Protecting the Rights of Students:

“Knowing Your Role and Your Responsibility”

This Resource Manual Is Designed to Equip the Following Individuals with Tools and Knowledge needed to Comply with USC’s Mandatory Reporting Expectation:

- Faculty
- Professional Staff
- Managers
- Supervisors
- and Student Leaders
Colleagues:

The University of South Carolina takes very seriously the safety and well-being of its students, faculty, and staff. We strive to enhance and maintain a safe and supportive learning and working environment and to cultivating a learning atmosphere that enhances the potential for student success and safeguards student safety and well-being. We also endeavor to create for our faculty and staff a workplace that is free of bullying, lack of civility, and harassment.

Our University, however, mirrors societal norms, patterns, and behaviors. In recent years, our society has experienced a rise in issues such as lack of civility, bullying, and harassment. This resource has been developed to equip our students, faculty, and staff with tools and resources to respond appropriately to disruptive and/or threatening behavior.

In the attached Guide for Faculty and Staff, you will find information about handling difficult, disruptive or threatening incidents involving students in and outside of the classroom as well as resources for assistance in responding to these types of concerns.

We hope you’ll find the enclosed materials useful. For additional information and to schedule an information session for your class, department, or unit, please call Bobby Gist or Carl R. Wells in the Office of Equal Opportunity Programs at (803) 777-3854, wellscr@mailbox.sc.edu.

Thank you for helping to keep Carolina a safe and welcoming community.

Sincerely,

Bobby Gist
Executive Assistant to The President for Equal Opportunity Programs
Title IX Coordinator
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PROTECTING THE RIGHTS OF STUDENTS: KNOWING YOUR ROLE AND RESPONSIBILITY

Training Objectives

The purpose of this training session is to provide information which can enhance University outreach and support of students who experience alleged acts of harassment and discrimination. This session will provide training on SC’s anti-discrimination and harassment policies and procedures including the following topics:


2. USC’s student anti-discrimination and harassment policies and the procedures, associated with these policies;

3. The types of conduct that constitute a violation of USC’s anti-discrimination and harassment policies, including but not limited to disparate treatment, exclusionary practices, harassment, and other actions that establish a hostile education environment, such as physical, verbal, written, and visual harassment, with examples of each;

4. The responsibilities of students, faculty, and staff members when witnessing actions that violate the University of South Carolina anti-discrimination or harassment policies;

5. The identity and contact information for the USC official(s) or office(s) responsible for resolving discrimination and harassment complaints;

6. The process for initiating discrimination or harassment complaints; and

7. Potential consequences for violations of anti-discrimination or harassment policies and procedures.
1. Federal Anti-Discrimination Laws

A Pre-Test

Our employees and students are protected against discriminatory action for all terms and conditions of employment and education including but not limited to:

- Admissions
- **Education programs and activities**
- Hiring and firing
- Transfer, promotion, layoff, or recall
- Recruitment
- Use of company facilities
- Benefits
- Education
- Compensation, assignment, or classification
- Job advertisements
- Testing
- Training and apprenticeship programs
- Retirement plans and disability leave

Discriminatory practices under these laws also include harassment as well as protection from retaliation for coming forward with a complaint or participating in the investigation of a complaint.

DIRECTIONS:
For each of the protected classes listed below, check the correct statute, laws or regulations that apply to this particular protected class.

**Age**

- ___Age Discrimination in Employment Act of 1967
- ___Americans with Disabilities Act of 1990
- ___Section 504 of Rehabilitation Act of 1973
- ___Executive order 13145
- ___Equal Pay Act of 1963
- ___Title VII of the Civil Rights Act of 1964
- ___Pregnancy Discrimination Act of 1973
- ___Title IX of the Education Amendments of 1972
- ___Title VI of the Civil Rights Act of 1964
- ___Uniformed Services Employment and Re-employment Act
- ___Veterans’ Readjustment Act of 1974

**Disability**

- ___Age Discrimination in Employment Act of 1967
- ___Americans with Disabilities Act of 1990
- ___Section 504 of Rehabilitation Act of 1973
- ___Executive order 13145
- ___Equal Pay Act of 1963
- ___Title VII of the Civil Rights Act of 1964
- ___Pregnancy Discrimination Act of 1973
- ___Title IX of the Education Amendments of 1972
- ___Title VI of the Civil Rights Act of 1964
- ___Uniformed Services Employment and Re-employment Act
- ___Veterans’ Readjustment Act of 1974
Genetics

**Age Discrimination in Employment Act of 1967**
**Americans with Disabilities Act of 1990**
**Section 504 of Rehabilitation Act of 1973**
**Executive order 13145**
**Equal Pay Act of 1963**
**Title VII of the Civil Rights Act of 1964**
**Pregnancy Discrimination Act of 1973**
**Title IX of the Education Amendments of 1972**
**Title VI of the Civil Rights Act of 1964**
**Uniformed Services Employment and Re-employment Act**
**Veterans’ Readjustment Act of 1974**

Sex

**Age Discrimination in Employment Act of 1967**
**Americans with Disabilities Act of 1990**
**Section 504 of Rehabilitation Act of 1973**
**Executive order 13145**
**Equal Pay Act of 1963**
**Title VII of the Civil Rights Act of 1964**
**Pregnancy Discrimination Act of 1973**
**Title IX of the Education Amendments of 1972**
**Title VI of the Civil Rights Act of 1964**
**Uniformed Services Employment and Re-employment Act**
**Veterans’ Readjustment Act of 1974**

Race, Color, National Origin

**Age Discrimination in Employment Act of 1967**
**Americans with Disabilities Act of 1990**
**Section 504 of Rehabilitation Act of 1973**
**Executive order 13145**
**Equal Pay Act of 1963**
**Title VII of the Civil Rights Act of 1964**
**Pregnancy Discrimination Act of 1973**
**Title IX of the Education Amendments of 1972**
**Title VI of the Civil Rights Act of 1964**
**Uniformed Services Employment and Re-employment Act**
**Veterans’ Readjustment Act of 1974**
Religion

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990
- Section 504 of Rehabilitation Act of 1973
- Executive order 13145
- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act of 1973
- Title IX of the Education Amendments of 1972
- Title VI of the Civil Rights Act of 1964
- Uniformed Services Employment and Re-employment Act
- Veterans’ Readjustment Act of 1974

Veterans’ Status

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990
- Section 504 of Rehabilitation Act of 1973
- Executive order 13145
- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act of 1973
- Title IX of the Education Amendments of 1972
- Title VI of the Civil Rights Act of 1964
- Uniformed Services Employment and Re-employment Act
- Veterans’ Readjustment Act of 1974
Federal Anti-Discrimination Laws

Employees are protected against discriminatory action for all terms and conditions of employment including but not limited to:

- Hiring and firing
- Transfer, promotion, layoff, or recall
- Recruitment
- Use of company facilities
- Benefits
- Compensation, assignment, or classification
- Job advertisements
- Testing
- Training and apprenticeship programs
- Retirement plans and disability leave

Discriminatory practices under these laws also include harassment as well as protection from retaliation for coming forward with a complaint or participating in the investigation of a complaint.

**Age**

**Age Discrimination in Employment Act of 1967**
- Prohibits discrimination based on age in employment for employees 40 years of age and older.

**Disability**

**Americans with Disabilities Act of 1990**
- Prohibits discrimination based on disability in employment, public accommodations, public services, transportation, and telecommunications. Also requires the provision of reasonable accommodations to qualified individuals with disabilities.

**Section 504 of Rehabilitation Act of 1973**
- Prohibits discrimination based on disability in federally assisted programs.

**Genetics**

**Executive order 13145**
- Prohibits discrimination in Federal Employment on the Basis of Protected Genetic Information.

**Sex**

**Equal Pay Act of 1963**
- Prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

**Title VII of the Civil Rights Act of 1964**
- Prohibits discrimination in employment based on race, color, sex, religion, and national origin.

**Pregnancy Discrimination Act of 1973**
- Prohibits discrimination on the basis of pregnancy, childbirth or related medical conditions.

**Title IX of the Education Amendments of 1972**
- Prohibits discrimination on the basis of sex, pregnancy, childbirth or related medical conditions.

**Race, Color, National Origin**

**Title VII of the Civil Rights Act of 1964**
- Prohibits discrimination in employment based on race, color, sex, religion, and national origin.

**Title VI of the Civil Rights Act of 1964**
- Prohibits discrimination based on race, color, and national origin in federally assisted programs.
Religion

Title VII of the Civil Rights Act of 1964
Prohibits discrimination in employment based on race, color, religion, national origin and sex.

Veterans’ Status

Uniformed Services Employment and Re-employment Act
Prohibits discrimination in employment based on military affiliation.

Veterans’ Readjustment Act of 1974
Prohibits discrimination based on veteran status or special disabled veteran status in federally assisted programs.

There are South Carolina State laws, Richland county laws, and Columbia city laws that provide similar protection for each of the above federal laws.

In addition, The University’s equal opportunity policies provide protection from discrimination/harassment on the basis of sexual orientation and genetics.
Title IX Compliance
Facts & Procedures About Title IX to Ensure Compliance

Title IX Compliance . . .

Title IX of the Education Amendments of 1972 states;

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..."

20 U.S.C. § 1681

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is an all-encompassing federal law that prohibits discrimination based on the gender of students and employees of educational institutions which receive federal financial assistance.

USC Procedures in Place to Ensure Compliance

Pursuant to Title IX of the Education Amendments of 1972 and other applicable state laws and University of South Carolina EOP Policies 1.01, 1.02, 1.03 and 1.04, it is illegal and a violation of University policy to harass or discriminate against any individual (faculty, staff, student or visitor) on the basis of sex. Sex discrimination prohibited by Title IX includes sexual harassment, sexual assault, sexual violence, and sexual misconduct. Title IX also prohibits retaliation against an individual who, in good faith, asserts his or her rights under Title IX or other applicable federal and state laws prohibiting illegal discrimination.

USC Mandates for Faculty, Administration/Supervisors & Management

Any University administrator, faculty member or supervisor, including a department chair, associate dean, or other administrator, or person in a position with authority over a student who receives notice of a student's complaint of alleged prohibited harassment, including sexual misconduct, sexual violence, sexual assault or any other criminal behavior based upon sex or discrimination, must immediately contact the USC Equal Opportunity Programs Office. (An administrator or supervisor includes: a department chair, associate dean, other administrator, or person in a position with authority over an employee or a student.) Failure to report any Title IX matter may result in disciplinary action. Procedures for reporting and responding to complaints of discrimination, harassment or retaliation under Title IX are located in University Policy EOP 1.02, available at http://www.sc.edu/eop/.
Who is covered by Title IX?

Educational institutions that receive federal financial assistance are covered by Title IX. If only one of the institution’s programs or activities receives federal funding, all of the programs within the institution must comply with Title IX regulations. In compliance with Title IX, The University of South Carolina prohibits discrimination in employment as well as in all programs and activities on the basis of sex and protects both employees and students.

Any student or employee who experiences sexual harassment (including sexual misconduct, sexual assault or sexual violence), or discrimination on the basis of sex is encouraged to contact Bobby D. Gist, the USC EOP/Title IX Coordinator or the University’s Student Complaint Coordinator/Deputy Title IX Coordinator, Dr. Carl Wells. Their office is located at 1600 Hampton Street in suite 805 and they may be reached (803) 777-3854. Students specifically are also encouraged to contact the USC Police Department to report alleged sexual misconduct, sexual violence, sexual assault, or any other criminal behavior based upon their sex.

Facts about Title IX

Title IX applies to more than just athletic programs.

Athletics is not the only area of academic life governed by Title IX. Other areas which fall within the scope of Title IX include:

- Recruitment, Admissions, Financial Aid and Scholarships
- Course Offerings
- Counseling
- Hiring and Retention of Employees
- Benefits and Leave on

Title IX also prohibits sexual harassment, which includes sexual assault and sexual violence. Additional information regarding what behaviors may constitute sexual harassment and other forms of sexual misconduct is available by visiting the USC EOP website at http://www.sc.edu/eop.

Title IX does not require that male athletic opportunities be decreased to provide opportunities for female programs.

Title IX is designed to create parity in athletics, as well as other educational opportunities and experiences for men and women. Title IX does not require schools to cut men’s athletic programs to provide opportunities for female athletic programs.

Title IX applies to both men and women in academic life.

While Title IX has historically been used mostly by women seeking to protect their rights, Title IX also serves to protect the rights of men. Title IX requires that males and females receive fair and equal treatment in all areas of education. In fact, over the past three (3) years approximately 15% of the sexual harassment complaints filed in the USA were filed by men.

If you encounter Title IX Discrimination....
Employees, faculty or staff, who believe that they have been discriminated against or need advice about what constitutes Title IX discrimination, should immediately contact one of the following departments:

- **Human Resources**
  - 777-3824
  - 1600 Hampton Street, Suite 803

- **Office of Equal Opportunity Programs**
  - 777-3854
  - 1600 Hampton Street, Suite 805

Students who believe that they have been discriminated against, or need advice about what constitutes Title IX discrimination, should contact:

- **Student Affairs & Academic Support**
  - 777-4172
  - Osborne Adm. Bldg., Suite 110

- **Office of Equal Opportunity Programs**
  - 777-3854
  - 1600 Hampton Street, Suite 805

- **Office of Student Judicial Programs**
  - 777-4333
  - 901 Sumter Street, Suite 201

**Complaints under Title IX at the University of South Carolina**

**Student Complaint(s):**

Any student who experiences sexual harassment (including sexual misconduct, sexual assault or sexual violence), or discrimination on the basis of sex is encouraged to contact Bobby D. Gist, the USC Title IX Coordinator or the University's Student Complaint Coordinator/Deputy Title IX Coordinator, Dr. Carl Wells. Their office is located at 1600 Hampton Street in suite 805 and they may be reached (803) 777-3854. Students are also encouraged to contact the USC Police Department, to report alleged sexual misconduct, sexual violence, sexual assault, or any other criminal behavior based upon their sex.

**Employee Complaint(s):**

Pursuant to Title IX of the Education Amendments of 1972 and other applicable state laws and University of South Carolina EOP Policies 1.01, 1.02, 1.03 and 1.04, it is illegal and a violation of University policy to harass or discriminate against any individual (faculty, staff, student or visitor) on the basis of sex. Specifically Title IX states no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Sex discrimination prohibited by Title IX includes sexual harassment, sexual assault, sexual violence, and sexual misconduct. Title IX also prohibits retaliation against an individual who, in good faith, asserts his or her rights under Title IX or other applicable federal and state laws prohibiting illegal discrimination.
Clery Act Requirements

History of the Clery Act

In 1986, Jeanne Clery was raped and murdered in her residence hall room at Lehigh University by another student. Her parents believe she would have been more cautious if she had known about other violent crimes at Lehigh.


Clery Act Responsibilities

To ensure that students know about dangers on their campuses, the Clery Act requires institutions to gather and publish data from three kinds of Campus Security Authorities.

Campus Security Authorities: Three Categories

1. People or offices responsible for campus security
2. People or offices to which campus policy directs that crimes be reported
3. “Officials with significant responsibility for student and campus activities

Focus on individual students might seek out to report a crime:

- Line responsibility
- Student life - housing, judiciary, dispute resolution, extracurriculars, sports, etc.
- Contact with students

Focus on student activity advisors, residence advisors, coaches, and academic advisors, not faculty and staff

Includes:
- Vice President for Student Affairs
- Student Housing officials
- Judicial Affairs & discipline officials
- Athletic director & team coaches
- Faculty advisor to student group
- Student health center director
- Transportation Services
- Military Science

Some examples of those excluded from the definition of campus security authority include:
- Individual faculty who are not advisors to student groups
- Individual campus health center physicians
- Clerical staff
YOU DO NOT HAVE TO REPORT IF...

- You are a licensed mental health counselor or a pastoral counselor (recognized by a religious organization to provide confidential counseling) AND
- You are working within the scope of your license or religious assignment
- Even though as a counselor you do not have to report, you can tell the person how she/he can report the crime anonymously to Police
- We encourage anonymous reports of crimes by counselors and victims

REPORTING

- I’m not a counselor…what must I do?
- If someone tells you about a crime or an incident that may be a crime, you must record the information and report it to the University Police Department
  - Just get the information as related by the person
  - Police will do the analysis
- When in doubt, report!
- Tell the person you must report the incident as an anonymous statistic but will not identify anyone involved unless the victim consents to being identified
- Include contact Info for your department
- Let the person know about options for reporting to Police
- Tell the person how he/she can report anonymously to Police
- Remember: The decision to identify someone isn’t yours to make
- A person who talks to you does not have to talk to the Police

Clery Crimes

- Criminal homicide -
  - Murder and Non-negligent Manslaughter
  - Negligent Manslaughter
- Sex offenses
  - forcible & non-forcible
- Robbery
- Aggravated assault
- Burglary
- Forcible entry
- Unlawful entry – no force
- Motor vehicle theft
- Arson
- Liquor, drug, or weapons law violations
- Hate crimes

What Must Be Reported

- Type of Crime
- Location of the Crime
  - On campus
  - On campus, in residence halls
  - On public property adjacent to campus
  - On non-campus property owned or controlled by the University or a recognized student organization
- Timing
Date and Time the crime or incident occurred
- When the person reported it to you

**Helpful Information**
- Name of the Victim (if the victim wishes to be identified)
- Identities of any known suspects or witnesses
- Use of any weapon in the commission of the crime

**What Not To Report**

DO NOT REPORT CRIMES IF
- A person tells you about a crime that occurred before he/she came to the University OR
- While he/she was away from campus and not involved in a University activity or not involving members of the University community.

**Collecting the Information**

Get the information the person wants to tell you, University Police will decide what type of crime has occurred
- You do not have to prove what happened or who was at fault
- You are not supposed to find the perpetrator
- Do not identify the victim unless the victim consents to being identified

“Description of the incident or crime”
- Detailed information will help police correctly categorized the crime
- Get as accurate and complete a description of what happened as possible

If you are not sure if a crime should be reported, report it and let University Police decide.

If the person reporting the crime is in imminent danger or harm, telephone the University Police Department immediately (number) or 7-911 from a campus phone. Off-campus phone, dial 9-1-1.

Share campus resources with the victim:

**CAMPUS POLICE**
(803) 777-4215

**SEXUAL ASSAULT & VIOLENCE INTERVENTION PROGRAMS (SAVIP)**
(803) 777-4215 (after hours)
(803) 777-8248 (regular business hours)

**STUDENT HEALTH CENTER**
(803)-777-3174.

**COUNSELING CENTER**
(803) 777-5223.

**OFFICE OF STUDENT CONDUCT**
(803) 777-4333.
2. USC Harassment Policies

EOP1.00: Equal Opportunity Policy
It is the policy of the University of South Carolina to recruit, hire, train, promote, tenure, and otherwise make educational and personnel decisions without regard to race, color, religion, sex, national origin, age, disability, sexual orientation, or veteran status, (except where sex or age is a bonafide occupational qualification.)

EOP1.01: Equal Opportunity Complaint Processing Procedures
An individual (i.e., person, student, faculty, staff member or applicant) may file a complaint or seek information about illegal discrimination at the University of South Carolina based on race, color, religion, sex, national origin, age, disability, sexual orientation, or veteran status through the Office of Equal Opportunity Programs (hereinafter referred to as EOP office). Inquiries may be made by telephone, in person, in writing, or by e-mail.

EOP1.02: Sexual Harassment
The University of South Carolina will not tolerate the sexual harassment of any member of the University community. Sexual harassment subverts the mission of the University by threatening the careers, educational experiences, and well-being of all members of this community. It undermines the University's deep commitment to the primacy of a reward system based purely on merit, intellectual excellence, and job performance. Sexual harassment of employees or students at the University is defined as unwelcome sexual advances, requests for sexual favors, verbal or other expressive behaviors or physical conduct commonly understood to be of a sexual nature.

EOP1.03: Discriminatory Harassment
The University of South Carolina is committed to ensuring that all persons are able to learn, work and enjoy a workplace, educational and living environment that is free from discriminatory harassment, treatment or services. Harassment of any person or group of persons on the basis of race, color, national origin, religion, sex, age, disability or veteran status is a form of illegal discrimination prohibited by University policy, state law and federal law and will not be tolerated by the University of South Carolina.

EOP1.04: Non-Discrimination Policy
The University of South Carolina does not discriminate in educational or employment opportunities or decisions on the basis of personal characteristics that are not relevant to an individual's abilities, qualifications, or job performance. Under federal and state law, these characteristics include age, race, color, sex, religion, national origin, and disability status. It is also the policy of the University that an individual's sexual orientation be treated in the same manner.

STAF6.24: Student Non-Discrimination Policy
It is the policy of the University of South Carolina that all students should be able to learn and live in an educational and campus environment that is free from discrimination and harassment on the basis of race, color, national origin, religion, sex, gender, age, disability, sexual orientation, genetics, veteran status, or any other category protected by law, in all programs, activities, and services of the University.

Other Policies
STAF 1.08: Sexual Assault Policies and Services
STAF 1.09: Relationship Violence and Stalking
STAF 3.35: Hazing
3. Examples of Discriminatory Behavior

**Student/Educational/Work Environment**

- a faculty member makes racist comments during class that is in no way related to pedagogy;
- a male staff member flirts with male students as they enter his work area and the students do not welcome the comments and are made to feel uncomfortable;
- a student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they live;
- a male faculty member calls on the same female in class and gives her preferential treatment and eventually invites her to his office after hours and makes her feel very uncomfortable;
- explicit sexual pictures are displayed in an advisor’s office, on the exterior of a residence hall door, or on a computer monitor in a public space;
- two supervisors frequently ‘rate’ several employees’ bodies and sex appeal, commenting suggestively about their clothing and appearance and students consistently overhear the conversation;
- a professor engages students in discussions in class about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant;
- an ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social outcast on campus;
- male students take to calling a particular student “Monica” because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, “sexual relations” and Weight Watchers;
- a student grabbed another student by the hair, then grabbed her breast and put his mouth on it. He says it was just being playful, but it’s not appropriate or allowed;
- pressure for dates;
- offensive remarks about appearance;
- touching;
- sexual/racial jokes;
- use of racially derogatory words, phrases, epithets;
- use of gestures or pictures that would offend a particular racial or ethnic group;
- negative comments about an individual’s skin;
- derogatory or intimidating references to an employee’s mental or physical impairment;
- a professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student gives in to the request;
Employment

- an organization doesn’t post job openings and routinely fills positions with Whites from both inside and outside the organization--without giving African Americans and other minorities an opportunity to apply for the job as an internal/external hire;
- a student organization that does not provide pay for African Americans performing the same work as Whites (with similar education and work experience);
- segregating racial employees to only work on minority projects and contracts;
- isolating and segregating racial minorities or women by assigning them to work only in specific locations;
- reclassifying jobs at a lower level and assigning racial minorities and women to perform the work;
- not accommodating reasonable requests by employees with disabilities;
- routinely denying women or racial minorities promotions;
- laying off African American employees, women or other racial minorities, while their White counterparts maintain their jobs; and
- asking potential employees to identify their race on an employment application, which might indicate that race may be a factor in hiring decisions.

Hostile Work Environment Harassment

- personal attacks based on stereotypes and racist assumptions;
- a supervisor that regularly screams directly into the face of a subordinate, in private or in front of coworkers;
- physical threats of violence or actual physical abuse (e.g., shoving or bumping);
- verbal abuse/put-downs, name calling or the use of racial/sexual/sexual oriented epithets or slang;
- job threats/intimidation;
- intentionally malicious and false gossip;
- stare down contests; or
- intentional humiliation.

Retaliation

- stripping an employee of their staff; after they complain about alleged discrimination such as;
  1. salary cuts;
  2. the denial of standard employee benefits (e.g., use of leave, etc.);
  3. a demotion;
  4. a transfer to a hard-to-reach office;
  5. stripping an employee of their workload/assignments; or
  6. an intentionally negative and malicious performance evaluation; or
  7. the denial of an anticipated promotion.
4. The Roles of Students, Faculty, & Staff

Mandatory Reporters: An Expectation for Student Leaders, Student Employees, Faculty and Professional Staff

This document is intended to outline the College’s expectation regarding mandated reporting of concerning behaviors, discrimination, harassment and crimes by employees. It explains briefly the meaning and purpose of mandatory reporters, outlines the legal context, and articulates a straightforward set of guidelines for all employees to follow.

Mandatory Reporters: What and Why?

There are three federal laws that establish responsibilities for supervisory/management/faculty employees of colleges to report certain types of crimes and incidents, especially sexual misconduct—the Clery Act, Title VII and Title IX. Each of these areas of federal law has a different purpose, but generally the laws are intended to protect members of the campus community, visitors and guests from criminal and discriminatory behavior. The responsibilities established by these laws give rise to the term “mandatory reporter.” Reporting of concerning and disruptive behaviors is not legally mandated, but is a policy mandate to assist the Behavioral Intervention Team (BIT) in early identification and detection of at-risk situations. Additionally, state law imposes mandates with respect to the reporting of child abuse and sexual abuse as follows…

The Legal Context

The Clery Act creates a duty for institutions to report crimes in 15 different categories and has the broadest scope. It is the University that has the duty to report these crimes and failure to do so can result in substantial fines being imposed on the institution by the U.S. Department of Education Office of Civil Rights. Guided by the language of the Clery Act and subsequent amendments, the University is required to define which employees must report crime information they receive.

The language of the Act would allow the University to exclude some faculty some of the time and many professional staff from the obligation to report. Such an approach, however, risks creating confusion for faculty and staff, takes a minimalist approach to the ethical obligation to inform our community about serious crimes, and makes the institution more vulnerable to enforcement action.

Title VII focuses on sexual harassment in the workplace and failure to take appropriate action can lead to financial liability for the University. In this case, the law creates a duty to report for employees who supervise other employees, including students being paid by the University. As with the Clery Act, this language means that some faculty and staff would be expected to report while others might be exempted. Once again, however, this selective approach may create confusion and risk; and it fails to ask all of us to share the responsibility to create a workplace free of sexual harassment.

Title IX focuses on the adverse consequences faced by victims of gender discrimination and sexual harassment and creates obligations for the University to investigate and to provide a “prompt and effective remedy.” If the victim is a student, Title IX means among other things that the University must provide a safe environment that does not interfere with the victim’s right to pursue an education. The University incurs this obligation when a victim has given notice to a “responsible employee,” or when the University, in the exercise of reasonable care, should have known, about the assault or harassment. As with the other laws, the definition of “responsible employee” under Title IX would allow the University to treat only some faculty and staff as mandated reporters but with the same possibility of confusion and risk of institutional exposure.
5. Contact Information for Campus Resources

The University of South Carolina has a mandatory reporting expectation. Faculty, staff, and students are expected to report instances or allegations of crime and illegal forms of discrimination. This chart is designed to help you identify the correct campus reporting resources or offices.

<table>
<thead>
<tr>
<th>BIT</th>
<th>Campus Police</th>
<th>Student Conduct</th>
<th>Department Chair/Dean</th>
<th>Counseling Center</th>
<th>Office of Equal Opportunity Programs</th>
<th>SHVIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>7-4333</td>
<td>7-4215</td>
<td>7-4333</td>
<td>????</td>
<td>7-5223</td>
<td>7-3854</td>
<td>7-8248</td>
</tr>
</tbody>
</table>

- Working with a student who exhibits the following behaviors
  - Immediate threat to self or others
  - Writes or verbalizes a direct threat to another person
  - Sleeps in class
  - Continuously uses cell phone and pager causing disruption
  - Exhibits behavior that seems bizarre or out of touch with reality
  - Show signs of alcohol of drug abuse
  - Continuously disrupts class and refuses to stop
  - Is the subject of complaints from other students regarding behavior
  - Is the victim of sexual assault
  - Having difficulty due to the death of family member or friend(s)
  - Sexual harassment or civil rights discrimination
  - Commits or is the victim of biased based incident
  - Violates Carolinian Creed
6. Process for Initiating Complaints

EOP Complaint Process

You can seek advice from the Equal Opportunity Programs Office about your options

ATTEMPT TO RESOLVE THE ISSUE YOURSELF
If you feel comfortable doing so, raise your concerns directly with the person involved. This is not a compulsory step.

RAISE THE ISSUE WITH UNIT MANAGER OR DEPARTMENT HEAD
If you don’t feel comfortable approaching the person directly, or you tried this and it was not effective, raise the issue with the Unit Head, Dean, or Chair. The Unit Head is required to report the issue to EOP for advice in handling the situation.

Not pursue or Resolve with Offender or Report to Supervisor

Pre-Complaint Interview/Counseling

If referred to EOP, it may be handled informally. Informal processes (such as mediation and facilitated discussion) focus on finding a resolution, which is acceptable to all parties including the University. The informal process is suited to less serious complaints or when a key aim is to maintain relationships.

Formal processes focus on investigating allegations and making findings. Formal processes suit more serious complaints and factual disputes. Also appropriate if the informal procedure is tried and failed. All formal complaints are recorded on a central database. Formal complaints must be filed in writing with EOP.

Appeal
If you remain dissatisfied with the handling of your complaint, you may appeal to the Director of the Office of Equal Opportunity Programs or the University President.

Complaint resolved, end of process

EXTERNAL COMPLAINT
You can, at any stage, refer your complaint to an external agency
What if you or someone you know has experienced rape, sexual assault, or other forms of sexual misconduct?

To report the incident, contact the Title IX Coordinator:

TITLE IX COORDINATOR
All instances of rape, sexual assault, or other forms of sexual misconduct should be reported to Bobby Gist, the University’s Title IX Coordinator at (803) 777-3854. The Office of Equal Opportunity Programs investigates all allegations of sexual harassment, rape, sexual assault, sexual misconduct, and all other forms of illegal discrimination or harassment.

For weekends or after normal business hours support, contact Campus Police:
CAMPUS POLICE
Call (803) 777-4215 for assistance, to report the crime and to file charges.

For weekends or after normal business hours support, contact Sexual Assault and Violence Intervention Program Advocates:
SEXUAL ASSAULT & VIOLENCE INTERVENTION PROGRAMS (SAVIP)
You may also call the same number (803) 777-4215 and ask for a sexual assault advocate, a trained professional who is available to accompany you to the hospital, provide sensitive counseling and care, and to help you access all relevant campus resources and support systems. To contact SAVIP during normal business hours, call (803) 777-8248.

OTHER RESOURCES

STUDENT HEALTH CENTER
To receive medical care and attention, contact the Student Health Center at (803)-777-3174.

COUNSELING CENTER
To receive emotional support and/or counseling, contact the Counseling Center at (803) 777-5223.

OFFICE OF STUDENT CONDUCT
The Office of Student Conduct offers a hearing with a panel comprised of students, faculty, and staff for allegations of rape and sexual assault and issues sanctions if cause is determined (803) 777-4333.

If you desire confidentiality, contact SAVIP, the Counseling Center, or Student Health Services. They can offer confidential reporting; however, under certain circumstances, such as very serious crimes, or repeat offenses, they are not able to guarantee confidentiality.
WHO CAN FILE A COMPLAINT
Any student, faculty, or staff who believes that he/she has been discriminated against on the basis of race, color, national origin, sex, sexual orientation, religion, disability, genetics, veteran status, or age may file a complaint with the Office of Equal Opportunity Programs. Complaints can also be filed by individuals who are not the victim of the alleged discrimination, but elect to complain on behalf of someone else or to report a discriminatory incident.

TIMELINESS
A complaint must be filed within 180 calendar days of the date of the alleged discrimination.

HOW TO FILE A COMPLAINT
If you feel that you have been subjected to discrimination or harassment, based on any of the above-protected bases, contact the Office of Equal Opportunity Programs.

WAYS TO FILE A COMPLAINT
Members of the University community wishing to file a complaint may do so by visiting the office in person, or by:

1. Mail or Facsimile: Complaints may be submitted by mail, a faxed letter (803-777-2296), or the Discrimination Complaint Form available on the EOP website. In your correspondence, please include:
   - The complainant’s name, address and, if possible (although not required), a telephone number where the complainant may be reached during business hours;
   - Information about the person(s) or class of persons injured by the alleged discriminatory act(s);
   - The name and location where the act(s) occurred; and
   - A description of the alleged discriminatory act(s) in sufficient detail to enable us to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, sex, national origin, sexual orientation, disability, veteran status, genetics, or age).

2. E-mail: Complaints may be filed, using one of the following e-mail address: wellscr@mailbox.sc.edu or sheppard@mailbox.sc.edu. Use the same procedures as above.

3. Online: Complainants may file a complaint with EOP using EOP’s electronic complaint form at the following website: http://www.sc.edu/eop/students.html

Note: Once a complaint has been filed, it is against the law for the University or any of its students, faculty, or staff to retaliate against any person who has made a complaint, testified, assisted with or participated in any manner in an investigation or proceeding.
Notice of Harassment/Discrimination Complaint

**Directions:** If you believe that you have been unlawfully harassed/discriminated against, please fill out this form and return it to the Office of Equal Opportunity Programs. If more space is necessary, please continue your comments on the back of this form. You may also complete an online form on our website.

Name: ___________________________ Date of Complaint: __/__/__

Department: ___________________ Title: ________________________________

Campus Address _________________________________________________________

Home Address: ________________________________________________________________________________________

Home Telephone: ___________________________ Cell: ____________________________

Interviewed by: ________________________________

**Basis of Discrimination:**  
___Sex(Gender) ___Race ___Color ___Retaliation ___Age ___Religion  
___National Origin ___Disability ___Sexual Orientation ___Marital or Veteran Status or any other legally protected classification.

Individual(s) who you feel committed harassment/discrimination:

a.) ______________________________________

b.) ______________________________________

c.) ______________________________________

1. Describe the nature of your complaint. Include dates and as much detail as possible.

2. Why do you believe this action was taken against you?

3. Identify all employees/students/or others with knowledge of the conduct about which you are complaining:
4. Did employees/students/or others listed on the previous page personally observe or overhear the alleged conduct? If yes, please indicate the dates of observed/overheard behavior.

5. Are there documents or emails which contain information supporting the occurrences described above?

6. Is there any physical evidence that supports your complaint? If so, please describe or attach a copy.

7. Have you missed any work time/class time as a result of the alleged harassment/discrimination? If yes, please indicate dates of absences.

8. Have you received any counseling or received medical treatment as a result of this alleged harassment? If yes, indicate dates of counseling/treatment.
9. Have you previously complained about this or related acts of illegal harassment/discrimination to a University supervisor or official? If so, please identify the individual to whom you complained, the date of the complaint and the resolution of your complaint.

10. What is your requested remedy in this complaint?

11. Are there any other individuals you want the University to contact regarding your complaint? If so, who do you wish contacted and why?

Acknowledgment
To investigate your complaint, it will be necessary to interview you, the alleged harasser(s), and any witnesses with knowledge of the allegations or defenses. The University will notify all persons involved in the investigation that it is confidential and that unauthorized disclosures of information concerning the investigation could result in disciplinary action, up to and including termination of employment/student status. The information provided in this complaint is true and correct to the best of my knowledge. I am willing to cooperate fully in the investigation of my complaint and provide whatever evidence the University deems relevant.

_______________________________ / / 

Signature

h:sexhr/compform.doc – 09/06/13
Original: EOP Case File
cc:Faculty/Staff EOP Manual
Date of Alleged Violation: __/__/__

Person Filing Charge: ____________________________________________

Place of Alleged Violation: ________________________________________

Employment Discrimination Under:
___ Age Discrimination in Employment Act of 1967
___ Americans with Disabilities Act of 1990
___ Executive order 13145
___ Title VII of the Civil Rights Act of 1964
___ Pregnancy Discrimination Act of 1973
___ Title IX of the Education Amendments of 1972
___ Title VI of the Civil Rights Act of 1964
___ Veterans’ Readjustment Act of 1974

Student Discrimination Under:
___ Age Discrimination in Employment Act of 1967
___ Americans with Disabilities Act of 1990
___ Executive order 13145
___ Title VII of the Civil Rights Act of 1964
___ Pregnancy Discrimination Act of 1973
___ Title IX of the Education Amendments of 1972
___ Title VI of the Civil Rights Act of 1964
___ Veterans’ Readjustment Act of 1974

Basis of Discrimination: ___ Sex(Gender) ___ Race ___ Color ___ Retaliation ___ Age ___ Religion ___ Creed ___ National Origin ___ Disability ___ Sexual Orientation ___ Marital or Veteran Status or any other legally protected classification.

Circumstances of Alleged Violation:

Date: __/__/__

Printed Name of Authorized University Official

_____________________________________

Signature of Authorized University Official

_____________________________________

h:sexhr/compform.doc – 09/06/13
Original: EOP Case File
cc: Faculty/Staff EOP Manual
OFFICE OF EQUAL OPPORTUNITY PROGRAMS
Sexual Assault and Relationship Violence Incident Report Form

This form must be filled out for every contact, regardless of when or where the assault occurred, and sent to the Associate Vice President of Student Affairs (Russell House, Suite 112) in a sealed envelope marked “Confidential.” This form is intended to convey information needed to track the University response to the incident being reported, as well as to assess the danger the incident represents to the community at large.

Today’s Date: _______________________  Reporter’s Name ______________________

Reporter’s Dept. ___________________________  Phone #: _________________________

Date of Incident: ______________  Date of discussion with victim: ____________________

Victim Information

Victim Name: _________________________

(Unless report is being filed by USC staff who is bound by confidentiality limits)

Please include the following information about the victim if known (i.e. not required):

Sex _____ Race ______ Age ________ Sexual Orientation: ____________
Role on campus: Student _____ Faculty _____ Staff _____
Academic year (if student): ______________________

If the assault occurred on campus, provide the location:

If the assault occurred off-campus, provide the location:

Date and Timing of incident: ________am/pm ___ Day___ Evening___ Night ____ Early Morning
___Unknown____ Multiple (describe) _________________________

Describe the Incident:
___Forcible Sexual Assault
   ___Forcible Rape
   ___Forcible Sodomy
   ___Sexual Assault with Object
   ___Forcible Fondling

___Non-Forcible Sexual Assault
   ___Incest
   ___Incapacitated Rape
   ___Statutory Rape
   ___Attempted Rape
   ___Other (Please describe: _____________________________)

___Relationship Violence
   ___Relationship Violence
   ___Harassment
   ___Threats and/or Intimidation
   ___Violation of Protective Order
Multiple Actions/Behaviors

Other (Please describe: _________________________________________)

Other (describe, to include child abuse or child sexual abuse):
__________________________________________________________________
__________________________________________________________________

Alcohol Use: ___by victim ___by assailant ___Unknown
Drug Use: ___by victim voluntarily ___by victim unknowingly ___by assailant ___Unknown

Describe the kind of pressure or force used by the assailant:
___Verbal pressure or arguments
___Position of authority (boss, teacher, supervisor, etc.)
___Threat of physical force (threatened to hit, hold, or otherwise injure)
___Actually used physical force (hit, held down, twisted arm, etc.)
___Gave victim alcohol or drugs so victim was significantly incapacitated
___Weapon
___Other(describe): _________________________________________

Name of Alleged Assailant(s) if known: _____________________________________

Number of assailants: ____ Describe below:

Assailant 1:
Name: _______________________________________
Sex _____ Race ______ Age ____ Height ______ Weight ______
Student ___ Faculty ___ Staff ___ No campus role ___ Unknown _____
Stranger ___ Relative ___ Friend ___ Acquaintance ___
Romantic partner ___
Other information: ________________________________________________

Assailant 2:
Name: _______________________________________
Sex _____ Race ______ Age ____ Height ______ Weight ______
Student ___ Faculty ___ Staff ___ No campus role ___ Unknown _____
Stranger ___ Relative ___ Friend ___ Acquaintance ___ Romantic partner ___
Other information: ________________________________________________

Other departments or agencies the victim reported this assault to:
___Sexual Assault and Violence Intervention Programs ___University Health Services
___Residential Life ___Campus Police
___Counseling Center ___Local Police
___Student Affairs ___Faculty/Staff member
___Office of Human Relations ___Other: (describe)________________

Additional comments:
RESOURCES FOR STUDENT LEADERS, FACULTY, PROFESSIONAL STAFF, SUPERVISORS AND MANAGERS

Sexual Harassment

Sexual harassment of employees or students at the University is defined as unwelcome sexual advances, requests for sexual favors, verbal or other expressive behaviors or physical conduct commonly understood to be of a sexual nature. Sexual harassment includes but is not limited to the following:

- Threats of adverse employment or education decisions
- Indecent Exposure
- Comments, questions, request for favors despite rejection
- Pervasive conduct, direct or indirect causing Hostile Learning/Work Environment
- Employment or education reward based on demands for sexual activity
- Promises of rewards based on demands for sexual activity
- Actual or threats of touching or other suggestive physical contact
- Invasion of sexual privacy
- Threats of adverse employment or education decisions
- Employment or education reward based on demands for sexual activity
- Actual or threats of touching or other suggestive physical contact
- Invasion of sexual privacy

Three Forms of Sexual Harassment

- Physical
- Visual
- Verbal

Two Types of Sexual Harassment

- Quid Pro Quo Harassment
  Unwelcome sexual advances, requests for favors, and other verbal, physical or visual conduct of a sexual nature when:
  a) Submission to such conduct is made a term or condition of a person’s employment or education
  b) Submission to or rejection of such conduct is used as a basis for employment or education decisions affecting such person.

- Hostile Learning/Work Environment
  Any of the forms of unwelcome behaviors of a sexual nature that are severe or pervasive enough that it either alters a condition of employment or creates a hostile or abusive learning/work environment.

Knowing Your Role and Responsibility

It is the responsibility of every supervisor, department head, or manager to take any sexual harassment complaint seriously and to respond immediately. The department head is responsible for notifying the Office of Equal Opportunity Programs immediately upon receipt of a sexual harassment allegation. The department shall report to the Office of Equal Opportunity Programs on all sexual harassment complaints reported to department supervisors or management personnel. The incident is to be reported to the Equal Opportunity Programs Office immediately upon receipt.

The Office of Equal Opportunity Programs shall follow up with the department head on the progress of the investigation and resolution within two weeks. All incident report forms shall be kept confidential and will remain in the Equal Opportunity Programs Office.

Note! Pursuant to Title IX, sexual assault and other forms of sexual violence are a form of sexual harassment.
SEXUAL ASSAULT PROCEDURE CHECKLIST

Staff: ________________________   Date: ______________

Area/Department/Residence Hall: ________________________   Phone: __________

Instructions: The purpose of this checklist is to assist you with helping the victim of sexual assault access all relevant campus resources. Any faculty, professional staff, or student leader assisting the student victim/survivor should initial each item completed. These items will help communicate which services have already been provided. Under no circumstances can the staff member promise absolute confidentiality: a report must be made. Also, all acts of sexual assault/violence must be reported to the Title IX Coordinator, Mr. Bobby Gist, (803) 777-3854.

The following actions have been taken by the Any Department Staff:

_____ Sought the assistance of an interpreter, if necessary.

_____ Provided immediate support and problem-solving. (The primary goal is to help the student secure needed professional services). Listen, believe, and care.

_____ Encouraged the student to seek medical services in a hospital emergency room, medical clinic, or Student Health Services. Offered accompaniment to the student (by self, SAVIP, or other trained victim advocate) and requested transportation from University Police.

_____ Encouraged the student to speak directly with the SAVIP for support in understanding, evaluating, and choosing among University support services. Offered to facilitate such a meeting.

_____ Encouraged the student to file a report with University Police if assault was on-campus, and with local police if the assault was off-campus. Offered to have SAVIP accompany the student.

_____ Encouraged the student to consider using free counseling services available at the Counseling Center and offered to have SAVIP or you personally accompany the student to the appointment.

_____ Informed the student that the University has a disciplinary hearing process for incidents of sexual assault and that this process can be confidentially discussed with the EOP or the Student Conduct without or prior to filing charges.

_____ Assisted the student in reviewing the support resources (medical, academic, law enforcement, student judicial, counseling, EOP, and safety) If the accused perpetrator lives nearby or knows the victim's/survivor's address, through EOP, Student Conduct, or SAVIP, recommend to victim that he or she can relocate residence halls or rooms, class schedules, etc.

_____ Provided the student with emergency numbers in written form and 24-hour confidential sexual assault hotline through Campus Police.

_____ When it was applicable, if the incident happened in the residence halls, informed the reporting student of the Resident Advisor’s obligation to share information with the Area Coordinator and gave the student the option of speaking with the Coordinator directly.

_____ Informed the student that reports must be reported to Title IX Coordinator regardless of final decision on options.

_____ Asked student if it would be okay to follow-up with her/him in a few days to see how she/he is.

_____ Completed Incident Report and delivered, with the procedure checklist, to EOP by close of business the day of contact. In the case of a recent sexual assault (within past 72 hours), notify SAVIP by phone, (803) 777-4215 (after hours) (803) 777-8248 (regular business hours)

_____ Consulted with EOP, your supervisor, SAVIP, or Counseling Center staff to obtain support and debriefing.

The incident should be discussed only on a “need to know” basis. Do not share details or identification with other staff or friends.
THE BENEFITS OF INFORMAL COMPLAINTS

Informal Complaint: Procedures in which the aim is to stop the harassment and prevent it in the future rather than determine whether or not a violation has occurred so that a harasser can be punished.

- Most people do not report or make complaints when they are sexually harassed/discriminated against.
- Only 10% usually come forward.
- Of the 10% who come forward, 90% do not want to file a formal complaint.
- Most complainants only want the behavior to stop.
- Therefore, most complaints can be handled informally. In addition, there are benefits to handling complaints informally.

Benefits of Informal Complaint Resolution

Flexibility: An informal process is more flexible because there are fewer procedures to follow.

Confidentiality: Because it is handled at the lowest level, an informal process involves fewer, so confidentiality (or at least privacy) is easily maintained.

Simpler: Informal procedures can be as simple as someone in authority talking to the person accused of harassment, or providing suggestions that the victim can use to try to stop the harassment or the alleged discrimination. With informal complaints, an investigation may not be required, and, because the resolution usually involves both parties, the parties usually feel better about the resolution or the outcome.

One important caveat!
The more serious the harassment or the allegation, the less likely that informal procedures will or should be used. For example, if the harassment includes criminal behavior such as sexual assault or sexual abuse, informal procedures are inappropriate. Additionally, behaviors that may lead to harm (such as stalking and sending threatening e-mails) are also typically inappropriate for informal resolution.

Whether formal or informal, the goals are the same

- Stop the harassment against this person (and potentially others as well)
- Prevent its recurrence
- Help victim deal with the current and lingering effects of the harassment
- Keep records of what happened
- Follow-up with victim to:
  - ensure that harassment has stopped,
- assess that there is no retaliation,
- determine if other interventions are necessary, such as referral to counseling, and change of class, job, and/or change of alleged harasser’s position to minimize contact with complainant.

It is helpful in both informal and formal complaints to summarize in writing to both parties what happened and how it was resolved. The complainant and the alleged harasser should be reminded that retaliation is prohibited, examples of retaliation be given, and the victim encouraged to report any further incidents of harassment.

<table>
<thead>
<tr>
<th>Formal Versus Informal Process</th>
<th>Informal</th>
<th>Formal</th>
</tr>
</thead>
<tbody>
<tr>
<td>No investigation required</td>
<td>Investigation required</td>
<td></td>
</tr>
<tr>
<td>Witnesses and documents may not be involved</td>
<td>Involves witnesses and supporting documentation</td>
<td></td>
</tr>
<tr>
<td>A determination of cause may not be necessary</td>
<td>A determination of cause is found</td>
<td></td>
</tr>
<tr>
<td>Is characterized by flexibility and creative resolutions</td>
<td>Little flexibility, follows a prescribed process</td>
<td></td>
</tr>
<tr>
<td>Privacy and confidential are easily maintained</td>
<td>Privacy is possible, but confidentiality cannot be guaranteed or maintained easily</td>
<td></td>
</tr>
<tr>
<td>Sanctions or admission of guilt may not be necessary in some instances</td>
<td>Sanctions are issued if there is a finding</td>
<td></td>
</tr>
<tr>
<td>May be handled in the employing unit</td>
<td>Will probably be investigated by someone outside of the employing unit</td>
<td></td>
</tr>
<tr>
<td>The behavior can be addressed with the harasser and little involvement of complainant or recipient of the behavior</td>
<td>Both parties are involved in the process, including separate interviews, supplying witnesses and documentation, etc.</td>
<td></td>
</tr>
<tr>
<td>Suit for less serious kinds of complaints</td>
<td>Suited for serious complaints</td>
<td></td>
</tr>
</tbody>
</table>
HOW TO DEAL WITH A COMPLAINT
WHEN THERE ARE NO FORMAL CHARGES

A difficult situation for organizations, supervisors, or managers arises when there is inappropriate behavior, but no one wants to file a formal charge – that is the victim or persons on the receiving end of the behavior does not want the organization to do anything. The organization may be liable if it does nothing; however, it may not be appropriate to evoke a formal process. While a formal process can be initiated by the organization if the behavior is deemed serious enough or it is extremely pervasive, there are times when there is no formal charge and a formal process is not warranted. How should the organization respond? There are two acceptable practices:

1. **Equip persons who are the recipients of the alleged behavior with strategies and techniques to handle it on their own.**

2. **The organization can initiate education activities to increase awareness of discrimination/harassing behavior and other related issues.**

The organization can distribute a letter to employees in a unit stating that there is some concern about certain kinds of behavior and require employees to attend a meeting or training. In the event the unit is small, the letter can be sent to large group of employees to help protect privacy.

3. **The supervisor or someone else in a position of authority can speak with the alleged harasser about the behavior, reminding him or her of institutional policies and consequences of violating them.**

If this option is pursued, please get the permission of the victim first, unless there are safety issues which merit this kind of approach take place immediately. Again, if the behavior is pervasive or serious, the organization should invoke its own process.

There is another option. When the behavior is less severe, and there are no formal charges, someone can speak with the alleged harasser (without naming the accuser if possible).

In this instance remember the following:
- Describe the offensive behavior.
- Describe how the behavior is being perceived by others or the person on the receiving end of the behavior.
- Inform the person that since there is no formal charges there will be no investigation, and that the behavior should cease immediately.
- The name of the accuser is not given.
- A copy of the policy is given to the alleged harasser.
• A follow-up letter can be given.

While it is also an easier process if the person admits the behavior, admission is not required in this instance.
If the charges are denied, the employee in charge of the meeting can stress that the behavior is unacceptable and if it is happening it needs to cease immediately.

Remind the accused that there is no investigation, but the record of the incident is being kept and will be available should there be another informal or formal complaint of harassment. If the behavior continues or recurs, serious steps can be taken. It is also helpful to remind the accused that retaliation is a violation of University policies.

After the meeting the official should write a memo for the file, detailing the contents of the meeting. The memo can be used in the event that subsequent allegations of sexual harassment are made.

The person who reported the incident(s) should be informed that such a meeting was held and the content of what the supervisor said. He or she should also be informed that if there is any suspected retaliation it should be reported immediately and that it will not be tolerated. (The name of the person to whom this is reported should be given along with a phone number and/or e-mail.) There should be some follow-up with that person several days later and then about a week or two later to make sure that the harassment has stopped and that there is no retaliation. Memos to the files should also record what happened at these meetings.

4. The institution can bring its own charges against the alleged harasser.

When there is a threat of possible harm to either the victim or to future victims, institutions do not have the luxury of ignoring information from a victim or other source, and should also allow for third party complaints.

5. The person can be fired. To the degree that the institution is not bound by any legal or contractual requirements, its own internal procedures, and to the degree that the harassment is serious and/or repeated, and especially if warnings have been issued, termination/expulsion/suspension may be an option.
TIPS FOR PROCESSING HARASSMENT/DISCRIMINATION COMPLAINTS

A vast majority of complaints can be resolved at the lowest level if the person to whom the complaint is reported utilizes sound techniques. Consider the following when receiving complaints:

1. Listen more than you talk.
2. Assess if there is immediate danger or damage that should be addressed and respond accordingly...medical care, counseling, law enforcement support, etc.
3. If there are any concerns about the person’s safety, these must be addressed without delay.
4. Be sensitive and show sympathy.
5. Reinforce that the alleged behavior is inappropriate and is not tolerated on USC’s campus.
6. Do not blame the person or allow him or her to accept the blame. Ask open ended and non-judgmental questions that are relevant.
7. Know whom to refer the person and encourage the person to meet with the designated person who deals with the alleged behavior...EOP, Campus Police, Student Conduct, Counseling
8. If the complainant is hesitant, offer to escort them to the appropriate office or campus resources.
9. If the student or employee is willing to move forward, do report the incident to appropriate campus entity.
10. Ask what the person thinks he or she wants to do, or if additional time is needed to think about this. Whatever the decision he or she makes, offer your assistance and support.
11. Urge the person to write everything down soon after the event to help with memory recall.
12. Describe how the person can file a formal charge within the organization or under various laws.
13. If the student or employee is not willing to move forward, but you have been informed of the behavior (and you are not a confidential resource), report the incident without providing identifying information, allowing the campus authorities to make the appropriate decision about how to proceed.
14. Especially if you sense hesitation, you might ask if the person is worried about retaliation and/or confidentiality. Ensure them that only people who needed to know are involved in our process.
15. Provide the person with written materials about campus resources.
16. Provide appropriate follow-up.
USING A LETTER TO DEAL WITH SEXUAL HARASSMENT

Dr. Mary P. Rowe at the Massachusetts Institute of Technology develop what has become known as the letter technique. She contends that the best way to address harassment in the workplace is to “help people to help themselves.” This approach has been extremely successful in the workplace and educational institutions. It is believed that approximately 80 percent of the cases in which this approach is used stops the harassment.

THE ASPECTS OF THE LETTER

**Part I** gives only the facts, including details, such as the time, place, and description of the behavior.

For example, “Last month when I came to your office to discuss my work, you asked me to come to your apartment that weekend to discuss how I could get a promotion.”

Typically, the harasser agrees with the facts although not with the interpretation.

**Part II** describes how the feelings of the person on the receiving end of the behavior, such as fear, revulsion, anger, etc.

For example, “I’m frightened whenever you come near me” or “When you walk into the room I want to throw up.” “I feel like I am being treated in an unprofessional manner.” “I’m worried that this is going to affect my evaluation or my grades.” As in Part I, there are no evaluative words or accusations, only a description of how the writer feels.

**Part III** describes what the writer wants to happen next. This part is usually short because most people just want the harassment to stop.

For example, “I want your behavior to stop” or “I want to be treated the way in which employees have a right to be treated” or “I don’t want you to make any sexual remarks to me or about me anymore.”

**Recommendations**

- Deliver the letter in person. Or by certified mail, with return receipt requested.
- Have the writer keep a copy.
- Offer to help with the writing or better, yet refer the individual to the Office of Equal Opportunity Programs.
- It is best if copies are not sent to anyone else.

**Advantages of the Letter**

- Avoids formal charges.
- Keeps the incident confidential.
- It bypasses issues of legality, evidence, due process and his-word-against-her word.
- It usually works.

This is a voluntary approach when the victims wants the behavior stopped but does not want to proceed with a formal complaint.
KEEPING RECORDS

When we it has been determined that the informal process is desirable, keep good dated records, including emails, letters, correspondence, etc.

The records should capture the names of the complaint, respondent, the behavior that occurred, how person responded, what was decided, what was expressed or desired by the complainant, how the respondent responded.

Capture only the facts, what you saw, what you heard, what was said: “Mary S. cried several times during the interview when talking about her feelings of helplessness,” rather than: “Mary S. cried several times, seems unable to control her emotions and is immature.”

Also, keep a log of telephone calls, emails, etc.

Resolution Letters

When the event has been resolved or dealt with, write a summarizing or concluding letter:

Dear Ms. Jones:

I was pleased to learn that since you wrote a letter to Jim Smith the behaviors you complained about have stopped. You had complained on (date) that he was putting his arm around you and making sexual comments. As you know our university does not tolerate any form of sexual harassment. I described our policy and gave you a copy of the policy. We also discussed confidentiality and our prohibition against retaliation.

You and I discussed your complaint on two other occasions [date] and [date]. I was very pleased that you chose to report this behavior; I know that it must have been hard for you to do so. We also discussed a number of options and you then decided that you would write Jim Smith a letter describing his behavior, describing your feelings about it, and asking him to stop.

Last Wednesday [date], when I called you, you told me you had written the letter on [date] and that the behaviors stopped after he received the letter. You also reported that he has not said anything about the letter to you.

If there is any recurrence of his behavior or new behavior which upsets you, if you feel there is retaliation, if you would like to discuss this some more, or if you are not satisfied with the resolution, if you have any questions whatsoever, or if this letter is incorrect, please get in touch with me as soon as possible. My door is always open for you.

Sincerely,

xxx

When there has been contact by the institution with an accused person, a letter describing the resolution should also be sent. An example follows:

Dear Mr. Thomas:
You and I have spoken on [date] and [date] about reports that you were hugging some of your female students. I informed you that some of these students were upset by your behavior and that your behavior could be considered sexual harassment. I also gave you a copy of our policy and informed you about prohibitions against retaliation.

You agreed to stop hugging your students. Since that time I have not had any further complaints.

There will be no mention of this matter in your personnel file. Although a copy of this letter will remain in my confidential files it will remain confidential unless there are subsequent incidents or charges of retaliation.

If there are any questions about this matter please feel free to discuss them further with me.

Sincerely,

XXX
Federal Anti-Discrimination Laws

Pre-Test, Answer Sheet

Our employees and students are protected against discriminatory action for all terms and conditions of employment and education including but not limited to:

- Admissions
- **Education programs and activities**
- Hiring and firing
- Transfer, promotion, layoff, or recall
- Recruitment
- Use of company facilities
- Benefits
- Education
- Compensation, assignment, or classification
- Job advertisements
- Testing
- Training and apprenticeship programs
- Retirement plans and disability leave

Discriminatory practices under these laws also include harassment as well as protection from retaliation for coming forward with a complaint or participating in the investigation of a complaint.

**DIRECTIONS:**
For each of the protected classes listed below, check the correct statute, laws or regulations.

**Age**

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990
- Section 504 of Rehabilitation Act of 1973
- Executive order 13145
- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act of 1973
- Title IX of the Education Amendments of 1972
- Title VI of the Civil Rights Act of 1964
- Uniformed Services Employment and Re-employment Act
- Veterans’ Readjustment Act of 1974

**Disability**

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990
- Section 504 of Rehabilitation Act of 1973
- Executive order 13145
- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act of 1973
- Title IX of the Education Amendments of 1972
- Title VI of the Civil Rights Act of 1964
- Uniformed Services Employment and Re-employment Act
- Veterans’ Readjustment Act of 1974
Sex

___ Age Discrimination in Employment Act of 1967
___ Americans with Disabilities Act of 1990
___ Section 504 of Rehabilitation Act of 1973
___ Executive order 13145
_x Equal Pay Act of 1963
_x Title VII of the Civil Rights Act of 1964
_x Pregnancy Discrimination Act of 1973
_x Title IX of the Education Amendments of 1972
___ Title VI of the Civil Rights Act of 1964
___ Uniformed Services Employment and Re-employment Act
___ Veterans’ Readjustment Act of 1974

Race, Color, National Origin

___ Age Discrimination in Employment Act of 1967
___ Americans with Disabilities Act of 1990
___ Section 504 of Rehabilitation Act of 1973
___ Executive order 13145
___ Equal Pay Act of 1963
_x Title VII of the Civil Rights Act of 1964
_x Pregnancy Discrimination Act of 1973
_x Title IX of the Education Amendments of 1972
___ Title VI of the Civil Rights Act of 1964
___ Uniformed Services Employment and Re-employment Act
___ Veterans’ Readjustment Act of 1974
Religion

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990
- Section 504 of Rehabilitation Act of 1973
- Executive order 13145
- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act of 1973
- Title IX of the Education Amendments of 1972
- Title VI of the Civil Rights Act of 1964
- Uniformed Services Employment and Re-employment Act
- Veterans’ Readjustment Act of 1974

Veterans’ Status

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990
- Section 504 of Rehabilitation Act of 1973
- Executive order 13145
- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act of 1973
- Title IX of the Education Amendments of 1972
- Title VI of the Civil Rights Act of 1964
- Uniformed Services Employment and Re-employment Act
- Veterans’ Readjustment Act of 1974