2015-2016 USF Guide Regarding Sexual Harassment Under Title IX

TITLE IX/Office of Diversity, Inclusion, and Equal Opportunity (DIEO)
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INTRODUCTION

The University of South Florida System (USF) community strives to provide work and study environments for faculty, staff, students, and visitors that are free of discrimination and sexual misconduct, including sexual harassment. As part of the effort to maintain an environment that is comfortable for all people, the USF System established The Sexual Misconduct/ Sexual Harassment (Including Battery) Policy Number 0-004 (http://regulationspolicies.usf.edu/regulations-and-policies/ regulations-policies-procedures.asp).

USF is committed to maintaining a positive working, learning, and living environment and will not tolerate acts of sexual harassment, sexual violence, or related retaliation against or by any employee, student, or visitor. When sexual harassment or sexual violence has occurred, and is brought to the attention of USF, the University will take steps to end the harassment or violence, prevent its reoccurrence, and address its effects.

The USF Guide Regarding Sexual Harassment Under Title IX provides an overview of USF's policy, the complaint, reporting and review process, and resources available for the involved parties. USF regulations directly provide process and guidance for the University community and are the controlling documents with regard to the issues regarding Sexual Harassment and Violence. USF regulations may be found online for Sexual Misconduct/ Sexual Harassment at www.regulationspolicies.usf.edu/policies-and-procedures/pdfs/policy-0-004.pdf and for the Student Conduct Code at www.regulationspolicies.usf.edu/regulations/pdfs/regulation-usf6.0021.pdf. This guide is meant to be more user friendly and illustrative, however, it is not meant to establish policy.
NOTICE OF NONDISCRIMINATION

Pursuant to Title IX, the University does not discriminate on the basis of sex in educational programs or activities that it operates. Such protection extends to both employees and students. Any questions or inquiries concerning the application of Title IX may be referred to the Title IX Coordinator, Senior Deputy Title IX Coordinator, or to any of the University's Deputy Title IX Coordinators. The Title IX Officers and resources can be found on the webpage for the Office of Diversity, Inclusion and Equal Opportunity, located at www.usf.edu/diversity. When appropriate, the University will take steps to prevent the recurrence of harassment, including sexual violence, and to correct any discriminatory effects of harassment on the Complainant and others.

USF Title IX Coordinator
Dr. Jose Hernandez, Associate Vice President and Chief Diversity Officer
4202 E. Fowler Avenue, ALN 172,
Tampa, Florida 33620
(813) 974-4373; jehernan@usf.edu

Discrimination and harassment on the basis of race, color, marital status, sex, religion, national origin, disability, age, genetic information, gender identity and expression, sexual orientation, or veteran status are also prohibited (please see USF System Policy Number 0-007, Diversity & Equal Opportunity: Discrimination & Harassment).

WHAT IS SEXUAL HARASSMENT

Sexual Harassment is any verbal or physical conduct that unreasonably interferes with an individual’s work or academic performance or creates an intimidating or hostile work or educational environment AND is determined to be gender-based or sexual in nature. Harassment can include “sexual harassment” (or unwelcome sexual advances), requests for sexual favors, and other verbal or physical harassment of a sexual nature. The Complainant (or the person commonly known as the “victim”) and the Respondent (or the person deemed to be the alleged “harasser”) can be either a woman or a man; they may be of the same sex (www.eeoc.gov/laws/types/sexual_harassment.cfm).

Here are examples of sexual harassment:

• An instructor suggests that a higher grade be given to a student if the student submits to sexual advances
• A supervisor implicitly or explicitly threatens termination or a poor performance review if a subordinate refuses the supervisor’s sexual advances
• A student repeatedly follows an instructor around campus and sends sexually explicit messages to the instructor’s voicemail, email, or cell phone
• A student, employee, or authorized visitor or campus vendor touches in an unwelcome, sexual manner without consent
• A student, employee, or authorized visitor or campus vendor repeatedly makes unwelcome comments that may be of or have an implicit sexual nature in person, on the phone, or in any other way
• A student or employee or authorized visitor or campus vendor records a person or others engaged in sexual activity without their consent
• Students in a residence hall repeatedly draw sexually explicit graffiti on the whiteboard on another student’s door
• A student or employee exposes their sexual organs without consent and in an unwelcomed manner
• A vendor serving the campus committee heckles and cat-calls a specific student or students or employee or employees in a persistent and severe manner
• An authorized visitor gropes or touches a student or employee while on campus in an unwelcomed manner without consent
WHAT ARE CONSENSUAL RELATIONSHIPS AND DOES USF HAVE A POLICY?

The USF System recognizes that consensual amorous or sexual relationships between two people of unequal position or power (e.g. between a supervisor and an employee, faculty and student, or staff member and student) may occur. Such relationships may become exploitative, or lead to charges of sexual harassment, or accusations of a conflict of interest. To address this, the USF System has adopted a policy governing consensual relationships, USF System Policy 1-022-Consensual Relationships, (http://regulationspolicies.usf.edu/policies-and-procedures/pdfs/policy-1-022.pdf). The most up-to-date version of that policy should be consulted should this issue arise.

Simply put, it is a violation of USF System policy for faculty, an academic administrator or employee to engage in an amorous, dating or sexual relationship with an employee or student whom he/she instructs, evaluates, supervises, or advises, or over whom he/she is in a position to exercise authority in any way. The USF System prohibits the exercise of supervisory power by one partner in a consensual relationship when that partner has direct authority over the individual circumstances of the other partner. If such a relationship exists prior to establishing a direct authority relationship, the two people involved are obligated under policy to disclose their relationship. This provides the University the ability to assess the work dynamic and structure and to then make changes as needed to limit or eliminate the supervisor/supervisee reporting chain and/or the power dynamic that may lead to conflict of interest.

WHO CAN BE INVOLVED?

Sexual harassment can involve anyone interacting with the USF campus community, whether on campus or off campus (to include sites of Education Abroad) at/during a USF sponsored event, including but not limited to:

- Faculty / Faculty
- Faculty / Student
- Faculty / Staff
- Teaching Assistant / Student
- Student / Student
- Staff / Staff
- Administrator / Faculty
- Administrator / Staff
- Administrator / Student
- Supervisor / Employee
- System Guest / Employee
- System Guest / Student

LGBTQ STATEMENT

USF strives to promote the safety and well-being of employees and students. The information in this guide is applicable to all students and employees regardless of their sexual orientation, gender identity, or gender expression.

FILING A COMPLAINT OR REPORT

A “complaint” is the method used to give notice to the University in a formal manner that an alleged violation of its Sexual Harassment policies has occurred. A “report” is the method used by an employee or non-victim to notify the University of a possible incident of sexual harassment. The next paragraphs detail each process.

Note: USF has deemed certain mandated reporter employees as Responsible Employees and/or Campus Security Authorities. These individuals are not confidential resources and must report all they know.

Filing A Complaint

If you believe that you are the victim of sexual harassment, USF strongly encourages you to file a complaint. Depending on the circumstances, filing a complaint alleging sexual harassment may be completed with one of two designated offices within the USF System:

- For complaints in which someone other than a student (Faculty, staff, vendor, visitor, internship site or clinical site) is the Respondent, the complaining employee or student may file a complaint with the Office of Diversity, Inclusion, and Equal Opportunity (DIEO).
- For complaints in which a student is the Respondent (accused), the complaining student or employee
may file the complaint with the Office of Student Rights and Responsibilities (OSRR).

Complaints are addressed promptly and relevant USF policy and processes are initiated by either DIEO or OSRR.

You may also file a complaint with the appropriate campus law enforcement agency or other local police department. This type of complaint will initiate a criminal investigation that is outside the purview of the University. USF will not end its action regarding a complaint because the local police department is also investigating. The University will complete its process in addition to what actions are taken by local police in the matter.

The Complainant has a right to make a complaint or not make a complaint with either the University and/or the police, or neither. Depending on the details of the complaint, that is, who is the determined Respondent, the case will be referred to one of the offices above for action.

Any person may file an external complaint without fear of retaliation from the University with the following agencies:

- U.S. Equal Employment Opportunity Commission, Tampa, FL (813) 228-2310, TTY (813) 228-2003
- U.S. Department of Education, Office for Civil Rights, Atlanta, GA (404) 562-6238, TTY (404) 562-6454
- U.S. Department of Labor, Office of Federal Contract Compliance Programs, Orlando, FL (407) 648-8181, TTY (877) 889-5627
- Florida Commission on Human Relations, Tallahassee, FL 1-800-342-8170, TDD ASCII 1-800-955-1339, TDD BAUDOT 1-800-955-8771

USF also provides a means for a complaint to be filed anonymously. To file a complaint in this manner you may call EthicsPoint, the USF third party hosted hotline, at (866) 974-8411 or access EthicsPoint online at www.ethicspoint.com. The anonymous report will be forwarded to the appropriate USF office (DIEO or OSRR) and once received, the University will act in as much as is possible to address the complaint given the information that has been provided in the complaint.

If you have questions, please visit the websites of these agencies or contact the USF System Title IX Coordinator, Senior Deputy Coordinator, or the Deputy Coordinator nearest you (see Resources).

THIRD PARTY REPORTING

USF is committed to ensuring that its campus is safe. As a result, certain employees have been designated as “Responsible Employees” and are required to report sexual harassment. Any USF employee with supervisory authority on campus must refer reports of sexual harassment, sexual violence, or other gender-based harassment to DIEO or OSRR. For an up-to-date list of positions which USF considers “responsible employees” under Title IX, please refer to The Sexual Misconduct Policy.


Additionally, USF supports the reporting of sexual harassment by any of its community members.

To make a report, the reporting person should download and complete the Title IX Incident Report Form found on the DIEO webpage at www.usf.edu/sexuality under Title IX: Making a Report. The receipt of the Title IX Incident Report will trigger action by USF for any Title IX related incidents.

USF’s third-party hosted hotline may be used for anonymous reporting by any student or employee (NOTE: Campus Security Authorities and Responsible Employees must formally report through use of the Title IX Incident Report unless they are the Complainant and wish to not file a formal complaint). A report can be made via EthicsPoint by calling (866) 974-8411 or via access online at www.ethicspoint.com.
CONFIDENTIAL RESOURCES

The only exception to the obligation to report described above applies to those employees or service offices who have been deemed to be "confidential resources." For an up-to-date list of those positions considered confidential resources, please see Section IV of Policy 0-004, Sexual Misconduct/Sexual Harassment (Filing Complaint or Report), located at http://regulationspolicies.usf.edu/policies-and-procedures/pdfs/policy-0-004.pdf. Confidential Resources include the Center for Victim Advocacy and Violence Prevention, the Counseling Center, Student Health Services, the Ombuds Office, and the Employee Assistance Program. Should an employee or student seek assistance with one of the confidential resources, the information shared will remain confidential.

However, when there is an identified risk to the student, employee, or University community at large, a confidential resource may be obligated under law to act to ensure the safety of others and/or the University community.

THE REVIEW PROCESS

If you are a USF employee, student, vendor, or visitor and have been the victim of sexual harassment, sexual violence, or other gender-based harassment, it is important that you read the following information. Although not intended to be a comprehensive explanation of your options and rights, this information may be useful to you. USF suggests you also read the current Guide for Victims of Sexual Assault & Harassment, Domestic, Relationship & Dating Violence, and Stalking available in hardcopy at DIEO, OSRR, the Center for Victim Advocacy and Violence Prevention, as well as the Ombuds Office and online at www.sa.usf.edu/advocacy/docs/VAVP_Victim_Guide_FINAL_web.pdf.

Sexual harassment, sexual violence, and other gender-based harassment occurring in the college setting implicate a federal law called "Title IX" found within the Higher Education Amendments of 1972. Title IX prohibits discrimination on the basis of sex (gender) in education programs or activities and triggers certain responsibilities on the part of USF. The USF System has a team of Title IX officials who can help explain USF’s responsibilities in these cases (see the list of officials and their contact information in Resources). USF has a structure of officials, with the highest authority called the “Title IX Coordinator.” A Senior Deputy and several Deputy Coordinators work throughout the University to provide guidance and access to consultation and links to services.

DIEO and OSRR have authority to address complaints of sexual harassment, sexual misconduct, and sexual violence in a non-criminal context. This USF System process is completely separate from the police and courts process and is administrative in nature. That is, the USF process addresses alleged violations of USF policy. Within the USF System, the identity of the Respondent/alleged perpetrator determines which of the two offices handles a complaint.

When the Respondent is an employee, complaints are handled by DIEO. When the Respondent is both an employee and a student, the two offices may work together to resolve the complaint. When the Respondent is a student at the time of the incident, OSRR provides a student conduct process used for investigating cases, whether they occur on or off campus.

When the Respondent is neither an employee nor student, USF provides guidance to you and can still assist you with counseling and other support services. If you are uncertain about which office to contact, you may call either office and they will ensure your report is addressed in a timely manner and reviewed by the appropriate office. In fact, an employee of the assigned office will contact you to notify you which office has your complaint and to provide guidance in the USF process.
When a complaint is filed with a USF System designated office, the office will review the complaint and provide an appropriate response, which may include consultation, mediation, and/or referral for disciplinary action (up to and including termination from employment and/or expulsion from the USF System).

USF will identify appropriate "interim measures" and ensure such measures are in place to protect a Complainant and/or Respondent while a case is pending. Depending on the circumstances, examples of these steps include class changes, on-campus housing moves, ordering a Complainant and Respondent to not have contact with each other, excluding a Respondent from parts of campus, or providing an escort to accompany a Complainant on campus. Any adjustments made will be designed to minimize the burden on the Complainant's educational program while also ensuring a fair and reasonable response that considers the rights of the Respondent. Some of these actions may also be deemed to be permanent "remedies" in those cases resulting in finding of a policy violation. The goal of interim measures is to stop the harassment, prevent its recurrence, and to identify remedies to limit the effects of such harassment in the future.

DIEO or OSRR will review the allegations and determine an appropriate course of action based on USF policy and defined processes. Some cases can be handled informally and outside of the formal investigative process. Others may result in an investigation. At no time will a case involving sexual violence be sent to mediation. Such cases are referred for investigation.

USF Investigators are individuals who have received specialized training in Title IX types of investigations and who are supervised by the Title IX Office. USF investigations are conducted in a thorough and neutral manner with continued oversight to ensure a timely resolution.

The Equal Opportunity process used by DIEO is outlined on the DIEO website and may be found online at www.usf.edu/diversity/documents/dieo_complaint_process.pdf - 2014-12-18.

The Student Conduct process used by OSRR is outlined in the Student Conduct of Code, which can be found online at http://regulationspolicies.usf.edu/regulations/pdfs/regulation-usf6.0021.pdf. Each process provides for a fair and timely review of the complaint that results in a finding and provides both the Complainant and the Respondent a right of appeal. In most cases, information including your name may be shared with the Respondent, witnesses, and with University officials who have a legitimate need to know.

When made aware of sexual violence, USF may have an obligation to proceed with an investigation, regardless of a Complainant's wishes, in order to ensure campus safety. Complainants are not required to participate if they choose not to; however, this may limit the University's ability to respond to the incident. If you request that your name or other identifying information not be used in an investigation, USF will consider your request in light of the context of its responsibility to provide a safe and nondiscriminatory environment. Beyond that, USF will take steps to protect your identity and the identity of all individuals involved.

During the process, the Complainant and Respondent may be accompanied by an advisor at any complaint related meeting. The advisor might be an attorney (not acting in the capacity of counsel) or any support person (including a parent or an advocate from the USF Center for Victim Advocacy and Violence Prevention). In USF's process, the Complainant and Respondent are not permitted to directly question each other and are not required to be present together at any point. Both a Complainant and a Respondent have the right to identify witnesses and provide other information relevant to the investigation. USF will decide the case based on a "preponderance of the information standard" (whether or not it is more likely than not that the conduct occurred). The preponderance of the evidence standard is that which is recommended by the Office for Civil Rights (OCR), the guiding authority for Title IX. The USF process is an administrative process and not a criminal procedure; therefore, the standard of evidence is different.
In most cases, USF will not wait until a criminal case is resolved before proceeding with its administrative case. In addition, if a University official has a reasonable belief that a crime has been committed, she or he may be required to report it to law enforcement, if police have not already been notified (such as in cases involving a minor). In cases where a police investigation has been conducted or is being conducted for sexual assaults, law enforcement may be able to provide information to USF, with the victim’s consent. USF’s fact-finding investigation may be delayed for a short period of time upon a request from law enforcement so as not to interfere with a criminal investigation; however, USF will resume its own investigation as soon as possible. Be aware that a Complainant has the right to report or not to report the incident to the police.

The University will use best efforts to resolve complaints involving sexual violence or sexual harassment following the 60 day guideline provided for by OCR, but depending on the complexity of the case and the availability of the Complainant, the Respondent, and all witnesses, an investigation may be extended. The University will keep the Complainant and the Respondent advised as to the status of the case on an ongoing and reasonable basis.

The Complainant and Respondent will be simultaneously informed of the outcome of the case in writing. Because the University’s primary concern is student safety, complaints involving minor alcohol and drug violations by a Complainant will be handled informally whenever possible. USF notes that the use of alcohol or other drugs never makes an individual at fault for sexual violence.

RETAILIATION

USF has a policy which prohibits retaliation against any employee or student who reports an incident of alleged sexual harassment or sexual violence, or any employee or student who testifies, assists or participates in a proceeding, investigation or hearing relating to these allegations (see Policy 0-020, Retaliation, Retribution, or Reprisal Prohibited, http://regulationspolicies.usf.edu/policies-and-procedures/pdfs/policy-0-020.pdf). The Complainant and Respondent are informed of this provision. Any retaliation should be reported immediately to the Senior Deputy Title IX Coordinator.

EQUAL SUPPORT FOR INVOLVED PARTIES

If both individuals involved are USF employees and/or students, USF has a duty to work with/support both individuals through the process. With a few exceptions, USF offers support, guidance, and assistance. Some services, such as those offered by the Center for Victim Advocacy and Violence Prevention are specialized while other services clearly can be utilized by either the Complainant and Respondent. Often services are also offered to others who may have been impacted by the incident or circumstances.

If an incident reaches the level of interfering with the orderly functions of the University or affecting the safety and wellbeing of the community or its individuals, USF may deem it necessary to temporarily restrict either the Respondent and/or the Complainant from campus until the case can be resolved. This type of measure will be taken only as needed and as warranted.
GLOSSARY

Complainant (Victim)
A person who is subject to alleged Protected Category discrimination, harassment or related retaliation.

Confidentiality
The act of maintaining an individual’s information in a private or discrete manner as related to a complaint and or an investigation.

Harassment
Verbal or physical conduct based on a Protected Category that unreasonably interferes with an individual’s work or academic performance or creates an intimidating or hostile work or educational environment (see Hostile Environment as defined below).

Hostile Environment
Unwelcome conduct by an individual(s) against another individual based upon her/his Protected Category that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive.

Investigator
Individual(s) who are employees (and in some circumstances, equally trained contracted professionals) and who have received specialized training to complete comprehensive investigations of violations of policies related to sexual harassment, sexual misconduct, and sexual violence as defined by Title IX and the Violence Against Women Act (VAWA) Reaffirmed 2013.

Office of Diversity, Inclusion, and Equal Opportunity (DIEO)
The office that investigates allegations of discrimination, harassment and related retaliation based upon an individual’s Protected Category when the Respondent is an employee, vendor, visitor, or partner.

Office of Student Rights and Responsibilities (OSRR)
The office that investigates allegations of discrimination, harassment, and related retaliation when the Respondent is a student. This office is also the disciplinary authority for student Respondents.

Policy
Any and all identified and structured rules and regulations administered by the University and/or developed by the University for the purpose of adherence to federal, state, and local statutes, codes, and regulations.

Protected Category
The USF System strives to provide a work and study environment for faculty, staff, students, and veterans that is free from discrimination and harassment on the basis of race, color, marital status, sex, religion, national origin, disability, age, or genetic information, as provided by law. The USF System protects its faculty, staff, students, and veterans from discrimination and harassment based on sexual orientation, as well as gender identity and expression.

Preponderance of the Evidence Standard
The standard used in administrative actions involving complaints under Title IX. This evidentiary standard means that the alleged action is “more likely than not” to have occurred and thus is a violation of policy. In lay terms, it is the difference of one feather on the scale tipping the scale.

Support Services
Any and all identified, structured, and relevant services provided by the University for the purpose of assisting, supporting, or otherwise helping a student and/or employee.

Respondent (Accused)
A person who is accused of Protected Category discrimination, harassment, or related retaliation.

Responsible Employee
An employee who has been deemed to be a non-confidential, mandated reporter of any reported or observed act that falls under Title IX. For the most up-to-date list of positions considered “responsible employees” please refer to Policy 0-004, located at http://regulationspolicies.usf.edu/policies-and-procedures/pdfs/policy-0-004.pdf.

Retaliation
Retaliation is an individual(s) taking an adverse action against someone because that person has filed a complaint or participated in a protected class investigation. Retaliation is prohibited by policy 0-004 Sexual Misconduct/Sexual Harassment.
Sexual Harassment
Unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Supervisor
A supervisor is anyone who has the authority to hire, promote, discipline, evaluate, grade or direct faculty, staff or students. This includes anyone who manages or supervises others, including, but not limited to faculty, teaching assistants, resident advisors, coaches and anyone who leads, administers, advises or directs University programs.

Title IX Official
Individual(s) identified within the University system who are authorized to address incoming complaints from students, employees, vendors, or visitors which fall within the University’s policies for sexual harassment, sexual misconduct, and sexual violence as defined by Title IX and the Violence Against Women Act (VAWA) Reaffirmed 2013.

Unlawful Discrimination
Occurs when an individual suffers an adverse consequence, such as failure to be hired or promoted, denial of admission to an academic program, or other consequence on the basis of her/his Protected Category.

CONTACTS & RESOURCES
USF has a team of professionals trained in handling cases of sexual harassment. If you find yourself involved in a potential case (or a witness to one), please contact any of these officers to discuss your questions and for guidance on filing a complaint or making a report.

Title IX Officials
Title IX Coordinator
Jose Hernandez, Associate Vice President and Chief Diversity Officer, DIEO
813-974-4373, jehernan@usf.edu

Senior Deputy Title IX Coordinator
Crystal Coombes,
813-974-5392, cccoombes@usf.edu

Deputy Coordinators
For Employees
Camille Blake, Director of Equal Opportunity, DIEO
813-974-3906, camille20@usf.edu

For Students
Tampa Campus
Winston G. Jones, Director, OSSR
813-974-9443, winstonjones@usf.edu

Sarasota-Manatee Campus
Allison Dinsmore, SDS
941-359-4714

Saint Petersburg Campus
Jacob Diaz, Dean of Students and Director of Residence Life & Housing,
727-873-4823

USF Health
Constance Visovsky, Associate Dean College of Nursing
813-974-3831
Title IX Liaisons

Athletics
Jocelyn Fisher, Associate Athletic Director
813-974-3007

USF World
Ben Chamberlain, International Risk and Security Officer
813-974-4314

Complainant Services

Victim Advocates
If you feel you have been victimized, please contact the victim advocate on your campus. Victim Advocates offer confidential counseling resources and advocacy in a supportive setting. This service is free.

Tampa
Center for Victim Advocacy and Violence Prevention,
813-974-5757, www.sa.usf.edu/advocacy

Saint Petersburg

Sarasota-Manatee
Victim Advocate, 941-252-515613, www.ncf.edu/crisis-services

Other Helpful Complainant Resources

Tampa
- Emergency, 911
- Employee Assistance Program (employees only), 1-800-327-8705
- Student Health Center, 813-974-2331
- USF Police Department Non-Emergency, 813-974-2628
- Local Rape Crisis Center, 813-964-1964

Saint Petersburg
- Emergency, 911
- Counseling Center, 727-873-4422
- Police, Non-Emergency, 727-873-4140
- Local Rape Crisis Center, 727-531-0482

Sarasota-Manatee
- Emergency, 911
- Counseling Center, 941-487-4254
- Police, Non-Emergency, 941-487-4210
- Local Rape Crisis Center - Manatee County, 941-755-6805
- Local Rape Crisis Center - Sarasota County, 941-385-1976

Respondent Services

Ombuds Office
4202 E. Fowler Avenue
Tampa, FL 33620
MSC 4301
Website to bsv@admin.usf.edu
813-974-0835

USF Counseling Center
4202 E. Fowler Avenue,
Tampa, FL 33620, USA
SVC 2114,
813-974-2831
OFFICE OF DIVERSITY, INCLUSION, AND EQUAL OPPORTUNITY (DIEO)