SOUTH CAROLINA STATE UNIVERSITY

Policy Number: 2.2
Policy Title: Prohibition of Sexual and Gender-Based Discrimination (Title IX Policy)
Original Date: August 23, 2019
Revision Date: August 23, 2019
Responsible Office: Office of General Counsel
Administrative Division: Office of General Counsel

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE

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 USC 1681, et. seq.)

This Prohibition of Sexual and Gender-Based Discrimination Policy, also known as the Title IX Policy (“Policy”), outlines the protocol and guidelines for the University to comply with the federal law of Title IX. This Policy is applicable to all persons affecting the campus community, including students, faculty, staff, employees, contractors, and visitors.

This Policy is intended to be read in conjunction with other University policies and procedures. In the event there are any inconsistencies, this Policy shall override and supersede such policies and procedures.

DEFINITIONS

Complainant: Individual alleged to have suffered a violation under this policy.

Confidential Resources: University employees to whom individuals may report information confidentially, subject to legal requirements, with an expectation that the information will not be disclosed without expressed consent and direction from the Complainant. At South Carolina State University, Confidential Resources for students are the medical and counseling staff at Brooks Health Center and Student Counseling Services and the University’s Victim Advocate. Confidential Resources for employees are offered through the Office of Human Resources’ Employee Assistance Program. Confidential Resource-employees are not considered Responsible Employees when serving as an employee in the Confidential Resource capacity; however, if the Confidential Resource-employee serves in other capacities on or off campus, the employee may be considered a Responsible Employee.

*University employees that are also members of the clergy shall be deemed as acting in their official University role when determining whether they are a Confidential Resource.
**Disclosing Individual:** Individual raising a complaint of inappropriate conduct relevant to this Policy; is not necessarily the individual alleged to have been subject to discrimination.

**Intimate Partner Violence:** Abuse or violence, which may be physical, verbal, and/or emotional, that occurs between current or former intimate partners or spouses, and the violence relates to or stems from the intimate relationship.

**Non-Consensual Sexual Assault:** Unwilling or non-consensual penetration of any bodily opening with any object or body part by another; includes any intrusive sexual activity that is not consciously assented to by an individual. In particular, this includes sexually intrusive acts in which an individual is in any way incapacitated mentally or physically, whether by drugs, alcohol, or otherwise simply unable to make an informed decision. Non-Consensual Sexual Assault may also include the use of physical force, coercion, the threat of immediate physical harm, the restriction of movement, and/or the administration of a drug, intoxicant, or physical substance that impairs the faculties of a person.

**Non-Consensual Sexual Contact:** The touching of an unwilling person’s intimate parts; touching an unwilling person with one’s own intimate parts; causing an unwilling person to touch another’s intimate parts.

**Respondent:** Individual against whom a complaint has been made.

**Responsible Employee:** A University employee, faculty, or staff member that could reasonably be viewed as having authority to address suspicious behavior. Disclosures made to Responsible Employees qualify as official reports to the University and must be investigated. Responsible Employees include the following individuals: Members of the University’s Board of Trustees, the University President, Vice Presidents, Cabinet Members, Deans, Department Chairs, Directors; Deputy Title IX Coordinators; Human Resources staff; Residential Life and Housing staff and student-workers employed in Residential Life and Housing, Community Assistants, Student Affairs employees; advisors to recognized student organizations/groups; faculty members; employees serving in management or supervisory positions; Campus Police.

**Sexual Exploitation:** Conduct exceeding the boundaries of consent; includes releasing video or photography containing or referencing sexual content that was created with consent of the Complainant but has been released to a third party without the Complainant’s consent.

**Sexual Harassment:** Unwelcome sexual advances or requests for sexual favors, whether verbal or non-verbal, expressed or implied, where one may reasonably believe a) the consent or rejection may impact his/her education, employment, living environment, or any University activity; or b) the behavior is persistent and reasonably offensive so as to create a hostile or demeaning environment.

**Sexual Intimidation:** Engaging in behavior that is used to cause discomfort or humiliation to another based on sexual conduct or gender.

**Sexual Misconduct:** Unwanted sexual conduct of any kind that may include sexual harassment, non-consensual sexual contact, non-consensual sexual assault, sexual exploitation, stalking, and any other unwanted conduct or contact of a sexual nature.

**Stalking:** Engaging in a pattern of behavior, whether verbal, written, physical, or electronic, without a legitimate purpose, that would cause a reasonable person to fear for their safety or the safety of another or lead to emotional distress.

**Voyeurism:** The practice of watching, filming, recording, or listening in on another while the other is naked and/or is engaged in a sexual act without that other’s consent.
POLICY STATEMENT

The following Title IX violations ("Violations") are covered under this policy:

- Harassment or discrimination based upon gender and/or sexual identity and/or sexual preference
- Intimate Partner violence
- Non-consensual sexual assault
- Non-consensual sexual contact
- Sexual exploitation
- Sexual harassment
- Sexual intimidation
- Sexual misconduct
- Stalking
- Voyeurism

PROCESS

1. Reporting a Complaint

1.1 When a Violation has been disclosed to a Responsible Employee, the information shall be immediately relayed to the Title IX Coordinator for the official filing of a complaint and to initiate an investigation.

1.2 When an initial report is made to the Title IX Coordinator, the Title IX Coordinator will review the complaint and the nature of the relationship of the parties to determine if any interim measures should be implemented to protect the interest of all parties. If interim measures are implemented, such measures shall be temporary and reasonable in nature so as not to punish either party.

1.3 If it has been determined that the complaint is not a matter that falls within the authority of Title IX, then the matter will be referred to the appropriate University complaining process.

1.4 If there is a conflict in filing a Violation with the Title IX Coordinator, then the complaint shall be filed with the University's General Counsel.

1.5 Due to the nature and sensitivity of such Violations, this investigative process may last longer than a typical student or employee violation process.

2. Investigation

2.1 Once the Title IX Coordinator receives the complaint, the Title IX Coordinator will send a Notice of Investigation to the Complainant and Respondent and shall contact the University’s Title IX Investigator to conduct a thorough investigation. If the Respondent is an employee, the Title IX Coordinator will notify the Office of Human Resources of the pending complaint. If the Respondent is a student, the Title IX Coordinator shall notify the Director of Judicial Affairs of the pending complaint.
2.2 The Title IX Investigator will conduct an investigation by attempting to interview and question all relevant individuals, including the Complainant and Respondent. Failure to participate in an investigation does not conclude a finding of responsibility.

2.2.1 During the investigative process, the Title IX Investigator shall have access to all student and employee records pertinent to the investigation. Questions regarding the release of such records shall be directed to the General Counsel.

2.2.2 Witnesses that are interviewed as part of the investigative process, including the Complainant and Respondent, may have one personal advisor present during the interview. Advisors may whisper to their clients but are not permitted to speak freely or request information from the investigator. If a witness chooses to have a legal counsel as their advisor, the witness must notify the investigator no later than forty-eight (48) hours prior to the interview. All advisors, including legal representatives are required to abide by this process.

2.3 Investigative Report and Sanctions

2.3.1 Once the Investigative Report ("Report") has been completed, both the Complainant and Respondent shall be notified of its availability to view only.

2.3.2 After the parties have been notified simultaneously that the Report is ready to view, each party shall have the opportunity to view the Report and respond in writing ("Responses") no later than fifteen (15) business days after issuance of the notice to view.

2.3.3 Upon review of the Report and Responses, the Title IX Coordinator shall determine whether the Respondent has been found responsible or not responsible, using the clear and convincing standard of proof, for the violation(s) and, if responsible, impose the appropriate sanctions. The determination shall be submitted in writing ("Determination") to both parties.

2.3.4 If the Respondent has been found responsible:

- If the Respondent is a student, then a copy of the Notice of Investigation and Determination shall be issued to the Director of Judicial Affairs (to be placed in the student’s judicial file).

- If the Respondent is an employee, then a copy of the Notice of Investigation and Determination shall be issued to the Respondent’s immediate supervisor, respective Cabinet Member, and the Office of Human Resources (to be placed in the employee’s personnel file).

- If the Respondent is a faculty member, then a copy of the Notice of Investigation and Determination shall be issued to the Respondent’s immediate supervisor, the Provost/Vice President for Academic Affairs, and the Office of Human Resources (to be placed in the employee’s personnel file).

- Notices of Investigation and Determinations shall only be placed in the Respondent’s file after the Respondent has been deemed responsible for the Violation(s), should this finding occur.

2.4 Appeal
2.4.1 Following the issuance of the Determination, either the Complainant or Respondent may appeal the decision.

2.4.2 Appeals must be submitted in writing ("Notice of Appeal") within ten (10) business days after the Determination and shall be addressed to the Vice President for Student Affairs (or his/her designee) if the Respondent is a student, to the Provost/Vice President for Academic Affairs if the Respondent is a faculty member, or to the respective Cabinet Member if the Respondent is an employee ("Reviewer").

2.4.3 Appeals may only be based upon one of the following grounds:
   (a) A claim of error in the procedures.
   (b) A claim of new evidence or information that is considered material that was not available to the Title IX Coordinator at the time the sanction was imposed.
   (c) A claim that the sanction was excessive.

2.4.4 Upon receipt of the Notice of Appeal, the Reviewer shall promptly notify both parties in writing of its receipt and shall have the opportunity to view the Report, Responses, and Determination. The Reviewer shall issue a final decision no later than twenty-one (21) days after receipt of the Notice of Appeal. This decision is the University’s final determination of the Violation.

3. Law Enforcement

3.1 Law enforcement proceedings are separate from the University’s Title IX process. Individuals may report Violations to local law enforcement such as Campus Police while also reporting to the Title IX Coordinator; both processes may occur simultaneously, while they are completely separate. The outcome of one process does not determine the other.

3.2 Alternatively, an individual may report a Title IX Violation to the University under this policy and choose not to report the Violation to law enforcement. This choice will be upheld, subject to legal requirements to protect the safety of individuals.

3.3 Even if no personal identifying information is shared with Campus Police, all Title IX Violations are reported to Campus Police by the Title IX Coordinator for compliance and statistical purposes.

4. Confidentiality of the Process

4.1 To protect the integrity of this process and the safety of all involved, the University holds a strict expectation of high confidentiality. Subject to applicable laws, only University personnel with a legitimate need-to-know will be made aware of the ongoing investigative processes. All Title IX investigative files and records will be maintained with the Title IX Coordinator.

5. Retaliation Prohibited

The University strictly prohibits retaliation of any kind within the campus community. Complainants that feel they are the subject of retaliation should reach out to the Title IX Coordinator immediately.
KEY CONTACTS

Title IX Coordinator: Vice President for Student Affairs, Dr. Tamara Jeffries-Jackson, thughes@scsu.edu, (803) 536-8103

Deputy Title IX Coordinators

The role of Deputy Title IX Coordinators is to serve as an immediate point of contact for Title IX concerns that may arise within their respective University departments; however, all Title IX complaints must be reported to the Title IX Coordinator.

Director of Human Resources, Ronald York (803) 536-7047 / r York1@scsu.edu

Athletics Senior Woman Administrator, (803) 533-3743

Campus Police: (803) 536-7188 / campuspolice@scsu.edu

Brooks Health Center: (803) 536-7053 / brookshelthcenter@scsu.edu

Student Counseling and Self-Development Center: (803) 536-7245 / cscdc@scsu.edu

Victim Advocate: Eugenia Staley 803-245-3011 / estaley@scsu.edu

Office of Civil Rights, U.S. Department of Education, (800) 421-3481, OCR@ed.gov