I. **INTRODUCTION** (Purpose and Intent)

The University of South Florida System (USF System) community is most successful when it is based on respect and fair treatment of all people. The USF System strives to provide a work and study environment for faculty, staff and students that is free of discrimination and sexual misconduct, including sexual harassment. As part of the effort to maintain an environment that is comfortable for all people, the USF System establishes this Policy.

Sexual harassment is prohibited within the USF System, and complaints of such conduct are to be filed with one of two designated offices within the USF System: specifically, the Office of Diversity and Equal Opportunity (DEO) or the Office of Student Rights and Responsibilities (OSRR). The designated office will review such complaints and provide appropriate response including counseling, mediation (in limited circumstances), and/or referral for disciplinary action.
action, up to and including termination from employment and/or expulsion from the USF System. In addition, DEO and OSRR will, as a part of their internal processes, report any conduct that may be criminal in nature to the appropriate law enforcement entities as set forth in section (IV.B.) below.

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

II. DEFINITIONS

A. Sexual Harassment (which includes sexual violence) is any of the conduct below:

1. Sexual violence including rape, sexual assault, sexual battery and sexual coercion, means physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. For additional information and state of Florida definitions, refer to Florida Statutes Chapter 794, which includes the definition of sexual battery as the “oral, anal or vaginal penetration by, or union with the sexual organ of another or the anal or vaginal penetration of another by any other object” without the person's consent. A summary of general information regarding the terms and the conduct that constitute Sexual Battery/Rape may be accessed on the DEO website at (http://usfweb2.usf.edu/coa/) and is recreated on page 19 below for reference.

2. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

   a. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or educational experience;

   b. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting that individual; or

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1 See Page 13
c. Such conduct is sufficiently severe or pervasive so as to alter the conditions of, or have the purpose or effect of substantially interfering with, an individual's work or academic performance by creating an intimidating, hostile, or offensive working or educational environment.

3. Sexual harassment does not include verbal expression, written, or other material that is relevant and appropriately related to the subject matter of a course/curriculum or to an employee's duties. This policy is not intended to abridge academic freedom or the USF System's educational mission. Furthermore, this policy is not violated by actions that amount to expression that is protected by state or federal constitutions.

B. For purposes of this Policy only, individuals who may be victims or may have reporting responsibilities fall into the following general categories and definitions:

1. The term “employee” includes, but is not limited to: academic administrators; all faculty; Administration employees; Staff employees; Temporary employees; or any other employee classifications that may be developed by the Florida Board of Governors or University Board of Trustees.

2. The term “student” includes, but is not limited to, any individual who is enrolled in any program of study, or enrolled in any course offered or sponsored by the USF System, whether for credit or not, or engaged in any USF System student activity.

3. The term “USF System program invitee” includes, but is not limited to, applicants for admission, applicants for employment, event attendees, and recipients of USF System services.

III. STATEMENT OF POLICY

A. The following actions are prohibited:

1. Sexual harassment by or between any faculty member, staff, or student, including individuals of the same sex.
2. Sexual harassment by any faculty member, staff or student while assigned to duties or academic programs within the USF System (regardless of their work location) against any individual who is not a faculty member, staff or student, including USF System program invitee(s).

3. Sexual harassment by any vendor or individual external to the USF System against any faculty member, staff, student, or USF System program invitee during the transaction of business with the USF System, during any program or activity coordinated through the USF System, and/or while on USF System premises.

4. Retaliation by any faculty member, staff or student against any individual who, in good faith, has made any allegation of sexual harassment or who has testified, assisted, or participated in any way in any investigation, proceeding, or hearing conducted under this Policy or any federal or state law.

5. Knowingly making false accusations or allegations of sexual harassment, or knowingly making false statements regarding alleged sexual harassment in any investigation, proceeding, or hearing conducted under this policy or any federal or state law.

B. **Examples of prohibited conduct include, but are not limited to:**

1. Requesting or coercing sexual intercourse or sexual favors, or attempting to or actually engaging in a sexual assault or sexual battery.

2. Inappropriate and unwelcome sexual attention or touching, including—but not limited to—leering, patting, fondling, pinching, and attempted or actual kissing.

3. Making actual or implied threats to impede or interfere with employment or educational opportunities or benefits for failing to agree to or engage in sexual activity.

4. Making actual or implied promises of an employment or educational opportunity or benefit in exchange for sexual activity.
5. Inferring or displaying favoritism that benefits or adversely affects another based on sexual involvement or a sexual relationship.

6. Making sexually explicit or suggestive gestures or sounds.

7. Displaying or telling sexually oriented jokes, statements, photographs, drawings, computer images, web sites, videos, slides, graphics, calendars, cartoons, e-mails or other communications.

8. Continuing to ask someone for a date after being told "no."

9. Continuing any of the conduct listed in the above examples after being told or being otherwise made aware that the conduct is unwelcome.

Prohibited conduct does not include verbal expression, written or other material that is relevant and appropriately related to the subject matter of a USF System course/curriculum or to an employee's duties.

C. Examples of potential participants in a Sexual Harassment situation include, but are not limited to:

- Faculty – Faculty
- Faculty – Student
- Faculty – Staff
- Teaching Assistant – Student
- Supervisor – Employee
- Student – Student
- Administrator – Faculty Member
- Administrator – Staff Member
- Staff Member/Administrator – Student
- Staff Member – Staff Member
- USF System Program Invitee – Employee
- USF System Program Invitee – Student

D. Consensual amorous or sexual relationships

The USF System strives to create and maintain a professional, collegial environment for work and study. Professional and collegial relationships are based on mutual
respect and trust. When persons in positions of unequal power engage in amorous or sexual relationships, they should be aware that they may be at risk of being accused of sexual harassment, either during the relationship or after the relationship ends, or being accused of having a conflict of interest. For additional information concerning conflicts of interest, please refer to Chapter 112, Part III, Florida Statutes, the applicable collective bargaining agreement, Board of Governors Rules/Regulations and USF System Regulations.

The USF System recognizes that consensual amorous or sexual relationships between two people of unequal position or power (e.g. between a supervisor and an employee, faculty member and student, or staff member and student) may become exploitative or lead to charges of sexual harassment. Accordingly, the USF System has adopted a policy governing consensual relationships (USF System Policy 1-022-Consensual Relationships).

E. Cooperation

All employees and students are to cooperate fully with any investigation and/or compliance review conducted under this policy. Failure to do so may result in disciplinary action for just cause, up to and including termination of employment and/or expulsion from the USF System.

IV. FILING COMPLAINTS OR REPORTS

Depending on the circumstances, the filing of a complaint or report of sexual harassment may be voluntary or compulsory. Any person may file (1) an internal USF complaint or report to the designated USF offices (DEO or OSRR); (2) a complaint or report with the appropriate law enforcement agency (determined by the campus/institution, such as the USF Tampa Police Department or USF St. Petersburg Police Department) hereafter, “University Police” or other local police department to initiate a criminal investigation; or (3) an external complaint with an agency listed in section [IV.C.] below. In addition, certain persons must file a report as provided below.

A. Internal USF complaints or reports to designated USF System offices

1. Persons who may file. Any student or employee or USF System program invitee may file a claim or complaint regarding sexual harassment. Details regarding the responsibility to report are detailed in subsection [3.] below. It is important to
note that the opportunity to file a complaint or the filing of a complaint does not prevent any person from telling the individual whose actions he or she finds offensive that such behavior or conduct must stop and/or that it is unwelcome.

2. **Entry point for filing.** Where a complaint or report should be filed depends upon whether the alleged harasser is an employee, student, or USF System program invitee. If the status of the alleged harasser is unclear, an individual may file a complaint or report in either of the two designated offices and the University will assist in identifying the best avenue of review. The following two offices are established as points of entry for the filing of complaints and reports:

a. **Complaints and reports against EMPLOYEES or other USF System program invitees.**

   The complaint/allegations must be submitted to the Office of Diversity and Equal Opportunity. DEO is responsible for investigating sexual harassment complaints/allegations against employees or other members of the USF Community based on this Policy. A full copy of the procedures used to conduct any investigation is available in DEO, ALN 172; 813-974-4373; or on the DEO website. (These procedures may be changed without affecting any term of this Policy).

b. **Complaints and reports against STUDENTS.**

   The complaint/allegation must be submitted to the Office of Student Rights and Responsibilities or the appropriate Student Affairs office at the campus or institution where the harassment occurred, for investigation of sexual harassment complaints/allegations against students. Students who are referred to the OSRR under the Policy will be subject to review and may be subject to sanctions as provided by the USF Student Conduct Code, **USF6.0021**. A full copy of the student conduct code including the process for referrals, review, investigation and sanctions are available on the USF Tampa OSRR website at: [http://www.sa.usf.edu/srr/page.asp?id=69](http://www.sa.usf.edu/srr/page.asp?id=69); or at the OSRR office at 4202 E. Fowler Ave, RAR 234, Tampa, FL 33620-7700; phone contact 813-974-9443; or the Student Affairs office at the System member's campus.
3. **Responsibility to Report**

   a. **Who *Should* report to DEO or OSRR under the USF System's Policy:**

   (1) The person who believes he/she has been a victim of sexual harassment (although there is no absolute duty to report and any victim may seek any additional or optional support services including advocacy or counseling outside of the DEO or OSRR process); or

   (2) Any student, faculty member, or staff member who has direct or indirect knowledge of the alleged sexual harassment with the exception of those persons or offices who offer confidential counseling or victim assistance if the complainant requests privacy, such as Victim’s Advocacy.

   b. **Who *Must* report to DEO or OSRR under the USF System’s Policy:**

   (1) **Supervisory employees** (with the exception of those persons or offices who offer confidential counseling or victim assistance if the complainant requests privacy, such as Victim’s Advocacy) are required to promptly report (either verbally or through written communications) allegations, reports, or instances of sexual harassment by or against any USF System employee(s), student(s), or group(s). Failure to do so may result in disciplinary action, up to and including termination of employment. Supervisory employees include any administrative personnel, or any employees who (i) supervise one or more individual employees and may include, but is not limited to: Deans, Directors, Department Chairs, Coordinators, Unit Heads, Managers, and Principal Investigators or (ii) supervise or oversee students, including but not limited to, all members of the faculty; graduate students with instructional responsibilities when they are supervising or teaching the student(s) who is (are) complaining about possible sexual harassment; academic advisors; residential assistants; faculty advisors; program advisors and student activity coordinators.

   (2) **The University Police (UP)** are required to promptly report back to DEO or OSRR, as appropriate, a complaint of sexual harassment at
the time a person directly files a complaint with the UP and at the conclusion of any UP process.

c. General Information

(1) **Time for filing complaints.** A person who believes that he/she has been sexually harassed should report the incident as soon as possible. For those complaints directed to DEO, a formal complaint must be filed within one hundred twenty (120) days of the incident(s). For those complaints directed to OSRR, the complaints must be filed as set forth in the Student Conduct Code unless otherwise specified.

(2) **Appeals from decisions.** The decisions of the designated offices are final, except the victim or accused may file an appeal from a decision rendered by DEO or OSRR. The appeal shall be filed in accordance with the designated offices’ procedures.

(3) **Privacy.** The confidentiality and privacy of all parties involved during the investigative process will be maintained to the fullest extent possible. Information will be shared with only those who have a legitimate need to know. Allegations may be filed anonymously through EthicsPoint, the USF System’s website/hotline, to confidentially report activities that may involve certain improper conduct or violations of USF System policies. [https://secure.ethicspoint.com/domain/en/report_custom.asp?clientid=14773; 1-866-974-U411].

B. Complaints or Reports to Law Enforcement Offices

1. If an individual believes that he/she has been a victim of a crime, such as sexual battery, the individual may file a complaint for possible criminal charges with an appropriate law enforcement agency.

2. DEO and OSRR must report any referral or allegation of sexual harassment that is or may be considered a crime to the appropriate law enforcement offices.
3. All persons must comply with mandatory reporting laws established by state, federal or local laws.

4. In addition, any person MAY report any criminal activity to law enforcement at any time.

5. If a campus has a University Police Department, the University Police are law enforcement officers of the State of Florida with authority to enforce criminal laws when violations thereof occur on any property or facilities that are under the guidance, supervision, regulation, or control of USF or a Direct Support Organization of USF. The University Police provide immediate assistance to the victim and initiate investigative processes to apprehend the perpetrator of the crime. The University Police promptly inform the appropriate State Attorney's Office of sexual battery complaints and may consult with the State Attorney during the investigation of the complaint.

C. Additional External Complaints

Filing an internal charge of sexual harassment with the USF System or directly to Law Enforcement does not preclude filing complaints with external agencies and does not affect any deadlines that may be imposed by any agency external to the USF System.

The following agencies are available to take such complaints:

   (813) 228-2310, TTY (813) 228-2003.

2. **U.S. Department of Education, Office for Civil Rights**, Atlanta, Georgia
   (404) 562-6358, TDY (404) 562-6454.

   (407) 648-6181.

4. **Florida Commission on Human Relations**, Tallahassee, Florida
   1-800-342-8170, TDD ASCII 1-800-955-1339; TDD BAUDOT 1-800-955-8771.
V. RECORDS AND STATISTICAL REPORTING

A. OSRR will report to DEO (as the office of the Title IX coordinator) the final results of all Sexual Harassment complaints to enable accurate statistical reporting; review of the information to identify and address any patterns or systemic problems; and the development of ongoing training, educational and preventative programming.

B. All offices will report final outcomes and complaints to the UP as required by federal law, specifically, the Student Right to Know and Campus Security Act of 1990 (the Jeanne Clery Act). The University Police are required to report to the public statistics concerning the occurrence on campus of specific criminal offenses reported to local police agencies or to any official of the institution who has significant responsibility for student campus activities. The crimes that must be reported include murder, manslaughter, forcible and non-forcible rape, robbery, aggravated assault, burglary, arson, and motor vehicle theft. The information may be used to make timely warnings to the community of the occurrence of these crimes.

C. It is USF’s policy to provide to the public, upon request, the number of sexual battery cases that have been reported to University Police within a specified time period. Crime statistics are reported to Tallahassee in accordance with State law. Information concerning the incidence of crime is reported to the University community in a regular and timely manner through local and on-campus media. This information is also forwarded to the Federal Bureau of Investigation and included in the national crime report published by the United States Department of Justice.

VI. VICTIM AND PREVENTION SERVICES

Each campus of the USF System provides victim and prevention services. Detailed information about these services is available on the USF System’s Title IX website at:

<table>
<thead>
<tr>
<th>Campus</th>
<th>URL</th>
</tr>
</thead>
<tbody>
<tr>
<td>USF Tampa</td>
<td><a href="http://www.sa.usf.edu/advocacy/page.asp?id=88">http://www.sa.usf.edu/advocacy/page.asp?id=88</a></td>
</tr>
<tr>
<td>USF St. Petersburg</td>
<td><a href="http://www.usfsp.edu/cchw/Counseling_Services/CrisisServices.htm">http://www.usfsp.edu/cchw/Counseling_Services/CrisisServices.htm</a></td>
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<td><a href="http://www.sarasota.usf.edu/cwc/crisisservices.php">http://www.sarasota.usf.edu/cwc/crisisservices.php</a></td>
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<tr>
<td>USF Polytechnic</td>
<td><a href="http://poly.usf.edu/x893.xml">http://poly.usf.edu/x893.xml</a></td>
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Contact information for the appropriate campus law enforcement agency for reporting sexual battery and available assistance for victims of campus-related sexual batteries within the USF System are as follows:

**USF Tampa**

- Emergency: 9-1-1
- Police, Non-Emergency: 813-974-2628
- Local Rape Crisis Center: 813-964-1964
- Counseling Center: 813-974-2831
- Victim Advocate: 813-974-5757

**USF St. Petersburg**

- Emergency: 9-1-1
- Police, Non-Emergency: 727-873-4140
- Local Rape Crisis Center: 727-531-0482
- Counseling Center: 727-873-4422
- Victim Advocate: 727-612-2861

**USF Sarasota-Manatee**

- Emergency: 9-1-1
- Police, Non-Emergency: 941-487-4210
- Local Rape Crisis Center
Manatee County 941-755-6805
Sarasota County 941-365-1976
Counseling Center 941-487-4254
Victim Advocate 941-252-5156

USF Polytechnic

Emergency 9-1-1
Police, Non-Emergency 863-834-6900
Local Rape Crisis Center 863-413-2707
Counseling Center 863-667-7701
Victim Advocate 863-667-7701

Authorized and signed by:

Ted Williams, Associate Vice President for Diversity and Equal Opportunity
Judy Genshaft, President
*SEXUAL BATTERY/RAPE LAWS
(In Florida, “rape” is called “sexual battery”)

ACCORDING TO FLORIDA LAW:

- Sexual Battery/Rape is the: “Oral, anal or vaginal penetration by, or union with a sexual organ of another or anal/vaginal penetration of another by any other object.”

- The sexual act(s) is/are performed without the victim’s consent.

- An individual who is mentally incapacitated, asleep, physically helpless or unconscious due to alcohol or other drug consumption is considered unable to give consent.

- The same definition applies regardless of whether the assailant is a stranger or a non-stranger.

- The type of force employed may involve physical violence, coercion or threat of harm to the victim. The victim is not required to physically fight back.

Florida Sexual Battery Statutes: [www.leg.state.fl.us/Statutes](http://www.leg.state.fl.us/Statutes) (Chapter 794).

DEFINITIONS

- "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission or submission out of fear. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

- "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance

- "Physically helpless" means unconscious, asleep, or for any other reason physically unable to communicate consent or lack of consent.

- "Physically incapacitated" means bodily impaired or handicapped and substantially limited in ability to resist or flee.