

UNIVERSITY OF MIAMI



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Owner

Maria Sevilla

Area

Title IX Office

Applicability

University of Miami System-Wide

Category

Human Resources - Employee Conduct & Expectations

Sexual Misconduct and Sex- or Gender- Based Discrimination Policy

POLICY STATEMENT

Purpose

The University of Miami ("University" or "UM") seeks to maintain a safe environment free from discrimination based on sex. The purpose of this policy is to provide baseline expectations for all members of the University community consistent with the University's Title IX obligation not to discriminate on the basis of sex in the educational programs or activities it operates. In addition to this policy, individuals are encouraged to review the University's [Equal Opportunity](#)

Policy for staff (including Associated Faculty¹), all policies contained in the [Student Rights and Responsibilities Handbook](#) for students, and all policies contained in the [Faculty Manual](#) for members of the University Faculty².

¹As defined in the University's Faculty Manual: The ASSOCIATED FACULTY are all faculty with authorized professorial titles prefixed by "Voluntary," "Adjunct", "Visiting", or "Affiliated", Instructors appointed on or after June 1, 2013, and all Lecturers.

²As defined in the University's Faculty Manual: The UNIVERSITY FACULTY shall consist of the President, the Executive Vice President and Provost, the academic deans, the REGULAR, RESEARCH, LIBRARIAN, and EDUCATOR FACULTY.

Scope

This Policy applies to all members of our University community, including but not limited to UM Students; UM Residents; University employees, including all officers, professional staff, administrators, and Associated Faculty ("Staff"); University Faculty; University affiliates, including contractors, vendors, volunteers, preceptors and on-site supervisors for clinical rotations, or other third parties within the University's control ("Affiliates"); and other visitors or guests of the University ("Guests").

This Policy applies to acts of Prohibited Conduct by or against UM community members when:

- The conduct occurs in the context of an UM employment or educational program or activity at any location within the United States, including, but not limited to, UM-sponsored research, residency, fellowship, or internship programs; and
- The Complainant and Respondent are participating or seeking to participate in UM employment or educational program or activity.

A University program or activity includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the alleged Sexual Misconduct or Sex- or Gender- Based Discrimination occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Matters that do not meet the foregoing two requirements must be dismissed for Title IX purposes; however, when the Respondent is a student, such matters will be processed as a Student Conduct (non-Title IX) matter. When appropriate, investigation and adjudication of such matters will proceed as outlined in the Student Conduct Procedures for Reported Sexual Misconduct section of the [Student Rights and Responsibilities Handbook](#). (This could include, for example, a report alleging that a student engaged in Prohibited Conduct while studying abroad or a report that a student engaged in Prohibited Conduct against a third party who is not affiliated to UM.)

When the accused is not a student, matters that do not meet the foregoing two requirements will be processed as described in the University's [Equal Opportunity Policy](#) for staff, the [Faculty Manual](#) for members of the faculty, or consistent with other applicable policies or practices depending on the identity of the accused. Depending on the applicable code of conduct, this may include adjudication under the same or different procedures as referenced in this policy. A respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. Following a finding of responsibility, a Respondent determined to have violated this Policy will be subject to disciplinary action, up to and including separation from the University. Affiliates or Guests who

violate this Policy may have their relationship with the University terminated and/or their privileges and access to the University's premises revoked.

An attempt to commit an act of Sexual Misconduct, even if not completed, or an act prohibited under this policy perpetuated through electronic means (such as cyber-sexual harassment) is also a violation of this Policy and will be resolved or adjudicated under this Policy following the same procedure as if the act were completed.

Along with Sexual Misconduct, Sex- or Gender Based Discrimination and Retaliation as defined within the "Prohibited Conduct" section of this Policy are also prohibited.

Lastly, the University will not tolerate or condone the deliberate filing of false accusations. An individual found to have made, or encouraged another to make, a bad faith complaint may be subject to disciplinary action.

Title IX Office, Title IX Coordinator, and Compliance Oversight

The University's Title IX Coordinator (Title IX Coordinator) is responsible for monitoring compliance with this Policy, as well as related federal statutes and regulations concerning the prohibition of Sexual Misconduct and Sex- or Gender- Based Discrimination in higher education. The Title IX Coordinator's duties include: overall management of the complaint process including coordination of supportive measures, signing of formal complaints, oversight of the investigative and decision-making process, and training of all Title IX-related personnel consistent with training requirements set by applicable law

The Title IX Coordinator is available to assist all members of the University community, on all University campuses, with any questions about this policy and/or the application of Title IX:

University's Title IX Office
Maria Sevilla, JD, Title IX Coordinator
Title IX Office
6200 San Amaro Drive, Suite 200
Coral Gables, FL 33146
Telephone: 305-284-8624
Email: titleixcoordinator@miami.edu
Website: www.miami.edu/titleix

Consistent with the procedures set forth in Section III Part A below ("How to Report Sexual Misconduct"), any person may report Sexual Misconduct or Sex- or Gender- Based Discrimination (whether or not the person reporting is the person alleged to be the victim of the alleged conduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed above for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

The Title IX Coordinator works in collaboration with Area Deputy Title IX Coordinators (defined below), Area Title IX Investigators, and Area Title IX Liaisons (defined below), across the University campuses in the performance of the Title IX compliance functions.

1. "Area Deputy Title IX Coordinators" have been designated by the University to assist the Title IX Coordinator in responding to complaints of Sexual Misconduct and reviewing those complaints to determine applicable policies and procedures under which the complaint shall be resolved. In addition, Area TIX Coordinators supervise TIX Investigators within specific areas of the University and, as needed, may serve as investigators themselves. A current list of Area Deputy Title IX Coordinators is posted at www.miami.edu/titleix under Contact Us- Title IX Coordinators.
2. "Title IX Investigators" have been designated by the University to investigate complaints of Sexual Misconduct. Among other things, Investigators are responsible for the investigation including interviews, collection of evidence, and producing the investigative report. In addition, as needed, Title IX investigators may assist in responding to complaints of sexual misconduct and reviewing those complaints to determine applicable policies and procedures under which the complaint shall be resolved. A current list of Area Title IX Investigators is posted at www.miami.edu/titleix under Contact Us- Title IX Investigators.
3. "Area Title IX Liaisons" are individuals throughout the UM community who help provide Sexual Misconduct resources to the UM community and help develop and implement Sexual Misconduct prevention and awareness programs. The list of Title IX Liaisons is posted at www.miami.edu/titleix under Contact Us-Title IX Liaisons.

The University's resolution of alleged Sexual Misconduct, Sex- or Gender- Based Discrimination, or Retaliation is performed under the authority of the University's Title IX Coordinator. No member of the UM community has authority to investigate, resolve, or institute corrective measures related to this Policy without the involvement of the Title IX Coordinator, or an Area Title IX Coordinator.

Administrative investigation through the University's applicable grievance procedure is not a substitute for civil or criminal charges, or for any other administrative or legal process that either party may wish to pursue.

Definitions

For purposes of this Policy, the following Definitions apply:

- a. Actual Knowledge: means that the alleged Sexual Misconduct has been reported by any person to either the University's Title IX Coordinator, any of the Area Deputy Title IX Coordinators, or any of the Title IX Liaisons.
- b. Advisor: a support person or other person selected by a participant in an investigation, in accordance with the applicable procedure, to attend interviews and investigative meetings with the participant. If the Advisor is present during an investigative meeting, the Advisor is an observer, and may not speak on behalf of the participant. The only exception to this limitation is that the advisor may conduct cross-examination during a live hearing proceeding consistent with the applicable grievance procedure.
- c. Affiliates: contractors, vendors, volunteers, preceptors, and on-site supervisors for clinical rotations, or other third parties within the University's control.
- d. Complainant: means an individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct or other prohibited conduct under this Policy.

- e. Consent: means an intelligent, knowing, and voluntary agreement to engage in specific activity, and shall not be construed to include submission obtained by force, intimidation, threat, blackmail, extortion, or any other method of coercion or duress.

For purposes of this definition:

- "Intelligent" means verbally or otherwise communicated;
- "Knowing" means the person must have specific knowledge of each activity they are agreeing to engage in; and
- "Voluntary" means done, given, or acting of one's own free will, and not through force, intimidation, threat, blackmail, extortion, or any other method of coercion or duress; "giving in" is not the same as providing consent.

Consent cannot be given:

- By a Complainant who the Respondent knew or should have known was under 18 years of age; or
- By a Complainant who the Respondent knew or should have known had a temporary or permanent disability making them unable to consent; or
- By a Complainant who the Respondent knew or should have known was intoxicated (by alcohol or another substance). Intoxication means being incapable of employing the physical and mental abilities which a person is expected to possess in order to make a conscious decision about engaging in the sexual relations that are alleged to have occurred. While this is not an exhaustive list of indicators of intoxication, the following factors should be considered in determining whether a person was intoxicated: the Respondent knew the Complainant had been drinking or using drugs, and/or knew how much the Complainant had consumed; the Complainant was visibly stumbling or otherwise was at a loss of equilibrium; the Complainant had noticeably bloodshot, glassy, or unfocused eyes; the Complainant exhibited any of the signs of alcohol poisoning; the Complainant was known to have vomited as a result of consumption of an intoxicating substance; the Complainant was known to be disoriented or confused as to their whereabouts, or the time and date; or the Complainant has exhibited the loss of consciousness at any point between the consumption of the intoxicating substance and the alleged sexual activity.

- f. Covered Persons: UM Students, Staff (including UM Residents and Associated Faculty), University Faculty, Affiliates, and Guests are sometimes collectively referred to in this Policy as a "Covered Person" or "Covered Persons." At points throughout this Policy, these groups are also collectively referred to as members of the University community/ UM community members.
- g. Formal Complaint: a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting that the University investigate the allegation of Sexual Misconduct.
- h. Prohibited Conduct: collective term used to refer to the totality of conduct prohibited in Section II of this Policy: Sexual Misconduct, Sex- or Gender- Based Discrimination, and Retaliation.
- i. Supportive Measures: means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- j. UM Student: any student, including visiting students, students in non-credit courses, and students in non-degree programs, who is enrolled, or has the ability to re-enroll, full-time, part-time, or to audit any course or program, at any University campus, under the auspices of the University, and/or using the University resources.
- k. UM Resident: anyone enrolled in, or who has the ability to re-enroll, to participate in the University's medical residency program, at any University campus, under the auspices of the University, and/or using the University resources. UM Residents are considered Employees for all purposes under this Policy.
- l. Mandatory reporter: a University employee, including student employees, who has an affirmative responsibility to promptly report the complaint of Sexual Misconduct involving members of the University Community and child abuse, neglect, or abandonment of minors to a Title IX Coordinator. These individuals do not have authority to investigate, resolve, redress, or institute corrective measures related to this policy without the involvement of the Title IX Coordinator, or Area Title IX Coordinators.
- m. Official with Authority: an official with authority to redress Sexual Misconduct and who has Actual Knowledge of an incident of alleged Sexual Misconduct that triggers an obligation for the University to respond. For University purposes, the Officials with Authority are: the University's Title IX Coordinator, Area Deputy Title IX Coordinators, and Title IX Liaisons.
- n. Respondent: means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct or other Prohibited Conduct under this Policy.

PROHIBITED CONDUCT (SEXUAL MISCONDUCT, SEX- OR GENDER- BASED DISCRIMINATION, & RETALIATION)

The definitions provided in this section provide baseline expectations for all members of the University community. In addition to this policy, individuals are encouraged to review the [Equal Opportunity Policy](#) for staff, all policies contained in the [Student Rights and Responsibilities Handbook](#) for students, and all policies contained in the [Faculty Manual](#) for members of the faculty.

As stated above, an attempt to commit an act of Sexual Misconduct, even if not completed, or an act prohibited under this policy perpetuated through electronic means (such as cyber-sexual harassment), is also a violation of this Policy and will be resolved or adjudicated under this Policy following the same procedure as if the act were completed. In addition, the University will not tolerate or condone the deliberate filing of false accusations. An individual found to have made, or encouraged another to make, a bad faith complaint may be subject to disciplinary action. Except for "Retaliation" and "Sex- or Gender- Based Discrimination", all the other prohibited conduct set forth in this Section II constitutes "Sexual Misconduct".

Relationship Violence:

- i. Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.
- ii. Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Retaliation:

Retaliation means any adverse action taken against an individual for making a good faith report of Sexual Misconduct or participating in any investigation or proceeding under this Policy. Retaliation includes threatening, coercing, discriminating, intimidating, harassing or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy. Complaints and/or reports of Retaliation under this Policy may be filed utilizing the same procedures described in Section (V)(C), below.

Sex - or Gender-Based Discrimination:

Sex - or Gender-Based Discrimination means unlawful discrimination against an individual because of the individual's actual or perceived sex or gender in regard to hiring, termination, promotion, compensation, training, admission, dismissal, advancement, graduation or any other term, condition or privilege of employment or student status. Prohibited sex discrimination under Title IX includes, but is not limited to: (1) harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature; (2) applying any rule concerning parental, family, or marital status that treats persons differently on the basis of sex; and (3) discriminating against or excluding any student from its education program or activity, including any class or extracurricular activity on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

Sexual Assault:

- i. Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- ii. Fondling: the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/ her age or because of his/her temporary or permanent mental incapacity.
- iii. Incest: non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- iv. Statutory Rape: non-forcible sexual intercourse with a person who is under the statutory age of consent.

For University purposes, consent is defined in Section I (D) of this Policy.

Sexual Harassment:

- i. Quid pro quo harassment: an employee conditioning the provision of an aid, benefit, or service of the University on the individual's participation in unwelcome sexual conduct.
- ii. Hostile Environment Harassment: unwelcome sexual conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the University's education programs or activities.

For the purposes of Hostile Environment Harassment , unwelcome sexual conduct can include any or all of the following behaviors, as well as others which are not listed: public or private sexually suggestive comments concerning a person's body or behavior, and sexual demands; remarks about clothing, body, sexual activities, sexual preferences, gender identity or sexual orientation, as well as teasing, jokes, remarks, or gestures which are sexual in nature; unnecessary touching, pinching, patting, or exposure of another person's body; unwarranted staring at another person's body; unwanted communications of a sexual nature in any form, over any medium, and in any media; or repetition of unwanted invitations for dates or romantic messaging.

Stalking:

A course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

REPORTING PROHIBITED CONDUCT

How to Report Sexual Misconduct

Incidents of Sexual Misconduct as defined above in this Policy may be reported to the University, to an external agency, to local law enforcement, or to any combination of the three.

Once the University has Actual Knowledge of alleged Sexual Misconduct, it will respond promptly in a manner that is not deliberately indifferent, including by offering Supportive

Measures and explaining the applicable Grievance Process to the Complainant. This applies to Sexual Misconduct covered by this Policy whether or not a parallel law enforcement action is pending or if a formal complaint is filed. Actual Knowledge means that the alleged Sexual Misconduct has been reported by any person to either the University's Title IX Coordinator, any of the Area Deputy Title IX Coordinators; or any of the Title IX Liaisons. The following reporting options constitute giving Actual Knowledge to the University and trigger the University's obligation to respond:

- A report made/filed through the University's Title IX Website (www.miami.edu/titleix) or the University Hotline System;
- A report made by calling (305-284-8624) or emailing the Title IX Office (titleixcoordinator@miami.edu);
- A report mailed to the Title IX Office at the address provided above;
- A report made by contacting the Title IX Coordinator, or an Area Deputy Title IX Coordinator directly; or
- A report made by contacting a Title IX Liaison.

A report as outlined above may be made at any time (including during non-business hours). Note that this does not mean that an individual will be available to take a report in real time during non-business hours; however, all reports received during non-business hours will be acknowledged shortly after business hours have resumed.

In order to encourage reporting of these issues, amnesty may be granted to individuals who, in reporting an incident or in the course of collaborating with an investigation under this Policy, disclose that at the time of the incident they may have violated portions of the University's Alcohol or Illegal Drugs policies, or other policies. For example, a charge for personal consumption of alcohol in violation of University Policy will not be brought against an individual who, in reporting an incident of sexual misconduct or gender discrimination, reports that they were under the influence of alcohol at the time when they were the target of the misconduct. This policy is designed to encourage reporting and it is not intended to be used as a defense after an individual is found to have been in violation of University policies.

The University recognizes that individuals may sometimes wish to report Sexual Misconduct but have no interest in the Grievance Process. As such, a report of alleged Sexual Misconduct will not automatically trigger an investigation or adjudicative process. Instead, upon receipt of a report of alleged Sexual Misconduct, a Title IX Coordinator or their assignee will promptly contact the complainant, inform the complainant of the availability of supportive measures, and explain to the complainant the process for filing a Formal Complaint.

If at any point in the process the Complainant expresses interest in the applicable Grievance Process, the Title IX Coordinator shall assist the Complainant in filing a Formal Complaint consistent with Section IV of this policy. Lastly, if upon review of the allegations in the report it is determined that the alleged behavior is not covered under the scope of this Policy, the Title IX Coordinator shall review with the Complainant other policies or procedures under which the reported behavior might be actionable, or refer the Complainant to another University official who can assist the student and/or employee with that process.

How to Report Sex- or Gender- Based Discrimination or Retaliation

A report of Sex- or Gender- Based Discrimination can be made in the same manner as described in Section III(A), above, or as set forth in the Student Rights and Responsibilities Handbook for students, in the Faculty Manual for University Faculty, and in the University's [Equal Opportunity Policy](#) (for non-TIX Sexual Misconduct, Sex- or Gender- Based Discrimination, or Retaliation) for Staff.

Mandatory Reporting Obligations of University Staff / Faculty

The University recognizes that individuals may sometimes want to disclose instances of alleged Sexual Misconduct or other Prohibited Conduct to a member of the University community without triggering any response or action by the University. That said, mandatory reporting by certain individuals who learn of potential Sexual Misconduct or other Prohibited Conduct under this Policy helps the University identify trends and take proactive action to build a safe community, as well as ensure that individuals who disclose misconduct fully understand the options and resources available to them through the University.

In addition, consistent with applicable law and the [University Policy on Protection of Youth and Mandatory Reporting of Child Abuse, Neglect or Abandonment](#), the University sets mandatory obligations requirements for reports involving minors.

Reports Involving Minors:

- All employees and all faculty have an obligation to report any and all alleged Sexual Misconduct, Sex- or Gender- Based Discrimination, mistreatment, or neglect involving minors to the Title IX Coordinator, or an Area Deputy Coordinator and may do so through any of the means listed immediate above in "A. How to Report Sexual Misconduct."

Reports Involving Members of the University Community:

- The following employees, including student employees, have an obligation to report any and all alleged Sexual Misconduct and Sex- or Gender- Based Discrimination that they learn of:
 - employees, including student employees, in any supervisory role;
 - institutional law enforcement;
 - all personnel in Athletics, Housing & Residential Life, and Student Affairs; and
 - all faculty, including teaching assistants.
This obligation does not apply to the following employees regardless of whether they fall into one of the categories immediately above:
 - Employees at the University's Student Health Center;
 - Employees at the University's Counseling Center;
 - Social workers in the Dean of Students Office;

- Chaplains; and
- Employees or Faculty serving as an attorney, academic counsel, or representative for a member of the faculty, staff, or student.

Mandatory reporters have an obligation to report alleged Prohibited Conduct to the Title IX Coordinator, or an Area Deputy Coordinator and may do so through any of the means listed immediately above in Sections III(A) or III(B). Upon receipt of a disclosure, a mandatory reporter shall inform the Complainant of their duty to report. A mandatory reporter shall not inform anyone else of such disclosure.

As stated in Section I of this policy, no member of the UM community, including mandatory reporters, has the authority to investigate, resolve, redress, or institute corrective measures related to this Policy without the involvement of the Title IX Coordinator, or an Area Title IX Coordinator. Notifying a mandatory reporter of alleged Sexual Misconduct does not constitute Actual Knowledge by the University until the mandatory reporter notifies either the Title IX Coordinator, an Area Title IX Coordinator, or a Title IX Liaison of the report. An individual who seeks to give the University Actual Knowledge of an allegation of Sexual Misconduct should not use disclosure to a mandatory reporter as a means to do so; instead, that individual should report to the University directly by one of the ways listed in the section above ("How to Report Sexual Misconduct").

Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in a report under this Policy. Privacy generally means that information related to a report of Prohibited Conduct will be shared with a limited number of individuals who "need to know" in order to assist in the active review, investigation, and resolution/adjudication of the allegation. Other than disclosure(s) to such "need to know" individuals and/or in the circumstances described in the next paragraph, the University will keep confidential the identity of any individual who has made a report or complaint under this Policy, including any individual who has made a report or filed a Formal Complaint, any Complainant, any individual who has been reported to be the perpetrator of Prohibited Conduct, any Respondent, and any witness, except as may be permitted and/or required by applicable regulations and/or law.

The Title IX Coordinator will work collaboratively with a reporting individual and the parties involved to establish the appropriate parameters of confidentiality in each case, always making every effort to operate with discretion and maintain the privacy of the individuals involved. Investigations of complaints of Sexual Misconduct, Sex- or Gender- Based Discrimination, or Retaliation often require that the Complainant's identity be known by the party or parties whose conduct is being reviewed. More specifically, and as discussed above, the University may need to disclose information in order to conduct an investigation, resolve a complaint, and/or comply with applicable law.

If an individual requests that the University keep the matter confidential, or not pursue action against Respondent(s), the Title IX Coordinator will carefully evaluate that request by balancing Complainant's wish for privacy against the safety and welfare of the UM community. The University will weigh such requests against the University's obligation to provide a safe, non-discriminatory environment. There will be times when the University may not be able to honor a Covered Person's request in order to comply with this obligation.

The University will comply with its legal and policy obligations to report Prohibited Conduct

that may constitute child abuse, abandonment, and neglect. (See [University Policy on Protection of Youth and Mandatory Reporting of Child Abuse, Neglect or Abandonment](#)). The University will continue to report instances of Prohibited Conduct in accordance with the Clery Act. Pursuant to the Clery Act, the University includes statistics about certain offenses in the University's annual security report. The University will provide those statistics to the United States Department of Education, but in a manner that does not include any identifying information about persons involved in an incident.

Supportive Measures

Upon receipt of a report of alleged Prohibited Conduct, the University may take and/or make available Supportive Measures to either the Complainant or the Respondent.

Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

All Employees and all faculty are expected to comply with a Title IX Coordinator's or Investigator's request for, or implementation of Supportive Measures under this Policy and may be subject to discipline for failing to do so. Such discipline may include, if circumstances warrant, separation from the University.

The University may withdraw Supportive Measures if the University concludes that the Supportive Measures are no longer necessary or appropriate. The University will maintain as confidential any Supportive Measures provided to a Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.

External Reporting Options

For Students. For assistance related to civil rights in education, you may contact the United States Department of Education Office for Civil Rights (OCR) Enforcement Office serving your state or territory or the OCR headquarters office in Washington D.C.

The OCR Enforcement Office for Florida institutions is:
Atlanta Office
United States Department of Education
Office for Civil Rights
61 Forsyth St. S.W., Suite 19T10
Atlanta, GA 30303-8927
Telephone: (404) 974-9406
Fax: (404) 974-9471
TDD: (800) 877-8339
Email: OCR.Atlanta@ed.gov

The OCR National Headquarters is located at:
U.S. Department of Education
Office for Civil Rights
LBJ Department of Education Bldg.
400 Maryland

Contact the OCR Enforcement Office if you wish to file a complaint, or if you need technical assistance on a problem or assistance to prevent civil rights problems.
You can also file a complaint
online: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

Avenue, SW
Washington, DC
20202-1100
Telephone: (800)
421-3481
Fax: (202) 453-
6012
TDD: (800) 877-
8339
Email: OCR@ed.gov

Contact the OCR headquarters office if you have a question on national policy, to make a Freedom of Information request for information that is national in scope, or to request publications or other assistance that is not available online.

For Employees:

1. US Equal Employment Opportunity Commission (EEOC)
Miami District Office, Miami Tower
100 SE 2nd Street, Suite 1500
Miami, FL 33131
Phone: (800) 669-4000
Fax: (305) 808-1855
Website: <https://www.eeoc.gov/field/miami/index.cfm>
 2. Florida Commission on Human Relations (FCHR)
4075 Esplanade Way, Room No. 110
Tallahassee, FL 32399-7020
Phone: (850) 488-7082
Toll-Free: 1-800-342-8170
Fax: (850) 487-1007
Website: <http://fchr.state.fl.us> Email: fchrinfo@fchr.myflorida.com
- For Those with Communication Impairments:
The Florida Relay Service Voice (statewide) 711
TDD ASCII (800) 955-1339
TDD Baudot (800) 955 - 8771

3. Miami-Dade County Office of Human Rights and Fair Employment
Stephen P. Clark Center
111 NW 1st Street, 22nd Floor
Miami, FL 33128
Phone: (305) 375-2784
Fax: (305) 375-2114
Email: OFEP@miamidade.gov

INVESTIGATIVE PROCESS

Filing a Formal Complaint of Sexual Misconduct

When a Complainant is interested in seeking investigation and adjudication of their report of Sexual Misconduct through the University's applicable Grievance Process, the individual shall file a Formal Complaint. A Formal Complaint is a written, signed document in which the Complainant outlines the alleged Sexual Misconduct and requests that the University investigate the alleged misconduct. A third party can always report Sexual Misconduct to the University; however, a third party aside from the Title IX Coordinator as set forth below, cannot file a Formal Complaint.

A Formal Complaint may be:

- Emailed to titleixcoordinator@miami.edu;
- Mailed to the Title IX Office:
University of Miami – Title IX Office
6200 San Amaro Drive, Suite 200
Miami, FL 33146
- Emailed to the Title IX Coordinator, or an Area Deputy Title IX Coordinator directly.
- In person with a Title IX Coordinator, or an Area Deputy TIX Coordinator. Please contact these individuals directly to schedule an in-person meeting.

Review, Dismissal, and/or Consolidation of Complaints

Upon receipt of the Formal Complaint, a Title IX Coordinator will review the allegations in the Complaint. If the conduct alleged in the Formal Complaint does not constitute Sexual Misconduct as defined in this Policy or falls outside of the scope of this Policy, then the University must dismiss the Formal Complaint with regard to this Policy. In those instances, the TIX Coordinator will review with the Complainant other policies or procedures under which the reported behavior might be actionable, or refer the Complainant to another University official who can assist the student and/or employee with that process.

Further, the University may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If a Formal Complaint is dismissed, the University will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties involved. Upon receipt of the written notice of the dismissal, a party may appeal the decision following the procedures in the

applicable grievance procedures as set forth in Section (V)(C)," Investigative Areas and Grievance Procedures" below

In addition, upon review of a Formal Complaints, the University may consolidate allegations of Sexual Misconduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

Formal Complaints by the Title IX Coordinator

If a Title IX Coordinator, after considering the factors below, determines that a reported behavior constitutes a threat to the campus community and interferes with the University's obligation to provide a safe, non-discriminating environment, a Title IX Coordinator may file a Formal Complaint triggering the University's investigative and adjudicative procedures, despite the Complainant's request to the contrary. In such an instance, once the Title IX Coordinator files a Formal Complaint, written notice of the Formal Complaint shall be provided to the Complainant and the Respondent and the Complainant retains their autonomy to choose whether and to what extent they want to engage in the investigative and adjudicative process.

In determining whether to file a Formal Complaint, a Title IX Coordinator will consider the following factors:

- The increased risk that the alleged perpetrator will commit additional acts of Sexual Misconduct, such as:
- Whether there have been other complaints about the same Respondent;
- Whether Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether Respondent threatened future sexual violence or other violence against the Covered Person or others; or
- Whether the alleged violation was committed by multiple perpetrators.
- Whether the alleged violation was perpetrated with a weapon;
- Whether the Covered Person is a minor;
- Whether the University possesses other means by which to obtain relevant evidence of the alleged violation; and/or
- Whether the Covered Person's report reveals a pattern of Sexual Misconduct at a given location or by a particular group.

The presence of one or more of these factors could lead the University to initiate the applicable grievance procedure (investigation and adjudication) despite a Complainant's request to the contrary.

Filing a complaint of Sex- or Gender- Based Discrimination or Retaliation

Students wishing to file a complaint of Sex or Gender Based Discrimination or Retaliation should contact the Dean of Students Office. University Faculty wishing to file a complaint of Sex or Gender Base Discrimination should consult the Policy on Non-Title IX Sexual Harassment and Non- Discrimination Policy set forth in the Faculty Manual. Staff wishing to file a complaint of Sex- or Gender- Based Discrimination or Retaliation should consult the [University's Equal Employment Opportunity Policy](#) (for non-TIX Sexual Misconduct, Sex- or Gender- Based Discrimination, or Retaliation). In addition to the specific offices and policies listed immediately above, all Covered Persons wishing to file a Formal Complaint of Sex- or Gender- Based Discrimination or Retaliation as defined in this Policy may also contact the Title IX Office.

Presumption of Innocence and Standard of Proof

The University applies the "preponderance of the evidence" standard when determining whether this Policy has been violated. "Preponderance of the evidence" means that it is more likely than not that a policy violation occurred.

A Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

Investigative Areas and Grievance Procedures

The applicable University procedure (the "Grievance Process") for investigating and resolving Formal Complaints under this Policy is determined by the status of Respondent, as set forth in the chart below. The Grievance Process must be followed before the imposition of any disciplinary sanctions for Prohibited Conduct, or other actions that are not Supportive Measures, against a Respondent.

Respondent:	Applicable Grievance Process:	University Department Responsible for Investigation:	Department Contact Information:
UM Student	Student Conduct Procedures for Reported Sexual Misconduct in the Student Rights and Responsibilities Handbook (for alleged violations of Sexual Misconduct under this Policy) OR the Major Level Student Conduct Procedures in the Student Rights and Responsibilities Handbook (for Gender Discrimination or Retaliation)	Dean of Students Office	Area Deputy Title IX Coordinator (students) 305-284-5353

Staff (including UM Residents and Associated Faculty)	Employee Grievance Procedures for Reported TIX Sexual Misconduct OR Administrative Review pursuant to University's Equal Employment Opportunity Policy (Sex- or Gender- Based Discrimination or Retaliation)	Office of Employee Relations	Area Deputy Title IX Coordinator (staff) 305-284-3064
University Faculty	Procedures of the Committee on Professional Conduct in the Faculty Manual	Office of Vice Provost for Faculty Affairs	Area Deputy Title IX Coordinator (faculty) 305-284-2002

In the event of a conflict of interest between the parties and an Investigator, the Title IX Coordinator will work with the appropriate offices within the University to have an alternate Investigator assigned within five (5) business days to conduct the investigation.

Complaints Against a Respondent Who Has Multiple Roles Within the University. Where the Respondent has multiple roles within the University, the University's Title IX Coordinator will determine which of the procedures will apply based on the facts and circumstances of a particular incident, such as which role predominates and/or the role most applicable in the incident. For example, if Respondent is a full-time employee and a part-time student at the University, Respondent's predominant role as employee may require that the incident be reviewed under the procedures applicable to employees.

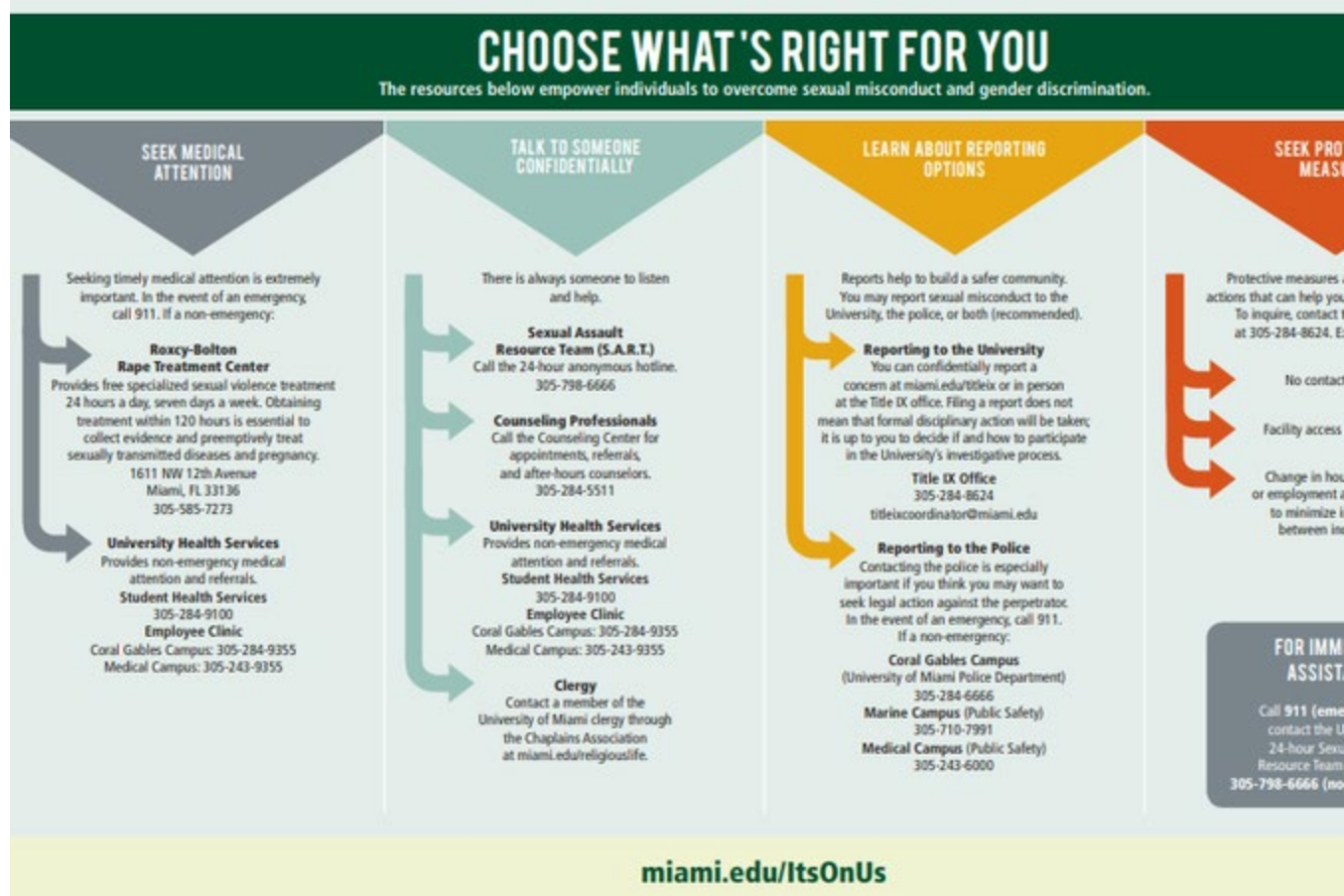
Complaints Involving Affiliates.

- a. The University's Affiliates will be informed of the University's commitment to provide a workplace and learning environment free of Sexual Misconduct and Sex- or Gender- Based Discrimination and the expectation that they abide by this Policy.
- b. The University cannot discipline employees of its Affiliates, but the University will take reasonable steps to prevent Sexual Misconduct, Sex- or Gender- Based Discrimination and Retaliation involving Affiliates and will, to the extent possible, cooperate with an Affiliates' investigation under the Affiliates' process. The University will attempt to resolve the issue, as soon as practicable, and may reassign an Affiliate to another area or supervisor, if a resolution is not feasible.
- c. Affiliates and Affiliates' employees are encouraged to report complaints of Sexual Misconduct and Sex- or Gender- Based Discrimination involving UM Students, Staff and University Faculty to the Title IX Coordinator.
- d. All UM Students, Staff and University Faculty are subject to discipline for Sexual Misconduct and Sex- or Gender- Based Discrimination directed toward employees and others in the Affiliates' location.
- e. Affiliates will be asked to work with the University in confidence (i) to investigate complaints involving an Affiliates' employee, or where the incident occurred at the

Affiliates' location; and (ii) to eliminate Sexual Misconduct and Sex- or Gender-Based Discrimination through education and, if need be, employee sanctions.

Complaints Involving Guests. Complaints of Sexual Misconduct and Sex- or Gender- Based Discrimination by Guests should be reported to the Title IX Coordinator. After discussion with the Covered Person and a review of the circumstances, the University will take reasonable steps to prevent Sexual Misconduct and Sex- or Gender- Based Discrimination that may be directed toward Complainant and others.

RESOURCES



A.

For additional resources, including non-university resources, please contact the Title IX Office by emailing Titleixcoordinator@miami.edu or calling 305-284-8624.

Attachments

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