of Education-Office of Civil Rights, or a court of law.

DIEO encourages the resolution of issues or allegations through conflict resolution if at all possible. Conflict Resolution such as mediation or other efforts to resolve the Complainant’s allegation may be offered by the Intake Coordinator or Investigator during the Intake or Investigation Process, respectively.
Complainant or Respondent may also request conflict resolution at any time during the Intake or Investigation Process.

II. COMPLAINT PROCESS

DIEO’s Intake and Investigation process is collectively referred to as the Complaint Process. The following Complaint Process will be used by DIEO to address and/or investigate all matters related to allegations of protected category unlawful discrimination, harassment, and/or retaliation that are covered under the Policies.

DIEO reserves the right to depart from the Complaint Process as necessary based on the facts and circumstances of each allegation or complaint.

The standard of review used by DIEO for a determination of “cause” or “no cause” is whether it is more likely than not that a violation of the Policies have occurred.

A. Intake Process

Incident Report Form or Title IX Incident Report Form

The Incident Report Form or the Title IX Incident Report Form should be completed by any employee or student, who is not the Complainant, but who would like to notify DIEO that an incident has occurred that is covered under the Policies. These forms are found on DIEO’s website or may be requested from DIEO. Upon DIEO’s receipt of the Incident Report Form or the Title IX Incident Report Form, DIEO will contact the Complainant and if necessary other appropriate individuals for further information. DIEO will evaluate the information provided and will determine if further processing is needed. The Incident Report Form or the Title IX Incident Report Form may be emailed, mailed, faxed or hand delivered to DIEO.

Appointments and Walk-Ins

Any individual may call DIEO to make an appointment with the Intake Coordinator/Designee to discuss an issue or concern that he or she believes to be discriminatory, harassing, or retaliatory in nature. In addition, an individual may come to DIEO without an appointment and speak to the Intake Coordinator/Designee regarding an issue or concern that he or she believes to be discriminatory, harassing, or retaliatory in nature. Regardless of whether the individual made an appointment to see the Intake Coordinator/Designee or walked into DIEO without an appointment, the same Intake Process will be followed.
Intake Process

Once the Incident Report Form has been received or the Complainant has come to DIEO, the Intake Coordinator/Designee will conduct an Intake Interview with the potential Complainant regarding the Complainant’s allegation. After the Intake Interview, the Intake Coordinator/Designee will determine if DIEO has jurisdiction regarding the Complainant’s allegation. If the Intake Coordinator/Designee determines that DIEO does not have jurisdiction, then the Intake Coordinator/Designee will assist the Complainant in determining the most appropriate University administrative or academic unit to refer the Complainant for handling of the Complainant’s allegation.

If the Intake Coordinator/Designee determines that DIEO does have jurisdiction regarding the Complainant’s allegation, then the Intake Coordinator/Designee will give the Complainant an EO Complaint Form to complete. The Complainant has 120 calendar days from the date of the alleged incident of unlawful discrimination, harassment, and/or retaliation to file an EO Complaint Form with DIEO alleging protected category unlawful discrimination, harassment, or retaliation.

If the Complainant does not file an EO Complaint Form with DIEO within 120 calendar days from the date of the alleged discrimination, harassment, and/or retaliation incident, then DIEO will dismiss the complaint as having been untimely filed.

B. Investigation Process

DIEO serves as an objective fact-finding body evaluating evidence, information and credibility to make a determination as to whether USF’s equal opportunity policies have been followed. The Investigator is a neutral fact finder and does not represent the Complainant or the Respondent. The investigation will include the Investigator analyzing the data submitted by the parties, interviewing witnesses, and gathering any additional information or documentation that may be needed.

DIEO will not conduct an investigation unless a Complainant has filed a written complaint with DIEO. Completion of the EO Complaint Form will provide to DIEO the information that is needed to begin an investigation into the Complainant’s protected category allegation. However, filing with DIEO a written statement that contains the information requested on the EO Complaint Form is also acceptable.

EO Complaint Form

The EO Complaint Form should be completed by the individual making the complaint. This form is found on DIEO’s website or may be requested from the office. The EO Complaint Form may be emailed, mailed, faxed or hand delivered
to DIEO. The Investigator assigned to the case will review the *EO Complaint Form* to ensure that the form is completed in its entirety.

**Investigation**

Upon DIEO’s receipt of the *EO Complaint Form*, the Investigator assigned to the case will contact the Complainant for an interview regarding the information contained in the *EO Complaint Form* that the Complainant completed, if necessary.

After the Investigator has reviewed the *EO Complaint Form* and/or conducted an Investigation Interview, the Investigator will make a determination if DIEO still has jurisdiction regarding the Complainant’s allegation. If the Investigator determines that DIEO does not have jurisdiction, then the Investigator will assist the Complainant in determining the most appropriate University administrative or academic unit to refer the Complainant for handling of the Complainant’s allegation.

If the Investigator determines that DIEO does have jurisdiction regarding the Complainant’s allegation, then an investigation regarding the Complainant’s allegation will commence. DIEO will evaluate the information obtained during the investigation and determine the extent of investigation needed to address the allegations made in the complaint. However, a typical investigation involves interviewing the Complainant, the Respondent, witnesses, reviewing documentation (if any) and any other information that is relevant to the allegation.

During the Investigation Process, the Respondent will be given an opportunity to respond both verbally and in writing to the Complainant’s allegation. The Respondent will be notified in writing of the allegation in a document entitled *Notice of Discrimination Complaint and Request for Response*. The Respondent will be asked to admit or deny each of the Complainant’s allegations and provide an explanation. The Respondent will be given fourteen (14) calendar days from the date on the *Notice of Discrimination Complaint and Request for Response* to provide this written response.

If the Respondent needs an extension to respond to the *Notice of Discrimination Complaint and Request for Response*, then the Respondent must request an extension from the Investigator assigned to that case. Once DIEO has received the Respondent’s response, the Investigator will then interview the Respondent to discuss the Respondent’s written response in more detail.

After the Respondent’s written response is received by DIEO and the Respondent is interviewed, then the Investigator will contact the Complainant to review the Respondent’s written explanation regarding the Complainant’s allegation. The Complainant will be given an opportunity to rebut the Respondent’s explanation. The Complainant does not have to provide a rebuttal. If the Complainant chooses to provide a rebuttal, the Complainant has seven (7)
calendar days to provide a rebuttal to DIEO. If the Complainant submits a rebuttal to DIEO after seven calendar (7) days, it is within the sole discretion of DIEO whether or not the rebuttal will be considered in analyzing the information obtained for the purposes of drafting a Final Investigative Report and reaching a finding.

DIEO may request information from individuals other than the Complainant or Respondent during the course of an investigation. If information is requested, then the individual to whom the request was made will be expected to submit the information to DIEO within fourteen (14) calendar days from the date of the request.

Once the Investigator has completed the investigation, then the Investigator will draft a Final Investigative Report. DIEO may use many resources in evaluating the information presented and will consider the available information in preparing the Final Investigative Report. The report will outline the findings and indicate a recommendation of whether or not the University’s Policies have been violated. The draft Final Investigative Report will be reviewed by the Chief Diversity Officer for DIEO or designee.

Once the Chief Diversity Officer or designee has reviewed the draft Final Investigation Report, then a copy of the draft report will be sent to the Office of the General Counsel to review for legal sufficiency.

Upon completion of the legal sufficiency review, the Chief Diversity Officer for DIEO or designee will issue a Determination Letter. DIEO will provide a copy of the Final Investigative Report and Determination Letter to the Complainant, Respondent, USF President, Provost (if the Complainant or the Respondent was faculty), Office of the General Counsel, head of the Respondent and Complainant’s unit/area, Chair of the academic unit (if applicable) and the Dean of the College (if applicable). Other individuals may be provided a copy of the Final Investigative Report as deemed appropriate based on the circumstances of the complaint, investigation, or recommendation.

In Title IX investigations, DIEO will typically strive to complete its fact-finding within 60 calendar days from the time it receives a completed EO Complaint Form. However, there can be circumstances when an investigation may take longer than 60 calendar days due to factors such as the complexity of the allegations, the unavailability of witnesses, school breaks, the involvement of law enforcement agencies, the volume of documentation or information, the number of witnesses to be interviewed, or other reasons.

Notice of Dismissal

DIEO may dismiss a complaint at any time during the investigation of the complaint. Reasons for dismissal may include but are not limited to: 1) lack of participation in the investigation by the Complainant; 2) the prima facie case for a
protected category allegation has not been met; and/or 3) DIEO has determined that the Complainant has filed a false complaint or made a material misrepresentation of the facts to the Investigator or other DIEO Office personnel.

If DIEO dismisses a complaint that has been filed with DIEO, the Complainant will receive a Notice of Dismissal which will inform the Complainant that his or her complaint has been dismissed and the reason(s) why.

There is no right to appeal if a complaint has been dismissed by DIEO.

III. CONFLICT RESOLUTION

Conflict resolution is an attempt made by DIEO to resolve an allegation before the completion of an investigation. Conflict resolution encompasses a wide scope of activities that range from making telephone calls to the appropriate individuals to determine what can be done to satisfactorily address the allegation to mediating the allegation using a mediator.

DIEO reserves the right to determine if an allegation or complaint can be appropriately handled through conflict resolution. If DIEO determines that the circumstances of the allegation are not appropriate for conflict resolution, then the office will not offer or agree to conflict resolution.

Mediation

Mediation is one type of conflict resolution. Mediation is a voluntary process that must be agreed to by both the Complainant and Respondent. Mediation is a process where the Complainant and Respondent voluntarily choose to negotiate for the resolution of the allegation with the assistance of a neutral third party. This neutral third party is known as a mediator. Depending on the circumstances, mediation may be the preferable way to resolve the allegation. However, it is important to remember that there are certain circumstances under which mediation is not appropriate to use, for example, alleged egregious violations of the Policies.

Documents prepared by DIEO as part of the mediation effort will not be incorporated into any investigative file except for the written mediation/settlement agreement between the parties that resolves the allegation.

Mediation efforts will not last more than thirty (30) calendar days, except in extraordinary circumstances where the Chief Diversity Officer of DIEO or designee approves an extension of time.

Mediation will be carried out according to DIEO rules, policies and/or procedures.
The following elements shall be considered in each mediation:

a. fairness;
b. procedural flexibility;
c. privacy and confidentiality;
d. self-determination of the participants; and
e. the needs and interests of the participants.

If the Complainant and the Respondent are interested in mediation, they will be provided information about the role of the mediator, the purpose of mediation, and the mediation consent forms. Both the Complainant and the Respondent must sign and return the mediation consent forms to DIEO for a mediation to take place.

If the mediation is agreed to by the Complainant and Respondent, then the mediator will schedule a meeting for the Complainant and Respondent to mediate the allegation after the parties have returned the mediation consent forms signed.

At the mediation, the mediator will:

a. engage the parties in a discussion about the issues presented,
b. encourage the parties to discuss their disagreement,
c. accept and review any materials the parties wish to make available to assist the mediator prior to or during the mediation, and
d. review any resolution proposal developed by the parties and forward it to the Chief Diversity Officer of DIEO or designee with his/her recommendations.

At the conclusion of the mediation, if successful, the mediator shall prepare a mediation or settlement agreement reflecting any and all agreements reached between the Complainant and the Respondent. The Complainant and Respondent shall both sign the mediation or settlement agreement. The original signed mediation or settlement agreement will be placed in the DIEO case file; a copy of the signed mediation or settlement agreement will be given to the Complainant and the Respondent; and a copy of the signed agreement will be given to the Chief Diversity Officer of DIEO or designee for review.

All notes shall be destroyed upon completion of the mediation process whether the mediation is successful or unsuccessful. If the mediation is successful, only the original written and signed mediation or settlement agreement should be retained in the DIEO case file. The documents submitted during the mediation will be returned to the appropriate parties before the conclusion of the mediation process and will not be part of the file.
If an investigation into the allegation is halted in order to mediate the allegation and the mediation is not successful, then the investigation will resume.

IV. APPEAL

The Complainant or Respondent electing to appeal the DIEO determination must appeal to the President or designee in writing within thirty (30) calendar days from the date of the Determination Letter. The appeal must include the reason for the appeal and be signed. The President or designee may grant a reasonable extension on a case-by-case basis upon written request by the appealing party.

2. If the determination is appealed, the President or designee:
   a. will review the information presented by the person appealing to determine if the information meets the criteria for appellate submission,
   b. will review the information gathered by the DIEO Office during the investigation, and
   c. may conduct or order any further investigation or discussion deemed necessary to reach a final decision on behalf of the University.

3. The President or designee will inform the Complainant and Respondent, Provost (if applicable), Office of General Counsel, head of Respondent and Complainant's unit/area, the Dean of the College (if applicable) of his/her decision regarding the appeal, and other office’s as deemed appropriate.

4. Appeals of the Determination Letter can be made under one or more of the following circumstances:
   a) Additional relevant evidence has been discovered that the appealing party was not aware of during the investigation,
   b) Relevant facts, presented during the investigation, were not considered, and/or
   c) Witnesses with relevant information, whose names were given during the investigation, were not interviewed.

5. If there is no appeal, the finding in the Determination Letter shall stand.

6. Once the appeal process has concluded, DIEO will close its file and the DIEO Complaint Process will be considered concluded.

6. Once the appeal process has concluded, if DIEO made a recommendation(s) in the Final Investigative Report, DIEO, its designee, or other
appropriate office will follow up with the responsible individual in a timely manner to ensure that the recommendation(s) or other appropriate action has been implemented. If the recommendation(s) or other appropriate action has not been implemented, then an explanation for the reason for the delay in enacting the recommendation(s) or other appropriate action will be requested by DIEO, its designee or other appropriate office.

V. FALSE ALLEGATION/ACCUSATION OR FALSE STATEMENT

All employees and students are to cooperate fully during the DIEO Complaint Process. It is a violation of the Policies for any employee or student to knowingly file a false complaint or to mislead, impede, impair, obstruct, disrupt or delay the progress of such a review or to attempt the same. This type of violation as stated in the Policies is punishable by appropriate disciplinary action up to and including termination from employment and/or expulsion from the University.

1. False Allegation/Accusation

   a. A false allegation is an allegation that is not made in good faith or is knowingly false. Perception of the Complainant will be evaluated by DIEO to make a determination if the Complainant had a good faith belief when he or she filed their allegation.

   b. The Complainant is not considered to have made a false allegation or accusation merely because there was a “no cause” determination or lack of evidentiary support.

2. False Statement

   a. A false statement can be made by Complainants, witnesses, or Respondents.

   b. A false statement has to be proven to have been knowingly false and is a statement that is material. A material statement is a statement which had a significant effect in reaching the determination of “cause” or “no cause”.

If DIEO determines that during the Complaint Process a Complainant, Respondent, or witness has made a false allegation or statement, then it may under its own authority find that the individual who made the false statement or allegation violated equal opportunity policies #0-004, 0-007, and/or 0-108.
A person who feels a false allegation/accusation or a false statement was made during the DIEO Complaint Process may file a written complaint with DIEO alleging that a false allegation or false statement was made. DIEO will expect the person filing the allegation to provide all supporting information for evaluation. DIEO will then review this information and make a determination of whether further processing is necessary. If further processing is necessary, then the process will commence as stated under Section II entitled Complaint Process.

VI. COMPLIANCE REVIEW

A compliance review is conducted to determine if a department, unit or individual is behaving or operating in compliance with University procedures or equal opportunity policies. A review can be initiated by a request from a department or college, USF administration, an Incident Report Form, an allegation or DIEO can decide to conduct a review under its own authority. A compliance review may be broad in scope and review many areas of the employment or academic setting.

A compliance review does not have a designated Complainant but may have a Respondent(s).