



Title of Policy:	Title IX Policy
Policy No.	1.7012
Type of Policy:	Administrative
Effective Date:	August 14, 2020
Last Revised:	July 2018
Policy Owner:	Florida Memorial University
Policy Contact:	Title IX Coordinator

I. Reason for Policy

This Title IX Policy sets forth Florida Memorial University’s obligations under the 2020 Title IX Regulations. The purpose of the Title IX Policy is to comply with Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R Part 106 (Title IX)], which prohibits discrimination and/or harassment on the basis of sex and states: *“No person in the United States, shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”* [Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R Part 106 (Title IX)].

II. Policy Statement

Florida Memorial University (FMU) complies with the requirements of the United States Department of Education’s (USDOE) Office of Civil Rights (OCR) regarding Title IX. Title IX is a federal law which protects the rights of all persons on a university campus against sexual discrimination and harassment, including but not limited to, gender-based physical violence, verbal threats and intimidation, sexual harassment and assault, unwanted speech or touching, dating and intimate partner abuse or violence, domestic violence, hazing, stalking, bullying, cyberbullying. Retaliation for making a good faith complaint and/or participating in a Title IX investigation and/or proceeding is prohibited. FMU will protect the party’s privacy consistent with this Policy but when necessary we may disclose information to those who have a legitimate need to know, or in cases of emergency, and in order to process complaints under this Policy. Counselors and medical providers (“Confidential Resources”) working at or on behalf of FMU are Confidential Resources. In most cases, Confidential Resources at will not share the substance of any such communications or that such communications occurred without consent. Confidential resources may, however, have an obligation to disclose otherwise-privileged information where they perceive an immediate and/or serious threat to a person and/or property.

III. Scope

This Title IX Policy applies to faculty, staff, students, visitors, consultants, contractors, volunteers, and vendors, who experience prohibited sexual harassment in FMU’s education programs or activities. This includes locations, events, or circumstances over which FMU exercised substantial control over both the Respondent and the context in which the prohibited conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by FMU. FMU has other policies and procedures that may be applicable if the conduct does not meet the definition of prohibited sexual harassment under this Policy or otherwise fall within the scope of this Policy.

IV. Definitions

Term	Definition
Responsible Employees	FMU defines all University employees as a Responsible Employee . Any employee to whom a Title IX incident is reported has an affirmative duty to immediately direct that information to a supervisor or the Title IX Coordinator. University employees

	have a responsibility to report rumors, observed behaviors, overheard statements, suspected misbehavior or actual incidents because the University is held to a standard of actual and constructive notice by the OCR.
Sexual Assault	As defined in the Clery Act.
Sexual Harassment	Conduct on the basis of sex that satisfies one or more of the following: (i) An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); (ii) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity; or (iii) Sexual assault (as defined in the Clery Act), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).
Complainant.	An individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.
Consent	Affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time.
Formal Complaint	A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that FMU investigate the allegation of sexual harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an education program or activity of FMU with which the Formal Complaint is filed.
Grievance Process	The fact-finding process from the time of the filing of the Formal Complaint through the final determination of an appeal (if any).
Reporting	Any person may report, at any time, suspected violations of Title IX in person, by mail, by telephone, by e-mail, using the contact information listed for the Title IX Coordinator, or anonymously via the Campus Conduct Hotline (CCH), an independent risk management service for faculty, staff, students, and community to anonymously alert the University administrators of unsafe or unethical behaviors, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
Respondent	An individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.
Supportive Measures	Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to FMU's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or FMU's educational environment, or deter sexual harassment. Supportive measures may also include written notification about available services both within the institution and the community and options for available assistance as required by the Clery Act.
Investigation	The investigation is an administrative proceeding to determine whether Title IX has been violated. When investigating a Formal Complaint FMU shall, within 30 days of receiving the Formal Complaint, unless unusual or complex circumstances exist: (i) Engage in fact-gathering of all relevant facts. Credibility resolutions and fact-finding shall be conducted in the live hearing phase of the grievance process. (ii) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the

	<p>allegations raised in a Formal Complaint, including the evidence upon which FMU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.</p> <ul style="list-style-type: none"> (iii) Prior to completion of the investigative report, send to each party and the party’s advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. (iv) Make all such evidence subject to the parties’ inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and (v) Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing or other time of determination regarding responsibility, the Title IX Coordinator shall send to each party and the party’s advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. Upon finalization of the investigative report, the Title IX Coordinator shall provide it to the decision-maker(s).
Hearing	<p>This process must provide for a live hearing in front of the decision-maker(s), which may be an individual or a Review Panel, for the purposes of determining responsibility for allegations of sexual harassment in the Formal Complaint. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator or the investigator(s). Live hearings will be closed to only: the Complainant and Respondent, the decision-maker(s), the advisor for each party, any witnesses (only while being questioned), and any individual providing authorized accommodations or assistive services. The hearing may be conducted with all parties physically present in the same geographic location or, at the school’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. The parties may have an advisor of their choice, who may be, but is not required to be, an attorney. If a party does not have an advisor present at the live hearing, FMU shall provide an advisor without fee or charge to that party.</p> <p>The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely</p>
Appeal	<p>Appeals must be sent to the Title IX Coordinator in writing. Grounds for appeal of a determination are:</p> <ul style="list-style-type: none"> (i) Procedural irregularity that affected the outcome of the matter; (ii) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and (iii) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

V. Responsibilities

All faculty, staff, students, visitors, consultants, contractors, volunteers, and vendors, are expected to abide by this Policy.

VI. Enforcement

This Policy shall be enforced by the Title IX Coordinator. The Title IX Coordinator is responsible for effective implementation of any remedies.

Our Title IX Coordinator is:
Youseline Poteau
titleix@fmuniv.edu
(Student Service Building #114-115)
Florida Memorial University
15800 N.W. 42nd Ave.
Miami Gardens, FL 33054
Main: 305-626-3720
Fax: 305-623-4231

A student found responsible for a violation of this Policy will be subject to sanction(s) regardless of whether legal proceedings involving the same incident are underway or anticipated. An employee found responsible for a violation of this Policy will be subject to sanction(s) up to and including termination of employment.

Approved:

Signature	Title	Date
		