

FLORIDA	OFFICIAL
POLYTECHNIC	UNIVERSITY
UNIVERSITY	POLICY

Subject/Title: Sexual Harassment
FPU Policy Number: FPU-1.005P
<input type="checkbox"/> New Policy <input type="checkbox"/> Major Revision of Policy <input checked="" type="checkbox"/> Minor Technical Revision of Policy
Date First Adopted: October 30, 2013
Date Revised: February 27, 2015
Responsible Division/Department: Chief Operating Officer
Initiating Authority: General Counsel

A. APPLICABILITY/ACCOUNTABILITY:

Florida Polytechnic University (“FPU”) is committed to ensuring that each member of the University Community shall be permitted to work, study, and interact with each other in a dignified learning environment, free from any form of sexual harassment. This policy provides guidance regarding conduct that constitutes sexual harassment, reporting responsibilities regarding such behavior, and specific information on where to go to seek guidance or file a complaint of sexual harassment. All complaints of sexual harassment will be handled in accordance with the University’s grievance and disciplinary procedures.

B. POLICY STATEMENT:

Sexual harassment violates University policy, federal and state laws and may also be subject to criminal prosecution. The University is committed to fostering an environment that promotes prompt reporting of all types of sexual harassment and timely and fair resolution of sexual harassment complaints.

FPU does not discriminate on the basis of sex in its educational programs and activities. Title IX of the Higher Education Amendments of 1972, 20 USC 1681 *et seq.*, a Federal civil rights law, prohibits such discrimination, in any form, including sexual harassment, sexual violence and gender-based discrimination. The University has designated a Title IX Coordinator (see contact information below) to handle all complaints alleging sexual harassment and to conduct investigations of such complaints in a manner that ensures a prompt and equitable resolution. Additionally, as an employer, the University is required to comply with Title VII of the Civil Rights Act of 1964 and other federal and state laws regarding sex-based harassment and sex discrimination.

C. DEFINITIONS:

1. Sexual Harassment: Sexual harassment, a form of sex discrimination, includes, but is not limited to, sexual violence, gender-based discrimination, and conduct in the form of unwelcome sexual advances, requests for sexual favors, or other verbal (including written and electronic communications) or physical conduct of a sexual nature from any person when such behavior:

- (i) Makes submission to or rejection of such conduct either an explicit or implicit basis for employment and/or academic decisions affecting the individual;
- (ii) Unreasonably interferes with the individual’s employment or academic performance by creating an intimidating, hostile or offensive environment; or
- (iii) Creates an intimidating, hostile, or offensive work or academic environment.

2. Sexual Violence: Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of acts fall into the category of sexual violence, including, but not limited to, rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment.

3. Gender-based Harassment: Gender-based harassment, a form of sexual harassment, may include acts of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

4. University Community: The University Community includes any Florida Polytechnic University officer, university employee, student, applicant, visitor, agent, vendor, or contractor.

D. EXAMPLES OF SEXUAL HARASSMENT:

Conduct which falls into the definition of sexual harassment, and may constitute a violation of this policy, includes, but is not limited to:

1. Inappropriate touching or brushing against the body of another including, but not limited to patting, fondling, massaging, caressing, pinching, attempted kissing or actual kissing.
2. Requesting sex or sexual acts in exchange for an occupational or educational benefit.
3. Repetitive propositions, invitations, or pressure for sexual activity.
4. Suggestive or inappropriate communications, notes, letters, e-mail, text messages, contact through social media, or other written materials.
5. Displaying, transmitting, or sending suggestive or inappropriate photographs, videos, computer images, slides, calendars, cartoons, or drawings through any medium.
6. Sexual innuendo, comments, or remarks about a person's clothing, body, or activities.
7. Making suggestive or obscene gestures or making suggestive or insulting sounds.
8. Whistling in a suggestive manner.
9. Actual or implied sexual threats or intimidation which places an individual in fear of imminent physical or psychological harm or injury.
10. Hazing, when of a sexual nature meaning acts likely to cause physical or psychological harm or social ostracism when related to admission, initiation, pledging, joining a University group, club, or organization.
11. Bullying, when of a sexual nature meaning repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally (excluding speech or other conduct protected by the First Amendment).
12. Stalking, when of a sexual nature meaning repetitive and/or menacing pursuit, following, harassing and/or interfering with the peace and/or safety of a member of the University Community.

E. ACTIONS THAT DO NOT CONSTITUTE SEXUAL HARASSMENT:

The University educational environment is unique in that there must be the freedom to express ideas and to foster communication on subjects that enhance the University's educational mission. Accordingly, while the University is committed to providing a learning environment that is free from sexual harassment, the purpose of this policy is not intended to abridge academic freedom or to interfere with speech, as guaranteed by the First Amendment. As such, pursuant to this policy, sexual harassment does not include:

1. The expression of ideas in an academic context to provoke thought or discussion on topics germane to the course and advancement of the University's educational mission.
2. Engagement in debate or discourse over issues that society may find to be unpopular, offensive, or disagreeable.
3. Discussing, using, or displaying views, words, symbols or thoughts in an academic setting, which are germane to the course and which some persons may find to be offensive.

F. VIOLATIONS:

In determining whether alleged conduct constitutes sexual harassment, and a violation of this policy, the conduct will be evaluated from the perspective of a reasonable person in the alleged victim's position, considering the totality of the circumstances, such as the nature of the alleged conduct and the context in which the alleged conduct occurred. A determination on the allegations is made from the facts on a case-by-case basis. In an academic setting, consideration will be given to free speech and academic freedom. Those members of the University Community who are found to have violated this policy may be subject to disciplinary and other action, up to and including termination or expulsion.

G. RESPONSIBILITY TO COMPLY WITH SEXUAL HARASSMENT POLICY:

Each member of the University Community is responsible for ensuring that his or her conduct does not violate this policy.

H. RESPONSIBILITY TO REPORT SEXUAL HARASSMENT:

To maintain an environment free from sexual harassment, the responsibility for reporting incidents of sexual harassment rests with all members of the University Community. Thus any employee, staff or faculty member, student, applicant or other member of the University Community who believes another member is being subjected to sexual harassment in violation of this policy, is strongly encouraged to report the matter to their supervisor, manager, or directly to the Title IX Coordinator.

1. Supervisors and Managers: All supervisors and managers (defined, for purposes of this policy, as persons supervising one or more employees) are required to promptly report to the Title IX Coordinator (either verbally or through written communications) allegations, reports or instances of alleged sexual harassment by or against any person covered by this policy.

2. Faculty Members: All faculty members are required to promptly report to the Title IX Coordinator or, alternatively, to their department chair, dean, or applicable academic administrator any and all allegations, reports, or instances of alleged sexual harassment by or against a student in violation of this policy. Persons to whom alleged acts of sexual harassment are reported by faculty, must promptly report the matter to the Title IX Coordinator (either verbally or through written communications).

3. Members of the University Community: An individual who feels uncomfortable and/or harmed by offensive behavior should try to remove themselves from the offending situation and seek help as quickly as possible by reporting the offending conduct to an individual designated in this policy. However, failure for an individual to take affirmative steps to stop sexual harassment, in no way, bars the individual from seeking relief through filing a claim under this policy.

I. RETALIATION PROHIBITED:

Retaliation, or otherwise taking adverse employment or educational action, against a member of the University Community because the member, in good faith, reported an allegation of sexual harassment, or participated in an investigation or review regarding a complaint, is strictly prohibited. Those found to have violated this prohibition against retaliation may be subject to disciplinary and other action, up to and including termination.

J. FRIVOLOUS OR MALICIOUS COMPLAINTS:

In the event that a claim of sexual harassment is found to be frivolous or malicious, the person making the frivolous or malicious complaint may be subject to disciplinary and other action.

K. SEEKING GUIDANCE OR FILING A COMPLAINT:

Any member of the University Community who believes that he or she has been subjected to sexual harassment; any member of the University Community who believes that he or she has be subjected to retaliation related to an allegation of sexual harassment; or any member of the University Community who believes that others have been subjected to sexual harassment, in violation of this policy, may seek guidance, counseling, or file a complaint, in accordance with this policy, by contacting:

Title IX Coordinator
4700 Research Way
Lakeland, Florida 33805-8531
(863) 583-9050
TitleIXCoordinator@floridapolytechnic.org

Allegations of a violation of this policy, including complaints of retaliation, will be addressed by the Title IX Coordinator, in accordance with the University’s Complaint and Investigation Procedures. Members of the University Community may contact the Title IX Coordinator to seek assistance in informally resolving the complaint or in filing a formal complaint or grievance. Allegations of sexual harassment reported to the University’s Title IX Coordinator in no way affect the right of the complainant to file a criminal complaint, even in the event an internal Title IX investigation has already commenced.

N. EDUCATION AND NOTIFICATION:

Copies of this policy shall be widely disseminated to the University Community so that all members are aware of acts which constitute sexual harassment and shall recognize that the University regards sexual harassment to be a serious offense and will not be tolerated. Periodic workshops and other educational programs are offered to University personnel regarding the topic of sexual harassment.

POLICY APPROVAL	
Policy No.: FPU-1.005P	
_____	_____
Initiating Authority	Date
_____	_____
Policies & Procedures Review Committee Chair	Date
_____	_____
President/Designee	Date
Approved by FPU BOT, if required	_____
	Date
EXECUTED SIGNATURE PAGES ARE AVAILABLE IN THE OFFICE OF THE GENERAL COUNSEL	