

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES  
FLORIDA BOARD OF GOVERNORS**

**NOTICE OF PROPOSED AMENDMENT TO REGULATION**

**REGULATION TITLE:** Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Dating Violence, Domestic Violence, and Stalking

**REGULATION NO.:** FIU-105

**SUMMARY:** Regulation FIU-105, Prohibited Discrimination, Harassment, and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Dating Violence, Domestic Violence, and Stalking is being divided into two regulations for better administration. FIU-105, as revised, will be renamed as Sexual Misconduct (Title IX) and will solely address discrimination based on gender, gender expression, gender identity, sexual orientation, sexual misconduct, dating or domestic violence, and stalking. FIU-106, Nondiscrimination, Harassment and Retaliation (Title VII), will be the second regulation. Additionally, the regulation has updated the definition of Reporting Person and revised the investigation procedure in light of the 2017 Dear Colleague Letter from the Department of Education.

**TEXT OF REGULATION:** The full text of the Proposed Amendment to Regulation can be viewed below and on the website of The Florida International University Board of Trustees, <http://regulations.fiu.edu>. If you would like a copy of the proposed Regulation, please contact Eli Deville, Departmental Administrator, Office of the General Counsel, [devillee@fiu.edu](mailto:devillee@fiu.edu) (305) 348-2103.

**AUTHORITY:** Board of Governors regulation 1.001(5)(a).

**NAME OF PERSON INITIATING PROPOSED REGULATION:** Shirlyon McWhorter, Director of the Equal Opportunity Programs and Diversity/Title IX Coordinator

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED AMENDMENT TO REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

**THE CONTACT PERSON REGARDING THIS REGULATION IS:** Eli Deville, Departmental Administrator, Office of the General Counsel, Florida International University, 11200 SW 8<sup>th</sup> Street, PC 511, Miami, FL 33199. Email: [devillee@fiu.edu](mailto:devillee@fiu.edu). Phone: 305-348-2103, Fax: (305) 348-3272.

**DATE OF PUBLICATION:** May 4, 2018

**THE FULL TEXT OF THE PROPOSED AMENDMENT TO REGULATION IS PROVIDED BELOW:**

~~FIU 105 — REGULATION ON PROHIBITED DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT INCLUDING SEXUAL AND GENDER-BASED HARASSMENT, SEXUAL VIOLENCE, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING~~

**FIU-105 SEXUAL MISCONDUCT (TITLE IX)**

**Responsible University Officer:** Director of the Equal Opportunity Programs and Diversity/Title IX Coordinator

**Responsible Office:** Equal Opportunity Programs and Diversity (EOPD)

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**I. POLICY STATEMENT**

Florida International University (the University) is committed to encouraging and sustaining a learning and living environment that is free from harassment, violence, and prohibited discrimination based on gender, gender expression, gender identity, sexual orientation, Sexual Misconduct, Domestic and Dating Partner Violence and/or Stalking. In that regard and consistent with federal law addressing these areas (e.g., Title IX of the Education Amendments of 1972 and the Violence against Women Act (VAWA), that portion of the Title VII of the Civil Rights Act addressing sexual misconduct), the University has developed this regulation applicable to members of the University Community (i.e., students, faculty, staff and visitors).

Members of the University community have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, Domestic Dating Partner Violence, and stalking. All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others and is consistent with this regulation. The University believes in zero tolerance for sexual misconduct. Zero tolerance means that, when an allegation of misconduct is brought to an appropriate administrator’s attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including but not limited to serious sanctions when a Respondent is found to have violated this regulation. This Regulation has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated.

The Regulation is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. This is to discuss all relevant matters in the classroom, to explore all avenues of scholarship, research, and creative expression, to speak freely on all matters of university governance, and to speak, write, or act as a public citizen without institutional discipline or restraint.

The University uses the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation of this Regulation occurred. In the University resolution proceedings, legal terms like “guilt, “innocence” and “burden of proof” are not applicable, but the University never assumes a Respondent is in violation of a university Regulation. Resolution proceedings are conducted to take into account the totality of all evidence available from all relevant sources.

## **II. PURPOSE & INTENT**

The University is committed to establishing and maintaining a safe learning, living, and working environment where healthy, respectful, and consensual conduct represents the campus cultural norm. This Regulation prohibits gender, gender expression, gender identity, sexual orientation, Sexual Misconduct Domestic and Dating Partner Violence, and/or Stalking. It also prohibits Retaliation against an individual for making a report of conduct prohibited under this Regulation or for participating in an investigation of an alleged violation of this Regulation. It also defines prohibited relationships of a sexual or intimate nature between individuals where one individual has power or authority over another. These prohibited forms of conduct undermine the character and purpose of the University and will not be tolerated.

This policy is in compliance with applicable legal requirements including Title IX of the Education Amendments of 1972; relevant provisions of the Violence against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; and other applicable federal and Florida state laws.

## **III. TITLE IX COORDINATORS**

The *Title IX Coordinator* is:

- knowledgeable and trained in University policies and procedures and relevant state and

federal laws;

- available to advise any individual, including a Complainant, the Reporting Party, the Respondent, or a third party about the University resources and those found within and outside of the University. Resources include, but are not limited to, health care options, counselling or support, and reporting;
- available to provide assistance to any University employee regarding how to respond appropriately to a report of a possible violation of this Regulation;
- responsible for conducting and/or overseeing investigations of alleged violations of this Regulation;
- responsible for participating in ensuring the effective implementation of this Regulation, including monitoring compliance with all procedural requirements, recordkeeping, and timeframes;
- responsible for overseeing training, prevention, and education efforts and periodic reviews of climate and culture; and
- responsible for maintaining all reports of possible violations of this Regulation and reviews such reports and complaints for systemic patterns that need to be addressed.

The Title IX Coordinator has designated Deputy Title IX Coordinators to assist in fulfilling the Title IX Coordinator duties. These are:

- Marlynn Jones, Assistant Director of Equal Opportunity Programs Diversity  
Office number: 305-348-2356      email: marlynn.jones@fiu.edu

~~Dr. Kristen Kawczynski, Director of the Student Conduct Florida International University (FIU or the University) affirms its commitment to ensure that each member of the University community shall be permitted to work or study in an environment free from any form of illegal discrimination based on race, color, religion, age, disability, sex (including sexual misconduct), sexual orientation, gender identity or expression, national origin, marital status, veteran status, and/or any other legally protected status (collectively referred to as Protected Status<sup>†</sup>). The University recognizes its obligation to work towards a community in which diversity is valued and opportunity is equalized.~~

~~The University recognizes that discrimination and/or harassment based on a Protected Status undermines the integrity of the academic and work environment. All members of the University community should be able to work and/or learn in an atmosphere free from discrimination and/or harassment; and the University is committed to addressing conduct that violates these standards. The University encourages all community members to take reasonable and prudent actions to prevent or stop Prohibited Conduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who chose to exercise this responsibility will be supported by the University and protected from Retaliation. It is the particular responsibility of those members of the University community who hold positions of authority over others to avoid actions that are, or can be considered, a violation of this Regulation or as unprofessional.~~

~~This Regulation prohibits all forms of Discrimination and Harassment based on Protected Status. It expressly, therefore, prohibits Sexual Violence and Sexual Exploitation, which by definition involves conduct of a sexual nature and is prohibited form of Sexual or Gender Based Harassment. This Regulation further prohibits Dating Violence, Domestic Violence and/or Stalking, which does~~

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<sup>†</sup>~~Any word or phrase that is capitalized is a defined term and is contained in the Section III Definitions.~~

~~not need to be based on an individual's Protected Status to be prohibited under this Regulation. Finally, this Regulation prohibits Complicity for knowingly assisting in an act that violates this Regulation and Retaliation against an individual because of his or her good faith participation in the reporting, investigation, or adjudication of violations of this Regulation. University students and employees who violate this Regulation may face discipline up to and including expulsion or termination.~~

~~To foster a climate that encourages prevention and reporting of Discrimination, Harassment, and related misconduct, the University will actively promote prevention efforts, educate the community, respond to all reports promptly, provide Interim Protective Measures to address safety and emotional well-being, and act in a manner that recognizes the inherent dignity of the individuals involved.~~

- ~~•~~  
~~Office number: 305-348-3939 email: [kristen.kawczynski@fiu.edu](mailto:kristen.kawczynski@fiu.edu)~~
- ~~• Julie Berg-McGraw, Sr. Associate Athletic Director  
Office number: 305-348-2352 email: [julie.berg-mc\\_graw@fiu.edu](mailto:julie.berg-mc_graw@fiu.edu)~~

~~Concerns about the University's application of this Regulation may be addressed to the following offices below and/or to the Deputy Title IX Coordinators listed above.~~

<del>Title IX Coordinator</del>	<del>U.S. Dept. of Education</del>	<del>Equal</del>	<del>Opportunity</del>
<del>Commission</del>			
<del>Shirlyon McWhorter</del>	<del>Office for Civil Rights</del>		
<del>305-348-2785</del>	<del>(800) 421-3481</del>		<del>(800) 669-4000</del>
<del>Email: <a href="mailto:shirlyon.mcwhorter@fiu.edu">shirlyon.mcwhorter@fiu.edu</a></del>	<del>Email: <a href="mailto:OCR@ed.gov">OCR@ed.gov</a></del>		
<del><a href="http://eoc.gov/employees/howtofile.cfm">eoc.gov/employees/howtofile.cfm</a></del>			

### III. DEFINITIONS

~~**Coercion** -  
Conduct, intimidation, and/or express or implied threats of physical, emotional, financial, or any other type of harm that would reasonably place an individual in fear of immediate or future harm and that is employed to force or compel someone to engage in sexual contact or any other type of involuntary conduct, especially conduct which would endanger or be detrimental to the Complainant. Examples of Coercion include:~~

- ~~• Causing the deliberate Incapacitation of another person;~~
- ~~• Conditioning an academic benefit or employment advantage;~~
- ~~• Threatening to harm oneself if the other party does not engage in sexual contact; or~~
- ~~• Threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal or sensitive information if the other party does not engage in the sexual contact or takes actions involuntarily.~~

#### Complainant - Any

~~The University is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this Regulation is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so. Offensiveness of conduct, standing alone, is not sufficient for the conduct to constitute prohibited Harassment. The conduct must be sufficiently severe to interfere with an individual's ability to participate in~~

employment or educational program and activities from both a subjective and objective perspective. Prohibited Conduct under this Regulation is not a proper exercise of academic freedom and may not be legally protected expression. On the contrary, Prohibited Conduct compromises the University's integrity as well as its tradition of intellectual freedom.

## I. SCOPE AND APPLICABILITY

~~This Regulation applies to the conduct of University students and employees, including faculty and staff. The non-discrimination provisions also apply to contractors and other third parties under circumstances within the University's control. The Regulation provides for the prompt and equitable resolution of reports of Discrimination, Harassment, and related misconduct.~~

~~This Regulation applies to all Prohibited Conduct that occurs on campus. It also applies to Prohibited Conduct that occurs off campus, including online or electronic conduct, if: the conduct occurred in the context of an employment or education program or activity of the University, had continuing adverse effects on campus, or had continuing adverse effects in an off campus employment or education program or activity. Examples of covered off campus conduct include athletic competitions, University-sponsored study abroad, research, or internship programs. In determining whether the University has jurisdiction over off campus conduct that is not part of an educational program or activity of the University, the Title IX Coordinator/Director of the Equal Opportunity Programs/Diversity Office will consider the seriousness of the alleged conduct, the risk of harm involved, whether both parties are members of the campus community, and/or whether the off campus conduct is part of a series of actions that occurred both on and off campus.~~

~~Regardless of where the conduct occurred and with whom, the University will offer resources and assistance to community members who are subject to Prohibited Conduct. The University will also assist the Reporting Party in identifying and contacting external law enforcement agencies and community resources, as desired.~~

## II. DEFINITIONS

A. ~~**Reporting Party** is defined as any individual who may have been the subject of any Prohibited Conduct by an individual or organization covered under the Regulation.~~ **Sexual Misconduct, Dating or Domestic Partner Violence, and/or Stalking by the Respondent** regardless of whether the Reporting Party **individual** makes a report or seeks action under the Regulation.

A. ~~**Responding Party** is defined as any individual who has been accused of violating the Regulation.~~

B. ~~**Protected Statuses** is defined as certain characteristics possessed by an individual that have been afforded protection by law, such as age, color, creed, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, or veteran status.~~

C. ~~**Age** is defined as the number of years from the date of a person's birth. With respect to employment, individuals who are forty (40) years of age or older are protected from Discrimination and Harassment. There is no age threshold for students or other participants in educational programs or activities.~~



- ~~D. **Color** is defined as an individual's skin pigmentation, complexion, shade, or tone.~~
- ~~E. **Creed** is defined as a well formed and thought out set of beliefs held by more than one individual, which may not necessarily involve belief in a supreme being. The University will accommodate an individual's observances and practices required by their creed unless it is unable to reasonably accommodate an individual's creed required observance or practice without undue hardship.~~
- ~~F. **Disability** is defined as any person who has a physical or mental impairment that substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such impairment. A qualified person with a disability must be able to perform the essential functions of the employment or the academic, athletic, or extra-curricular program, with or without reasonable accommodation.~~
- ~~G. **Gender** is defined as an individual's socially constructed status based on the behavioral, cultural, or psychological traits typically associated with societal attribution of masculinity and femininity, typically related to one's assigned sex at birth.~~
- ~~H. **Gender Expression** is defined as how someone expresses gender through appearance, behavior, or mannerisms. A person's Gender Expression may or may not be the same as the Gender Identity or Gender.~~
- ~~I. **Gender Identity** is defined as the Gender with which an individual identifies psychologically regardless of what Gender was assigned at birth.~~
- ~~J. **Genetic Information** is defined as the information about (i) an individual's genetic tests, (ii) the genetic tests of family members of such individual, and (iii) the manifestation of a disease or disorder in family members of such individual. Genetic Information includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.~~
- ~~K. **National Origin** is defined as an individual's actual or perceived country or ethnicity of origin.~~
- ~~L. **Race** is defined as an individual's actual or perceived racial or ethnic ancestry or physical characteristics associated with a person's race, such as a person's color, hair, facial features, height, and weight.~~
- ~~M. **Religion** is defined as all aspects of religious observance and practice as well as belief.~~
- ~~N. **Sex** is defined as an individual's biological status of male or female, including pregnancy. Conduct of a sexual nature is by definition based on Sex as a Protected Status.~~
- ~~O. **Sexual Orientation** is defined as the inclination or capacity to develop intimate emotional, spiritual, physical, and/or sexual relationships with people of the same Sex or Gender, a different Sex or Gender, or irrespective of Sex or Gender.~~
- ~~P. **Veteran's Status** is defined as disabled veterans, special disabled veterans, Veterans of the Vietnam era, and other protected Veterans as defined by federal and state law.~~
- ~~Q. **Prohibited Conduct** is defined as misconduct based on any form of Discrimination and Harassment based on a Protected Status and Domestic Violence, Dating Violence, Stalking, Complicity, and Retaliation.~~

~~R. **Sexual or Gender-Based Harassment** is defined as those incidents that are sufficiently pervasive, persistent, or severe that a reasonable person would be adversely affected to a degree that interferes with his/her ability to participate in or to realize the intended benefits of a University activity, employment, or resources.~~

~~Sexual or Gender Based Harassment includes~~

~~(1) unwelcome sexual advances, requests for sexual favors and other verbal, physical, or electronic conduct of a sexual nature that creates a hostile, intimidating, or abusive environment;~~

~~(2) verbal, physical, or electronic conduct based on Sex, Gender, Sexual Orientation, or sex-stereotyping that creates a hostile, intimidating, or abusive environment, even if those acts do not involve conduct of a sexual nature; or~~

~~(3) exhibiting what is perceived as a stereotypical characteristic for one's Sex or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived Sex, Gender, Sexual Orientation, Gender Identity, or Gender Expression of the individuals involved.~~

~~S. **Sexual Assault**<sup>2</sup> or **Sexual Violence** is defined as forms of Sexual or Gender Based Harassment that involve having or attempting to have Sexual Contact with another individual without Consent.~~

~~T. **Sexual Exploitation** is defined as a form of Sexual or Gender Based Harassment that involves one or more of the following behaviors committed for any purpose, including sexual arousal or gratification, financial gain, and/or other personal benefit:~~

~~(1) taking sexual advantage of another person without Consent;~~

~~(2) taking advantage of another's sexuality; or~~

~~(3) extending the bounds of consensual Sexual Contact without the knowledge of the other individual.~~

~~—~~

~~Examples of Sexual Exploitation include, but are not limited to:~~

- ~~• threatening to disclose an individual's Sexual Orientation, Gender Identity, or Gender Expression;~~
- ~~• observing another individual's nudity or Sexual Contact, or allowing another to observe the same, without the knowledge and Consent of all parties involved;~~
- ~~• non-consensual streaming of images, photography, video, or audio recording of Sexual Contact or nudity, or distribution of such without the knowledge and/or Consent of all parties involved;~~
- ~~• prostituting another individual;~~
- ~~• knowingly exposing another individual to a sexually transmitted infection, without the individual's knowledge and/or Consent;~~
- ~~• knowingly failing to use contraception without the other party's knowledge and/or Consent; and~~

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<sup>2</sup>The following terms included in this definitional section also have corresponding Florida statutory definitions because the behavior may constitute a crime: sexual assault, sexual exploitation, dating violence, domestic violence, stalking, and aggravated stalking. Some Florida criminal statutes overlap with the definitions contained in the Regulation and some may provide greater protection.



- ~~inducing Incapacitation for the purpose of taking sexual advantage of another person.~~
- U. ~~*Sexual Contact* is defined as the intentional touching or penetration of another person's clothed or unclothed body, including but not limited to the mouth, neck, buttocks, anus, genitalia, or breast, by another with any part of the body or any object in a sexual manner. Sexual Contact also includes causing another person to touch their own or another's body in the manner described above.~~
- V. ~~*Consent* is defined as an affirmative act or statement by each person that is informed, freely given and mutually understood.~~
  - ~~It is the responsibility of each person involved in any sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity.~~

*Consent* - A clear, knowing, and voluntary agreement to engage in specific sexual activity at the time of the activity. Consent can be communicated by words or actions as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity. Consent must be ongoing throughout the sexual activity and can be withdrawn at any time. Sexual contact must cease immediately once withdrawal of consent is clearly communicated.

- ~~\_\_\_\_\_~~ Consent must be ~~ongoing throughout a sexual activity and can be revoked at any time~~ active, not passive.
- ~~\_\_\_\_\_~~ Lack of protest or resistance does not mean consent has been granted, nor does silence mean consent has been granted.
- ~~\_\_\_\_\_~~ Within each sexual encounter, there may be separate individual sexual acts involved, and consent to one act and/or person(s) by itself does not constitute consent to another act. ~~and/or person(s).~~
  - ~~Lack of protest or resistance does not mean consent, nor does silence mean consent has been granted.~~
- ~~\_\_\_\_\_~~ The existence of a dating relationship between the persons involved, or the fact of past sexual relations, should never, by itself, be assumed to be an indicator of consent for any current or future sexual encounter. ~~even in the context of a relationship, there must be mutual consent.~~
- ~~\_\_\_\_\_~~ If ~~Coercion~~ coercion or ~~Force~~ force is used, there is no consent.
- ~~\_\_\_\_\_~~ If a person is ~~mentally or physically~~ incapacitated so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; ~~this includes but is not limited to.~~ This may be affected by conditions due to age, alcohol or drug consumption, unconsciousness, being asleep, physical or developmental disabilities.
  - ~~Someone under 16 years of age cannot consent to sexual activity regardless of the age of the other person. Someone who is at least 16 years of age but less than 18 years of age cannot consent to sexual activity if the other person is 24 years of age or older.~~
- ~~\_\_\_\_\_~~ Whether one has taken advantage of a position of influence over another may can be a factor in determining whether there was consent.

- In order to give consent, one must be of legal age.
- The question of what the Respondent should have known as to whether the Complainant was Incapacitated is objectively based on what a reasonable person, sober and/or exercising good judgment, would have known about the condition of the Complainant.

**Dating or Domestic Violence** – Any instance of violence or abuse (verbal, physical, or psychological) that occurs between those who are in, or have been in, an intimate relationship with each other.

- **Physical Violence or Abuse:**

i. Occurs when one intentionally or recklessly (1) causes bodily harm to another person; (2) attempts to cause bodily harm to another person; or (3) puts another in fear of imminent bodily harm. No Respondent may knowingly or recklessly touch any other person without that person’s consent. Punching, slapping, scratching, or otherwise striking any person, including a Dating or Domestic Partner, with any part of one’s body or with any object constitutes physical violence.

ii. Occurs when there is a pattern of engaging in physical violence or abuse as described above.

- **Psychological Abuse:**

i. Occurs when a Respondent intimidates, dominates, terrorizes, humiliates, or isolates any other person, especially a Dating or Domestic Partner.

ii. Occurs when there is a pattern of engaging in psychological abuse as described above.

- **Verbal Abuse:**

i. Occurs when a Respondent uses extreme or excessive language that is in the form of insults, name-calling, or criticism, designed to mock, shame, or humiliate another person, especially a Dating or Domestic Partner. Verbal behavior must be: (1) objectively endangering and (2) sufficiently severe, persistent, or pervasive to constitute verbal abuse. Singular statements and isolated incidents may fall short of this sufficiency standard.

ii. Occurs when there is a pattern of engaging in verbal abuse as described above.

~~W.~~ **Harassment** - is a type of conduct that occurs when verbal, physical, electronic, or other conduct based on an individual’s protected status interferes with that individual’s (a) educational environment (e.g., admission, academic standing, grades, assignment); (b) work environment (e.g., hiring, advancement, assignment); (c) participation in a University program or activity (e.g., campus housing); and/or (d) receipt of legitimately requested services (e.g., disability or religious accommodations), thereby creating hostile environment harassment or quid pro quo harassment **Coercion or Force** is defined to include conduct, intimidation, and/or express or implied threats of physical, emotional, or financial harm that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in Sexual Contact.

Examples of Coercion or Force include causing the deliberate

- ~~**Incapacitation** of another person;~~
- ~~conditioning an academic benefit or employment advantage on submission to the Sexual~~

Contact;

- threatening to harm oneself if the other party does not engage in Sexual Contact; or
- threatening to disclose an individual's Sexual Orientation, Gender Identity, Gender Expression, or other personal sensitive information if the other party does not engage in the Sexual Contact.

B. ~~—~~ Incapacitation is defined as a temporary or permanent state in which a person cannot make informed, rational judgmentsthe inability, temporarily or permanently, to give Consent because the person lacks the physical or mental capacity to understand the nature or consequences of his or her words and/or conduct and/or the person is unable to individual is mentally and/or physically or verbally communicate consent. helpless, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring.

**Member of the University Community** - Any person who is a student, faculty or staff, any other person currently employed by the University, or working on University Premises or within On-Campus Housing, or any participant in a University-sponsored program or activity regardless of the location of the program or activity.

**Reporting Party** ~~Dating Violence~~ is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Party. The existence of such a relationship shall be determined based on the Reporting Party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Any person (including the Complainant) who reports an alleged violation of the FIU 105 Regulation.

~~C. —~~ **Respondent** - Any individual or group

~~For the purpose of this definition —~~

- ~~(1) — Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.~~
- ~~(2) — Dating violence does not include acts covered under the definition of domestic violence.~~

~~Z. **Domestic violence** is defined as (1) A felony or misdemeanor crime of violence committed —~~

- ~~(1) By a current or former spouse or intimate partner of the Reporting Party;~~
- ~~(2) By a person with whom the Reporting Party shares a child in common;~~
- ~~(3) By a person who is cohabitating with, or has cohabitated with, the Reporting Party as a spouse or intimate partner;~~
- ~~(4) By a person similarly situated to a spouse of the Reporting Party under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or~~
- ~~(5) By any other person against an adult or youth Reporting Party who is has been accused of violating this policy.~~

**Responsible Employee** - Any employee who has the authority to take action to redress Sexual Misconduct, Domestic and Dating Partner Violence and/or Stalking; who has been given the duty of reporting incidents of Sexual Misconduct or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or an individual who a student/employee could reasonably believe has this authority or responsibility.

**Retaliation** – Acts or words taken against an individual because of the individual’s participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual’s good faith (i) participation in the reporting, investigation, and/or resolution of an alleged violation of this Code; and/or (ii) opposition to policies, practices, and/or actions that the individual reasonably believes are in violation of the Code. Retaliation may include intimidation, threats, Coercion, physical harm, and/or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. ~~person’s acts under the domestic or family violence laws~~ Retaliation may be committed by the Respondent, the Complainant, the Reporting Party, or any other individual or group of individuals.

**Revenge Porn** - to publish a sexually explicit image of a person, including any depiction that contains or conveys the personal identification or information of the depicted person by any electronic, digital or other means, including to an internet website, by text, by email, and/or by or through social media without the depicted person’s Consent.

**Sexual Misconduct** - involves failure to comply with this regulation and includes:

- **Non-Consensual Sexual Touching** – any sexual touching without Consent. Sexual touching is any intentional touching of a person’s body, including the breasts, buttocks, groin, genitals, or other intimate parts. Touching may be over or under clothing and may include the Respondent touching the Complainant, the Respondent making the Complainant touch the Respondent or another person, or the Respondent making the Complainant touch the Complainant’s own body.
- **Obscene or Indecent Behavior**
  - i. Exposure of one’s sexual organs or the display of sexual behavior that would reasonably be obscene or indecent to others. Other forms of obscene or indecent behavior include sexual exhibitionism, engaging in prostitution, or the facilitation or solicitation of a prostitute.
  - ii. Observing another individual’s nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of the ~~jurisdiction~~all parties involved.
  - iii. Recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate or sexual images, audio recordings, or sexual information of another person in any form without the knowledge and Consent of all parties involved.
  - iv. Publishing a sexually explicit image of a person that contains or conveys the personal identification or information of the depicted person to an internet website, text, email, and/or social media without the depicted person’s Consent.
- **Sexual Harassment** – any unwelcome sexual advance, request for sexual favors, and/or other verbal or physical conduct of a sexual nature:
  - i. Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person’s instruction, academic standing, or participation in any University program, activity, or benefit;
  - ii. Submission to, or rejection of, such conduct by an individual is used as a basis for academic or work evaluation;

iii. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in which the crime of violence occurred, or benefiting from the University's educational, and/or campus-residential experience when viewed both from a reasonable person in similar circumstances and the person in question.

iv. Gender-based harassment is harassment based on gender, sexual orientation, gender identity, or gender expression, including acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve contact of a sexual nature.

- **Sexual Coercion** – the act of using pressure or force to have sexual contact with someone who has already refused.
- **Sexual Battery** – any sexual intercourse by any person upon another without Consent. Sexual intercourse includes vaginal or anal penetration, however slight, by a person's penis, finger, other body part, or an object, or any oral-genital contact (regardless of whether it involves penetration).
- **Sexual Assault** – the threat to commit sexual battery with the immediate capacity to do so.

~~VIII. Stalking is defined as (i)~~ Engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress. ~~(ii)~~ For the purposes of this definition--(A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. (B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Reporting Party/Complainant.

~~AA. Complicity is defined as any act that knowingly aids, facilitates, promotes, and/or encourages the commission of Prohibited Conduct by another person.~~

~~Retaliation is defined as acts or words taken against an individual because of the individual's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual's good faith: (i) participation in the reporting, investigation, and/or resolution of an alleged violation of this Regulation; (ii) opposition to policies, practices, and/or actions that the individual reasonably believes are in violation of the Regulation; or (iii) requests for accommodations on the basis of religion or disability. Retaliation may include intimidation, threats, Coercion, physical harm, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated.~~

Title IX – refers to Title IX of the Educational Amendments of 1972, which protects people from sex and gender discrimination in educational programs and activities at institutions that receive federal financial assistance. Title IX covers more than athletics and sexual assault, it addresses concerns relating to discrimination on the basis of sex or gender in all aspects of the educational process, including in the areas of recruitment, admissions, and counseling; financial assistance; the needs of pregnant and parenting community members, discipline; and employment.

Title IX Coordinator –The individual University official with the primary responsibility for

coordinating the University's compliance with Title IX.

*Deputy Title IX Coordinator* – The Deputy Title IX Coordinator is an individual(s) designated by the Title IX Coordinator to support the Title IX Coordinator with respect to the University's efforts to comply with Title IX.

#### IV. JURISDICTION

Jurisdiction applies to the conduct of any employee (including faculty and/or staff) and/or student that occurs on University premises or on-campus housing, at University-related activities/events, on all locations where a University course or program is being conducted, including foreign locations, such as study abroad programs.

The University reserves the right to impose discipline based on off-campus conduct. Discipline for off-campus conduct may be pursued under the Regulation if:

~~BB. The Retaliation may be committed by the Responding Party, the Reporting Party, or any other individual or group of individuals.~~

~~CC. *Title IX Coordinator* is defined as the individual who oversees FIU's response to reports and complaints that involve sexual violence, dating violence, domestic violence, and/or stalking, who monitors the outcomes, identifies and addresses any patterns, and assesses the effects on the campus climate so the University can address such issues that affect the wider school community.~~

- ~~• *Interim Protective Measures* is defined as those temporary actions taken by the University to ensure equal access to its education programs and activities and to foster a more stable and safe environment during the process of reporting, investigating, and/or disciplining, if appropriate, a violation of this off-campus conduct is specifically prohibited by law or the Regulation;~~
- ~~• The off-campus conduct demonstrates that the continued presence of the employee and/or the student on campus presents a danger to the health, safety, or welfare of the University community, is disruptive to the orderly conduct, processes and functions of the University, is contrary to the University's mission, or is intimidating or threatening to the University community or member of the University community;~~
- ~~• The off-campus conduct is of such a serious nature that it adversely affects the employee's and/or student's suitability to remain a part of the University community; or~~
- ~~• The off-campus conduct has continuing effects on the campus.~~

~~DD. The University Regulation-~~

~~EE. *Responsible Employee* is defined as any employee who has the authority to take action to redress sexual violence, domestic violence, dating violence and/or stalking; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or who has been designated as Campus Security Authority.~~

~~FF. *Campus Security Authorities* is defined as those University employees who have a duty of reporting incidents of behavior that may constitute a Clery Crime to the Clery Coordinator (e.g., members of the University Police Department and those officials with significant responsibility for student and campus activities). An official with significant responsibility for student and campus activities is defined as any person who has the~~



authority and the duty to take action or respond to particular issues on behalf of the institution.

Examples of Campus Security Authorities include:

- the Dean of Students
- the Director of Campus Life
- any Residential Life professionals (e.g., Resident Advisor)
- staff at the Office of Student Conduct and Conflict Resolution who oversee the student conduct process
- the athletic coaches
- a faculty advisor to a student organization

GG. ~~Clery Crimes~~ are defined as:

(i) Primary crimes include

(A) Criminal homicide (i.e., murder, non-negligent manslaughter, negligent manslaughter)

(B) Sex offenses (i.e., rape, fondling, incest, statutory rape)

(C) Robbery

(D) Aggravated assault

(E) Burglary

(F) Motor vehicle theft, and

(G) Arson

(ii) ~~Arrests and referrals for disciplinary actions, including (A) arrests for liquor law proceeding is not a criminal or judicial proceeding and is designed to address employee and/or student behavior, whether on or off-campus; therefore, alleged violations, drug law violations, and illegal weapons possession. (B) Persons not included (ii)(A) above but were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.~~

(iii) Hate crimes including

(1) Larceny-theft

(2) Simple assault

(3) Intimidation, and

(4) Destruction/damage/vandalism of property.

To constitute a hate crime, it must appear that the Reporting Party was intentionally selected because of the perpetrator's bias against the Reporting Party. Bias includes the Reporting Party's actual or perceived Race, Religion, Gender, Gender Identity, Sexual Orientation, Ethnicity, National Origin, and Disability, and

(iv) Dating violence, domestic violence, and stalking

HH. ~~Response Team~~ is defined as a group of designated individuals who respond to a report of sexual misconduct, dating violence, domestic violence, and/or stalking.

II. ~~Minor~~ is defined as a person who is under the age of 18 years old.

JJ. ~~Preponderance of the Evidence~~ is defined as when the information that is presented supports a finding that it is more likely than not that a violation occurred.

### III. ~~PROHIBITED CONDUCT~~

#### A. ~~Discrimination and Harassment Based on All Protected Statuses Prohibited~~

This Regulation prohibits all forms of Discrimination and Harassment based on an individual's Protected Status, including, Age, Color, Creed, Disability, Gender, Gender Expression, Gender Identity, Genetic Information, National Origin, Race, Religion, Sex, Sexual Orientation, Veteran's Status and/or any other legally protected status. In addition, this Regulation prohibits

related misconduct, including Domestic Violence, Dating Violence, Stalking, Complicity, and/or Retaliation.

~~This Regulation prohibits Discrimination, meaning any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual's Protected Status and that is sufficiently serious to unreasonably interfere with or limit:~~

- ~~• An employee's or applicant for employment's access to employment or conditions and benefits of employment (e.g., hiring, advancement, assignment); or~~
- ~~• A student's or admission applicant's ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignment, campus housing).~~

~~Discrimination includes failing to provide reasonable accommodations, consistent with state and federal law, to a qualified person with a disability.~~

~~This Regulation prohibits Harassment, which is a type of Discrimination that occurs when verbal, physical, electronic, or other conduct based on an individual's Protected Status interferes with that individual's (a) educational environment (e.g., admission, academic standing, grades, assignment); (b) work environment (e.g., hiring, advancement, assignment); (c) participation in a University program or activity (e.g., campus housing); and/or (d) receipt of legitimately requested services (e.g., disability or religious accommodations), thereby creating hostile environment harassment or quid pro quo harassment, as defined below.~~

~~Hostile environment harassment: Unwelcome conduct based on Protected Status that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a University program or activity, thereby creating an environment that a reasonable person in similar circumstances and with a similar identity would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not amount to hostile environment harassment.~~

~~Quid pro quo harassment: Unwelcome conduct based on Protected Status where submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a University program or activity.~~

~~Consistent with the definitions provided above, below are examples of conduct that constitutes Discrimination and Harassment:~~

- ~~• May be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect, with a coercive aspect that is unstated but implied.~~
- ~~• May or may not include intent to harm.~~
- ~~• May not always be directed at a specific target.~~
- ~~• May be committed by anyone, will be addressed independently of any criminal or judicial proceeding and regardless of Protected Status, position, or authority. While there may be a power differential between the Reporting Party and the Responding Party (perhaps due to differences in age or educational, employment, or social status), Discrimination and Harassment can occur in any context.~~
- ~~• May be committed by a stranger, an acquaintance, or someone with whom the Reporting Party has a current or previous relationship, including a romantic or sexual relationship.~~

- ~~May be committed by or against an individual or by or against an organization or group.~~
- ~~May occur in the classroom, in the workplace, in residential settings, or in any other setting.~~
- ~~May be a pattern of behavior or, if sufficiently severe, a one-time event.~~
- ~~May be committed in the presence of others when the Reporting Party and Responding Party are alone, or through remote communications, including email, text messages, or social media.~~
- ~~May take the form of threats, assault, property damage, economic abuse, and violence or threats of violence.~~
- ~~May include harassing or retaliatory behavior directed to a sexual or romantic partner, family member, friend, or pet of the Reporting Party.~~

### whether the criminal

- ~~The University strongly discourages amorous or sexual relations between employees (i.e., faculty and staff) and students. Such relationships, even when consensual, may be exploitive, and imperil the integrity of the educational process or work environment. They may also lead to charges of Sexual Harassment. have been dismissed or reduced.~~

~~However, when an individual evaluates (including academic evaluations) or directly supervises another individual with whom he or she has an amorous or sexual relationship, a conflict is created and that is Prohibited Conduct. The University will take action to resolve any conflict of interest created by these relationships.~~

~~Whenever a conflict of interest situation arises or is reasonably foreseen, the employee in a position of authority must resolve any potential conflict of interest by taking necessary steps, including, but not limited to, removing himself or herself from evaluative or academic decisions concerning the other individual. If he or she is unable to resolve personally the conflict of interest, he or she is required to inform the immediate supervisor promptly and seek advice and counsel in dealing with the conflict. The employee, along with the supervisor, is responsible for taking steps to ensure unbiased supervision or evaluation of the employee or student. Failure to resolve potential or actual conflict of interest situations as described in this Regulation may result in disciplinary action in accordance with University policies.~~

~~This Regulation does not preclude a division, college, or department from having a stronger policy against amorous or sexual relationship between employees or between faculty and/or staff with students provided that the policy is approved following the procedure set forth in University Policy 150.205 Developing University-Wide Policies.~~

## **~~B. SEXUAL ASSAULT, SEXUAL VIOLENCE, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING ARE PROHIBITED FORMS OF DISCRIMINATION~~**

~~Just as the University's prohibition of discrimination based on Protected Status (including Sexual Assault as a form of Sexual Harassment) is grounded in federal law, so is its prohibition against Domestic Violence, Dating Violence, and Stalking. The University's response to Sexual Assault,~~

~~Sexual Violence, Domestic Violence, Dating Violence, and Stalking is governed by the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) (the Clery Act) and Section 304 of the 2013 Amendments to the Violence Against Women Act. Such acts violate the essential dignity of our community member(s) and are contrary to our institutional values. The University is committed to taking all appropriate steps to eliminate Sexual Assault, Sexual Violence, Domestic Violence, Dating Violence and Stalking; prevent the recurrence of such acts; and address their effects, both for the Reporting Party and the broader community. The University recognizes that Sexual Assault, Sexual Violence, Domestic Violence, Dating Violence, and Stalking encompass a broad spectrum of conduct and will respond according to both the severity of the offense and the threat it poses to the campus community.~~

#### ~~IV. REPORTING OPTIONS~~

#### V. OPTIONS FOR SEEKING CONFIDENTIAL ASSISTANCE AND/OR MAKING A REPORT OF A POTENTIAL VIOLATION

The University is committed to providing ~~reporting~~ options through multiple contact points across campus that are broadly accessible to all University community members. ~~Any individual can make a report under this Regulation to the individuals or to the individuals/departments listed below. The report may be made in person, by telephone, in writing, by e-mail, electronically, or anonymously. All reports will be shared with the Title IX Coordinator and University's Response Team. If the report involves a Minor, the Florida Department of Children and Families will be contacted as required by Florida Statutes Sections 39.201 and 39.205 and the University Mandatory Reporting of Child Abuse, Abandonment, and Neglect policy (see <http://policies.fiu.edu/files/785.pdf>).~~ to address a potential violation of FIU-105. Anyone may seek confidential assistance and/or make a report to the University on behalf of themselves or others. It is important to understand the differences between these two options. The chart below provides a graphical representation of the differences between the options.

#### REPORTING OPTIONS

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**THERE IS A DIFFERENCE BETWEEN “SEEKING CONFIDENTIAL ASSISTANCE” AND “MAKING A REPORT TO THE UNIVERSITY.” IT IS IMPORTANT TO UNDERSTAND WHAT WILL HAPPEN DEPENDING UPON WHICH ACTION YOU CHOOSE.**

**CONFIDENTIAL ASSISTANCE\***

Means talking about the situation with a professional who cannot share the information with anyone else, getting help figuring out what can be done according to your wishes, and helping with the options you choose, including if you decide to Make A Report to the University.  
\*There are certain legal limitations to confidentiality which will be explained to you at the beginning of any contact.



**CONTACT:**



**On-campus professionals who can provide Confidential Assistance:**

**Victim Empowerment Program**  
24 hour crisis: 305-348-2277  
MMC: SHC 270  
vep.fiu.edu

**Counseling & Psychological Services (CAPS)**  
MMC: SHC 270, 305-348-2277  
BBC: WUC 320, 305-919-5305  
caps.fiu.edu

**Student Health Services**  
MMC: SHC, 305-348-3336  
BBC: SHC, 305-919-5620

**Office of Employee Assistance**  
MMC: 305-348-2469 • BBC: ACII 246B

**MAKING A REPORT TO THE UNIVERSITY**

Means University Officials must take appropriate action



**CONTACT:**



Title IX Coordinator

Deputy Title IX Coordinators

Responsible Employees

Campus Security Authorities

Student Conduct & Conflict Resolution Staff

Faculty

Police



**Off-campus professionals  
who can provide Confidential Assistance:**

**Roxcy Bolton Rape Treatment Center at  
Jackson Memorial Hospital**  
305-585-5185  
1611 N.W. 12th Avenue, Miami, FL 33136  
<http://www.jacksonhealth.org/services-rape-treatment.asp>

**Florida Council Against Sexual Violence  
Information Line**  
1-888-856-RAPE

Any licensed mental health professional can provide  
**Confidential Assistance**



**University Officials to contact for Making a Report to  
the University**

**Shirlyon McWhorter**  
Title IX Coordinator  
Director, Equal Opportunity Programs and Diversity  
PC 321  
Phone: 305-348-2785  
Email: [eopd@fiu.edu](mailto:eopd@fiu.edu)

**Marlynn Jones**  
Deputy Title IX Coordinator  
PC 321  
Phone: 305-348-2785  
Email: [epod@fiu.edu](mailto:epod@fiu.edu)

**Dr. Kristen Kawczynski**  
Deputy Title IX Coordinator  
Director, Student Conduct and Conflict Resolution  
GC 311A  
Phone: 305-348-3939  
Email: [kristen.kawczynski@fiu.edu](mailto:kristen.kawczynski@fiu.edu)

**Julie Berg-McGraw**  
Deputy Title IX Coordinator  
Senior Associate Athletic Director  
USCBA 202A Phone: 305-348-2352  
Email: [julie.berg-Mc\\_Graw@fiu.edu](mailto:julie.berg-Mc_Graw@fiu.edu)



**OR FILE ONLINE:**



**Silent Witness Form** provides a method to report  
on an anonymous basis to the FIU Police  
Department:  
[http://police.fiu.edu/Silent\\_Witness.php](http://police.fiu.edu/Silent_Witness.php)

**FIU Ethical Panther Line** provides a method to  
report on an anonymous basis to the University  
Compliance Office at [www.convercent.com/report](http://www.convercent.com/report)  
or by calling 1-844-312-5358.

**Incident Reporting Form** provides a method to  
report on an anonymous basis to Student Affairs:  
[https://publicdocs.maxient.com/incidentreport.php  
?FloridaIntlUniv](https://publicdocs.maxient.com/incidentreport.php?FloridaIntlUniv)



Below is a list of additional University ~~employees~~ Officials (who are not confidential resources) to which someone could report a violation.

~~Shirlyon McWhorter  
Title IX Coordinator  
Director, Equal Opportunity Programs and Diversity  
PC215 Phone: (305) 348-2785  
E-Mail: [eopd@fiu.edu](mailto:eopd@fiu.edu)~~

~~Kristen Kawczynski  
Deputy Title IX Coordinator  
Director, Student Conduct and Conflict Resolution  
GC311A Phone: (305) 348-3939  
E-Mail: [kristen.kawczynski@fiu.edu](mailto:kristen.kawczynski@fiu.edu)~~

~~Julie Berg  
Deputy Title IX Coordinator  
Senior Associate Athletic Director  
USCBA 202A Phone: (305) 348-2352  
E-Mail: [julie.berg-Mc-Graw@fiu.edu](mailto:julie.berg-Mc-Graw@fiu.edu)~~

~~Cathy Akens  
Associate Vice President of Student Affairs  
Dean of Students  
GC219E Phone: (305) 348-6726  
E-Mail: [Catherine.Akens@fiu.edu](mailto:Catherine.Akens@fiu.edu)~~

Dr. Larry Lunsford  
Vice President of Student Affairs  
Office: GC 219K | Phone: 305-348-2797  
Email: [Larry.Lunsford@fiu.edu](mailto:Larry.Lunsford@fiu.edu)

Dr. Antonio “Tony” Delgado  
Interim AVP of Student Affairs  
Dean of Students  
Office: GC 219E | Phone: 305-348-6726  
Email: [Tony.Delgado@fiu.edu](mailto:Tony.Delgado@fiu.edu)

Dr. Antonio “Tony” Delgado  
Office of the Ombudsperson (Students)  
Office: GC 219E | Phone: 305-348-6726  
Email: [Tony.Delgado@fiu.edu](mailto:Tony.Delgado@fiu.edu)

~~PC215|Phone: (305) 348-2785  
E-Mail: [eopd@fiu.edu](mailto:eopd@fiu.edu)~~

Chief Alexander “Alex” Casas

University Police Department  
MMC-PG5 | Phone: 305-348-2626  
BBC-SOII | Phone: 305-919-5559  
Email: Alexander.Casas@fiu.edu

Dr. Rebecca Friedman  
Faculty Ombudsperson  
Office of the Provost  
Vice President of Student Affairs  
GC219K Phone: (305)-348-2797/0169  
E-Mail: Larry.Lunsford@fiu.edu Email: Rebecca.Friedman@fiu.edu

Karyn Boston  
AVP University Compliance Officer/Privacy officer  
Office of University Compliance and Integrity

PC429 | Phone: (305)-348-2216  
E-Mail: karyn.boston@fiu.edu Email: karyn.boston@fiu.edu

Below is a list of web-based reporting options:

In determining to whom to report, it is important that the Reporting Person understand the consequences of making such a report.

### A. University Employees Who Must Report Violations

The University employees who are obligated by law or by Seeking confidential assistance means talking about the alleged violation with a professional who cannot share the information with anyone else without the express permission from the person sharing the information unless there is a threat of serious harm to the person sharing the information (e.g., patient/client) and/or to others and/or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor or vulnerable adult). Any individual may choose to seek support from confidential professionals on and/or off campus, including the staff at the University Victim Empowerment Program, the counselors at the University Counseling and Psychological Services Center, medical health providers, clergy, and/or rape crisis counselors (as noted in the chart above). The confidential resource will provide help in addressing the incident to the extent possible and in accordance with the person's desires. Seeking confidential assistance does not prevent an individual from making a report at a later date.

Making a report to the University designation to report potential violations of this Regulation are those who are means contacting the Title IX Coordinator, Deputy Title IX Coordinator, a Responsible Employees and Campus Security Authorities. Examples of Responsible Employees include Deans, Directors, Department Chairs, Coaches, Student Affairs professionals (including Resident Advisors), and faculty who serve as advisors to student groups. Members of Employee, campus security authority, and/or the University Police Department are also Responsible Employees. Alternatively, a report can be made to the University using the web-based options listed in the chart above.

Responsible Employees will safeguard an individual's privacy, but **are required** by the University to ~~immediately promptly~~ share all details about a report of ~~Prohibited Conduct~~ prohibited conduct (including the known details of the incident (e.g., date, time, location), the names of the parties involved, a brief description of the incident and whether the incident has been previously reported) with the **Title IX Coordinator** in person, by telephone, electronically, or by email. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

Campus ~~Security Authorities must~~ security authorities will safeguard an individual's privacy but are required to promptly share all known details of an incident, which may constitute a Clery ~~Crime, crime~~ consistent with the ~~expectations for Responsible Employees with~~ Clery Act requirements. Clery crimes must be disclosed to the Clery ~~Act~~ Compliance Coordinator ~~and the Title IX Coordinator. The Clery Act Coordinator~~ who is responsible for maintaining the University's daily crime log and annual security report, which contains information on certain crimes ~~but no~~. No identifying information with respect to ~~a Reporting Party. any party is included.~~

### ~~B. Other Individual's Reporting Obligation (Except Confidential Resources)~~

All other employees (who are not designated as confidential resources) will safeguard an individual's privacy, but are strongly encouraged to share any information about such conduct with the Title IX Coordinator and/or a member of the Title IX Response Team in recognition of the understanding that centralized reporting is an important tool to address, end and prevent ~~Prohibited Conduct~~.

prohibited conduct. Similarly, all students (who are not otherwise required to report as a Responsible Employee and/or Campus Security Authority) are strongly encouraged to report any information, including reports or partial reports, to the **Title IX Coordinator** and/or a member of the Title IX Response Team.

### ~~C. Confidential Resources~~

~~The trained professionals designated below can provide counseling, information, and support in a confidential setting. These confidential resources will not share information about an individual (including whether that individual has received services) without the individual's express permission unless there is a threat of serious harm to the patient/client or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a Minor). The on-campus professionals are also available to help an individual make a report to the University.~~

#### On-Campus:

#### ~~Victim Empowerment Program (VEP)~~

#### ~~Counseling and Psychological Services (CAPS)~~

~~MMC | SHC 270~~

~~(305) 348-2277~~

~~BBC | WUC 320~~

~~(305) 919-5305~~

#### ~~Office Employee Assistance~~

~~MMC | UHSC136~~

BBC|ACII 246B  
(305) 348-2469

**University Student Health Services**

MMC|SHSC  
(305) 348-3336  
BBC|SHSC  
(305) 919-5620

<p><del>A</del> Faculty Ombudsperson Office of the Provost</p>
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~~The following individuals serve as an ombudsperson to either the students or faculty. These individuals will protect the confidentiality of the student or faculty member to the extent permitted by law. However, they are considered both a Responsible Employee and Campus Security Authority.~~

~~Tony Delgado Office of the (Student) Ombudsperson  
Assistant Dean of Students  
GC219 Phone: (305) 348-2797  
E-Mail: [Tony.Delgado@fiu.edu](mailto:Tony.Delgado@fiu.edu)~~

~~Barbara Bader  
PC529 Phone: (305) 348-0296~~

~~The following are off campus providers which provide confidential services. However, these providers have no obligation to report to the University.~~

~~**JMH Rape Treatment Center**  
(305) 585-7273~~

~~**Florida Council Against Sexual Violence Information Line**~~

~~1-888-856-RAPE~~

~~For any report under this Regulation, every effort will be made to respect and safeguard the privacy interests and safety of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Privacy and confidentiality have distinct meanings under this Regulation.~~

~~*1. Privacy*~~

~~Privacy generally means that information related to a report under this Regulation will only be shared with those University employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. If the decision is made to pursue an action against a Responding Party, information related to the report will be shared with the Reporting Party at the same time as it is shared with the Responding Party. Information regarding a report will not be shared with either party’s parents or guardians unless the party is a Minor (and sharing is permissible under the Family Education Rights and Privacy~~

~~Act (FERPA)); the party has signed a waiver that is compliant with FERPA; or there is an articulable threat to the health or safety of the party or other individuals.~~

## ~~2. Confidentiality~~

~~Confidentiality means that information shared with designated campus or community professionals will only be disclosed with the individual's express written permission unless there is a continuing threat of serious harm to the patient/client or to others or there is a legal obligation to reveal such information (e.g., where there is suspected abuse or neglect of a Minor). An individual can seek confidential assistance and support by speaking with specially designated Confidential Resources.~~

## ~~3. Records~~

~~The Equal Opportunity Programs/Diversity Office will maintain records of all reports under this Regulation and their outcomes in order to track patterns and systemic behaviors.~~

## ~~4. Release of Information~~

~~If a report of Prohibited Conduct discloses a serious and immediate threat to the campus community, FIU Police Department will issue a timely notification to protect the health or safety of the community as required by the Clery Act. The notification will not include identifying information about a Reporting Party.~~

~~Pursuant to the Clery Act and the 2013 Amendments to the Violence Against Women Act, anonymous statistical information regarding reported criminal incidents must be shared with FIU Police Department for inclusion in the daily crime log. This information will also be included in the University's annual security report.~~

~~All University proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, the Violence Against Women Act, FERPA, state and local law, and University Regulation. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or University Regulation.~~

## ~~5. Understanding the Difference Between Making a Report to the University and Seeking Confidential Assistance Through a Confidential Resource~~

~~There is a distinction between making a report to the University such as to a Responsible Employee, Campus Security Authority, or the University Police and seeking confidential assistance through confidential resources. Making a report to the University by contacting one of the groups listed above means that the report will be shared with the Title IX Coordinator and/or members of the University's Response Team. The Title IX Coordinator and/or a University Response Team member will communicate with the Reporting Party regarding resources, support and to identify the appropriate action to respond to the report as outlined in this Regulation. There are many options for resolution of a report, and a Reporting Party is encouraged to make a report even if ~~he or she does~~they do not want the University to take action against a ~~Responding Party~~Respondent. The University will make every effort to respect a Reporting Party's autonomy if that is the Reporting Party's desire. ~~Support and resources are always available to a Reporting Party regardless of the chosen course of action. Notwithstanding the Reporting Party's decision, the University will assess whether it is necessary to take some action to continue to provide a safe~~~~

and non-discriminatory environment. The University will advise the Reporting Party as necessary. Making a report to the University does not mean that the Reporting Party cannot also seek confidential assistance then or at a later date.

By contrast, information shared with a Confidential Resource will not be disclosed to anyone else, including the University, except under very limited circumstances. Any individual may choose to seek support from confidential professionals on and off campus, including the staff at the Victim Empowerment Program, the counselors at the University Counseling and Psychological Services Center, medical health providers, clergy, and rape crisis counselors.

#### **D. Mandatory Reporting of Abuse, Abandonment, and Neglect Policy of a Minor**

This policy applies to all Florida International University (FIU) faculty, staff, students and volunteers. This policy implements the mandatory reporting obligations in Florida law regarding child abuse, abandonment and neglect. In the State of Florida, any person who knows, or has reasonable cause to suspect, that a Minor is abused, abandoned or neglected must immediately report this information to the Florida Department of Children and Families (DCF) in order that no harm comes to the Minor.

In the course of their employment, research, service and/or academic endeavors, all FIU faculty, staff, students and volunteers are expected to report instances of abuse, abandonment and neglect of a Minor which they know of or have reasonable cause to suspect. FIU strives to create an environment where anyone who knows of, or has reasonable cause to suspect, abuse, abandonment or neglect of a Minor feels empowered to report it without any fear of retaliation. Additionally, any person who knows, or has reasonable cause to suspect, that a Minor is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender must immediately report the information to the DCF. The means to contact DCF are set forth below in the Procedures section outline in the University policy which can be found online at: <http://policies.fiu.edu/files/785.pdf>.

#### **E. The Effect of Making a Report**

Making a report to the University means telling a Responsible Employee or Campus Security Authority what happened, in person, by telephone, in writing, by e-mail, electronically, or anonymously. The University encourages a Reporting Party or someone on the Reporting Party's behalf to make a report directly to a Responsible Employee or Campus Security Authority. In turn, these University employees will, as quickly as possible, refer the report to the Title IX Coordinator and/or the Response Team to assure consistent application of this Regulation.

### **VI. INTERIM PROTECTIVE MEASURES AVAILABLE THROUGH THE UNIVERSITY**

Upon receipt of a report, the Title IX Coordinator and/or the Response Team will conduct an initial assessment of the incident or behavior at issue which includes evaluating the risk of harm to the parties, any other individuals, or the broader campus community; the Reporting Party's desired course of action; and the necessity for any Interim Protective Measures to protect the safety of the



~~Reporting Party, any other individuals, and/or the community. A member of the Response Team will offer appropriate resources to support the Reporting Party and at the conclusion of the initial assessment, determine the appropriate manner of resolution.~~

~~The University recognizes that deciding whether to make a report and choosing how to proceed are personal decisions. A Reporting Party does not have to decide whether to request any particular course of action. Choosing to make a report and deciding how to proceed after making a report is a process that unfolds over time. The University will make every effort to respect a Reporting Party's choice, including the desire for autonomy, in making the determination as to how to proceed. Resources are always available to support a Reporting Party regardless of the course of action chosen. All individuals are encouraged to make a report regardless of when or where the incident occurred, and to seek any necessary help from campus or community resources. Notwithstanding the Reporting Party's decision, the University will assess whether it is necessary to take action to continue to provide a safe and non-discriminatory environment. The University will advise the Reporting Party as necessary.~~

## ~~VI. INTERIM PROTECTIVE MEASURES AVAILABLE THROUGH THE UNIVERSITY~~

When a report is received, the *Title IX Coordinator* or designee, in consultation with other appropriate administrators, will make an assessment of any risk of harm to the parties, any other individuals, or ~~to the broader campus~~ University community ~~and~~. The University may impose reasonable and appropriate ~~Interim Protective Measures~~ interim protective measures when necessary to protect the safety and/or emotional well-being of the parties or witnesses involved and/or to provide academic or other appropriate support. ~~Interim Protective Measures are temporary actions taken by~~ Implementing any interim protective measure is within the ~~University to ensure equal access to its education programs and activities and to foster a more stable and safe environment during the process~~ sole discretion of ~~reporting, investigating, and/or disciplining, if appropriate, a violation of this Regulation~~ the University. Because they are temporary in nature, interim protective measures may be amended or withdrawn as additional information is gathered. ~~The~~ *Title IX Coordinator* or designee, in consultation with other administrators, will maintain consistent contact with the parties so that all safety, and/or emotional, ~~and physical~~ well-being concerns can be reasonably addressed.

Interim ~~Protective Measures~~ protective measures may be ~~applied~~ afforded to the Complainant, the Reporting Party, the ~~Responding Party~~ Respondent, and/or other involved individuals as appropriate to ensure their safety and/or well-being. ~~Interim Protective Measures~~ interim protective measures may be requested by the parties ~~or the University~~ at any time, regardless of whether any particular course of action is sought by the ~~Reporting Party~~. Complainant. The range of ~~Interim Protective Measures~~ interim protective measures may include:

- Arranging for medical services
- Access to counseling services either provided by the University and ~~assistance in setting up initial appointments/~~ or through community resources
- Providing crisis intervention, case management, emotional and/or practical support, and/or safety planning through the Victim Empowerment Program for students and through the Office of Employee Assistance for faculty and staff
- Imposition of a University “No-Contact Order” for all or some of the parties involved in the incident

- Imposition of a “No Trespass Order” for all or part of any University property
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections
- Change in work schedule or job assignment
- Change in campus housing assignment
- Assistance from University support staff in completing housing relocation, if feasible
- ~~Limiting access to certain University facilities or activities pending resolution of the matter~~
- Voluntary leave of absence from work in accordance with University policies
- Providing an escort to assure safe movement between classes and activities
- ~~Arranging for medical services~~
- Providing academic support services, such as tutoring
- University-imposed leave, or suspension, ~~or separation~~ for the Responding Party Respondent.
- Any other feasible measure(s), which can be tailored to the involved individuals to achieve the goals of this Regulation.

All individuals are encouraged to report concerns about the adequacy of the ~~Interim Protective Measures or~~ interim protective measures or the failure of another individual to abide by any ~~Interim Protective Measure~~ interim protective measure to the **Title IX Coordinator**. ~~Violations of Interim Protective Measures will be addressed in accordance with this Regulation.~~ The **Title IX Coordinator** will take appropriate, responsive, and prompt action to enforce ~~Interim Protective Measures~~ interim protective measures and/or to respond to **Retaliation** by another party or witness.

## VII. INVESTIGATION OF A REPORT OF A POTENTIAL VIOLATION OF FIU REGULATION 105 AND RESOLUTION OF AN INVESTIGATION

If the Respondent is a student, the Director of Student Conduct and Conflict Resolution/Deputy Title IX Coordinator will oversee the matter in accordance with the Student Code of Conduct Regulation (FIU Regulation 2501) working with the Title IX Coordinator. If the Respondent is an employee, the Title IX Coordinator will oversee the matter. If the Respondent is a student and holds a position as University employee, the Title IX Coordinator and the Director of Student Conduct and Conflict Resolution will determine which office will have primary oversight of the matter.

There may be instances in which a Complainant is unable or unwilling to pursue a report of Discrimination but where the Title IX Coordinator is aware of the behavior. In such instances, the Title IX Coordinator may choose to pursue an investigation of the alleged offense. The decision of whether or not to take further action on a report will be based on an assessment of safety and the maintenance of a non-discriminatory environment.

## • INVESTIGATION OF A REPORT OF A POTENTIAL VIOLATION OF THIS REGULATION AND RESOLUTION OF AN INVESTIGATION PROCEDURES

If, after an initial assessment of a report of a ~~Prohibited Conduct~~ prohibited conduct, the **Title IX Coordinator** determines that an investigation is necessary, the **Title IX Coordinator** will oversee the investigation. ~~If Reporting Party and the Responding Party are students, the Director of Student Conduct and Conflict Resolution/Deputy Title IX Coordinator will work with the Title IX Coordinator regarding the investigation.~~ process. The Title IX Coordinator will select a trained investigator(s) to gather sufficient evidence to reach a fair, impartial determination as to whether the alleged violation has occurred based on the preponderance of the evidence. The investigator(s) will be trained to gather and document the available evidence to support reliable decisions, objectively evaluate the credibility of the parties and witnesses, synthesize all available evidence (including both supportive and non-supportive evidence), and take into account the unique and complex circumstances of each case. The Title IX Coordinator will select investigator(s) who are free of actual or reasonably perceived conflicts of interest and biases for or against any party.

Prior to the initial investigation meeting, the Title IX Coordinator will send to the Respondent and Complainant written notice about the allegations constituting a potential violation of this Regulation in order for the parties to prepare for meaningful participation in the matter. During an investigation, the investigator(s) will seek to meet separately with the Complainant, the Respondent, and any witnesses. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters. The investigator(s) will also gather other relevant information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person), and other electronic records as appropriate. The investigator(s), not the parties, are responsible for gathering relevant evidence to the extent reasonably possible. Both the Complainant and Respondent are encouraged to promptly submit any relevant information, including witnesses' names. If a party declines to provide relevant information, the University's ability to conduct a prompt, thorough, and equitable investigation may be impaired.

All investigations will be conducted in a prompt fashion to determine what occurred and whether steps must be taken to resolve the situation. The appropriate University officials will make every effort to complete the investigation phase ~~will be completed~~ within 60 calendar days a reasonable period of time from the filing of a report or when the University becomes aware of behavior that may be a violation of this Regulation. ~~The parties will be advised of any extension of time as needed to complete the investigation phase.~~

~~There may be instances in which a Reporting Party is unable or unwilling to pursue a report of Discrimination, but where the University administration is aware of the behavior. In such instances, the Title IX Coordinator may choose to pursue an investigation of the alleged offense. The decision of whether or not to take further action on a report will be based on an assessment of safety and the maintenance of a non-discriminatory environment.~~

~~The~~ Any investigation may include, but shall not be limited to, interviewing the **Complainant**, Reporting Party (if not the Complainant) and the ~~Responding Party~~ Respondent regarding the allegations, interviewing other persons who may have information relevant to the allegations, preparing witness statements for all persons interviewed, and or reviewing of any relevant documents.

## RESOLUTION OF THE INVESTIGATION WHEN THE RESPONDENT IS AN EMPLOYEE

Upon completion of the investigation, a report shall be prepared which includes a summary of the complaint, a description of the investigation, ~~and the findings of fact~~ the findings of fact, and a determination whether a violation of Regulation FIU-105 is substantiated or unsubstantiated. The conclusion that a violation was substantiated will be based on a preponderance of the evidence standard. The final investigation report shall be given to the following people at or about the same time (as is practicable): the Complainant, the Respondent, and the Director of Employee and Labor Relations and/or the Division of Academic Affairs. The appropriate office will determine what action, including discipline, (if any) may be necessary. No decision about discipline or implementing any discipline will be taken until the time for filing an appeal has lapsed or when the appeals process has finally concluded.

### ~~A. Resolution of the Investigation When Both Parties are Employees or if the Responding Party is an Employee and the Reporting Party is a Student~~

~~If the Reporting Party and Responding Party are employees or if the Responding Party is an employee and the Reporting Party is a student, the investigation report shall be given to the following people at the same time: the Vice President for Human Resources or designee, the Reporting Party, the Responding Party, the immediate supervisor of the Responding Party, and the appropriate vice president or department head for additional action as necessary.~~

Either party may seek review of the final investigation report ~~to~~ by the Vice President for Human Resources or a designee by filing an appeal within ~~three (3) calendar~~ seven (7) business days of receipt of the investigation report. The appeal shall be based on one or more of the following:

- relevant evidence was not reviewed and/or
- new evidence is available, or
- the factual evidence was insufficient to support the ~~findings.~~ report.

The appeal shall be in writing and shall set forth the issues to be considered in the appeal. Copies of the appeal shall be provided to the other party as soon as is practicable. The other party may file a response to the appeal to the Vice President for Human Resources ~~or designee~~ within ~~three (3)~~ seven (7) business days of receipt of the appeal. ~~The Vice President for Human Resources or designee shall issue a written finding within three (3) calendar~~ seven (7) business days after receipt of the appeal, or of a response to the appeal, whichever is later, and will give the report to all parties at or about the same time ~~as is practicable~~. These deadlines may be extended provided all parties mutually agree when necessary (but not in writing an attempt to delay the extension. ~~final resolution of the matter).~~

~~Upon final acceptance by~~ Once the ~~Vice President for Human Resources or designee of a written finding that there was a Preponderance of Evidence that an employee violated this Regulation,~~ appeal process has concluded, the Director of Employee Labor and Relations Department, ~~the immediate supervisor of the Responding Party, and the Title IX Coordinator will determine the~~ /or the Division of Academic Affairs (if the faculty is involved) will make a recommendation to the Respondent's supervisor as to whether any disciplinary action should to be taken against the

~~Responding Party~~ Respondent. The resolution of the complaint will be communicated to the ~~Reporting Party~~ Complainant and the ~~Responding Party~~ Respondent at or about the same time. ~~Disciplinary action shall be taken in accordance with the Regulations and policies affecting the class of employee and the terms of any applicable collective bargaining agreement. (as it practicable).~~

## RESOLUTION OF THE INVESTIGATION PROCESS WHEN THE RESPONDENT IS A STUDENT

### B. Upon Resolution of the Investigation When Both Parties are Students or the Reporting Party is an Employee and the Responding Party is a Student

If the Reporting Party and Responding Party are students or if the Reporting Party is an employee and the Responding Party is a student, the completion of the investigation, a report shall be given to the Reporting Party, the Responding Party, and the Director of Student Conduct and Conflict Resolution/Deputy Title IX Coordinator at the same time. prepared which includes a description of the investigation, a summary of the complaint and the witness statements. The Director of Student Conduct and Conflict Resolution/Deputy Title IX Coordinator will review the report in order to determine whether ~~the Responding Party should be charged with~~ there is a potential violation(s) of the Student ~~Code of Conduct and~~ Code.

If the Director determines that there has been a violation(s), the Director will advise the Title IX Coordinator accordingly. If such determination is made, follow the process that is described in the Student Code of Conduct will govern the process. Code. See FIU Regulation 2501 at <http://regulations.fiu.edu/regulation>.

## VIII. RETALIATION

~~For~~  
~~VIII. ADDITIONAL RESOURCES~~

### A. Equal Opportunity Programs and Diversity Office

~~The Equal Opportunity Programs and Diversity Office has primary responsibility for administering purposes of this Regulation and oversees the investigation, response to, and resolution of all reports of Prohibited Conduct; however, questions, concerns, and/or reports may also be addressed to any member of the Response Team.~~

### Title IX Coordinator

~~The University has a designated the Director of the Equal Opportunity Programs and Diversity as the Title IX Coordinator. The Title IX Coordinator oversees the University's investigation, response to, and resolution of all reports of Prohibited Conduct based on sex (including Sexual or Gender Based Harassment and Sexual Violence), Domestic Violence, Dating Violence, and Stalking, and of related Complicity and, **Retaliation** involving students, faculty, and staff. The Title IX Coordinator, retribution or reprisal is:~~

- ~~• Knowledgeable and trained in University policies and procedures and relevant state and federal laws;~~
- ~~• Available to advise any individual, including a Reporting Party, a Responding Party, or a~~



- ~~third-party about University and community resources and reporting options;~~
- ~~Available to provide assistance to any University employee regarding how to respond appropriately to a report of Title IX-related Prohibited Conduct, Domestic Violence, Dating Violence, Stalking, and/or related Retaliation;~~
- ~~Participates in ensuring the effective implementation of this Regulation, including monitoring compliance with all procedural requirements, recordkeeping, and timeframes;~~
- ~~Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture; and~~
- ~~Maintains all discrimination reports.~~

~~Inquiries or concerns about Title IX may be referred to the University's Title IX Coordinator. Concerns about the University's application of Title IX under this Regulation may be addressed to the United States Department of Education, Office for Civil Rights:~~

<del><b>Title IX Coordinator</b></del>	<del><b>Office for Civil Rights</b></del>
<del>Shirlyon McWhorter</del>	<del>(800) 421-3481</del>
<del>(305) 349-2785   <a href="mailto:shirlyon.mcwhorter@fiu.edu">shirlyon.mcwhorter@fiu.edu</a></del>	<del>Email: <a href="mailto:OCR@ed.gov">OCR@ed.gov</a></del>

## ~~**B. Response Team**~~

~~A report of Prohibited Conduct may be made to any designated person or by any method included in the Reporting Option section above. Members of the Response Team can help any University community member understand the Regulation and the options for resolving concerns raised under this Regulation in academic or work settings at the University. The Response Team will attempt to protect and safeguard the privacy of all individuals involved in a manner consistent with the need for a careful assessment of and response to the report.~~

~~The Response Team consists of a small “need to know” number of individuals. Depending on the roles (e.g., student, faculty, and staff) of the Reporting Party and the Responding Party, the Response Team includes the following:~~

- ~~Title IX Coordinator~~
- ~~Student Conduct and Dispute Resolution Director/Deputy Title IX Coordinator~~
- ~~Dean of Students~~
- ~~Director of Victim Empowerment Program~~
- ~~Director of Residential Life~~
- ~~Assistant Chief of Police of the University Police Department~~
- ~~Vice President for Academic Affairs~~
- ~~Senior Associate Athletic Director/Deputy Title IX Coordinator~~
- ~~Other administrators as needed depending on the facts and circumstances of the case.~~

## ~~**C. How to Get Help In the Event of an Emergency**~~

~~Anyone who has experienced Sexual Violence, Domestic Violence, Dating Violence, and/or Stalking is urged to immediately seek help. In life-threatening situations, dial 911. Other help includes seeking medical assistance, seeking confidential counseling or crisis response, filing a report with law enforcement, and making a report to the University. FIU Police Department will~~



help any individual get to a safe place, provide transportation to the hospital, contact another law enforcement agency, and offer information about the University's resources and processes. Information about the difference between Reporting Options and confidential resources is listed above.

<u>Emergency Response</u>	<u>Medical Treatment</u>	<u>Confidential Counseling &amp; Crisis Response</u>
<p><b>Call 911</b></p> <p><b>FIU MMC Police</b> (305) 348-5911</p> <p><b>FIU BBC Police</b> (305) 919-5911</p> <p><i><u>Other Agencies Not Affiliated with FIU that can be Contacted for Emergency Assistance</u></i></p> <p><b>Sweetwater Police Department</b> (305) 552-9900</p> <p><b>Miami-Dade Police Department</b> (305) 476-5423</p>	<p><b>FIU Student Health Services</b> MMC SHSC (305) 348-2401</p> <p><b>BBC SHS</b> (305) 919-5307</p> <p><i><u>Other Agencies Not Affiliated with FIU that can be Contacted for Medical Treatment</u></i> Rape Treatment Center (305) 585-5185</p>	<p><b>FIU Counseling and Psychological Services (CAPS)</b> counselingservices.fiu.edu MMC SHC 270 (305) 348-2277 BBC WUC 320 (305) 919-5305</p> <p><b>Victim Empowerment Program (VEP)</b>vep.fiu.edu 24 Hour Hotline  (305) 348-3000</p> <p><b>FIU Office of Employee Assistance</b> MMC UHSC136 BBC ACH 246B (305) 348-2469</p>

## **IX. RETALIATION PROHIBITED**

Retaliation is expressly prohibited by this Regulation, and the University will take immediate and responsive defined as adverse action to any report of Retaliation or any violation of Interim Protective Measures. During the investigation and resolution of violations of this Regulation that are alleged in good faith, reasonable steps will be taken to protect the Reporting Party, the Responding Party, and other participants in the reporting, investigation, and resolution process from Retaliation. Any individual who engages in Retaliation will be subject to prompt and appropriate disciplinary action. Individuals who have a concern about potential or actual Retaliation should contact the Title IX Coordinator for assistance in addressing the concern. If the concern about Retaliation involves the Equal Opportunity Programs/Diversity Office or Title IX Coordinator, against an employee or student as a result of an individual may contact the Vice President of Human Resources.

## **X. EDUCATION AND PREVENTION PROGRAMS**

The University is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the University's policies and procedures; relevant definitions, including prohibited conduct, discussion of the impact of alcohol and illegal drug use; Consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming first year students and new employees will be offered primary prevention and awareness programming as part of their orientation. Returning students and employees will also have ongoing opportunities for training and education. The Title IX Coordinator maintains an education and prevention calendar and tailor programming to campus needs and climate. Online training programs can be accessed through the Division of Human

~~Resources Talent Management and Development's website at [http://hr.fiu.edu/index.php?name=professional\\_development](http://hr.fiu.edu/index.php?name=professional_development).~~

~~As part of the University's commitment to provide an educational and work environment free from Prohibited Conduct, this Regulation will be disseminated widely to the University community through email communication, publications, websites, new employee orientations, student orientations, and other appropriate channels of communication~~or student's good faith reporting of violations of law, rule, regulation, policy or other misconduct.

## ~~XI. ANNUAL REVIEW~~

~~This Regulation is maintained by the Equal Opportunity Programs and Diversity office. The Equal Opportunity Programs and Diversity Office and Title IX Coordinator will review this Regulation on at least an annual basis, with the assistance of an advisory group consisting of student, faculty, staff, and community representatives selected by senior leadership of that office. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process (including the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed). The review will include the opportunity for individuals affected by the Regulation to provide feedback and will incorporate an aggregate view of reports, resolution, and climate. The Title IX Coordinator will prepare an annual report, publicly available, which will include recommendations and steps taken to improve the delivery of services and the effectiveness of the Regulation and procedures.~~

## ~~XII. CONTACT~~

~~Questions about this Regulation should be directed to Shirlyon McWhorter, the Title IX Coordinator and Director of the Equal Opportunity Programs and Diversity office at Florida International University Modesto A. Maidique Campus PC 321 11200 S.W. 8th Street Miami Florida. The telephone number for the Equal Opportunity Programs and Diversity office is 305.348.2785. The fax number is 305.348.3459. The Title IX Coordinator's email address is [shirlyon.mcwhorter@fiu.edu](mailto:shirlyon.mcwhorter@fiu.edu).~~

~~The Title IX Coordinator has appointed the following people as Deputy Title IX Coordinators: If a member of the University community believes that **Retaliation** may have been taken against them as a result of filing a grievance, complaint or report of a violation of law, rule, regulation or policy, they should report the retaliation to the EOPD Office. The situation will be reviewed and a response will be provided to the employee or student who alleged the **Retaliation**.~~

- ~~• Dr. Kristen Kawczynski, Director of the Student Conduct and Conflict Resolution Department. Her contact information is: (305) 348-3939. Her email address is [kristen.kawczynski@fiu.edu](mailto:kristen.kawczynski@fiu.edu).~~
- ~~• Julie Berg, Senior Associate Athletic Director. Her contact information is: (305) 348-2352. Her email address is: [Julie.berg-Mc-Graw@fiu.edu](mailto:Julie.berg-Mc-Graw@fiu.edu).~~

~~*Specific Authority: Board of Governors Regulation 1.001 (5)(a). History—Formerly FIU 104 (repealed) and FIU 103 (repealed). New April 15, 2015.*~~