

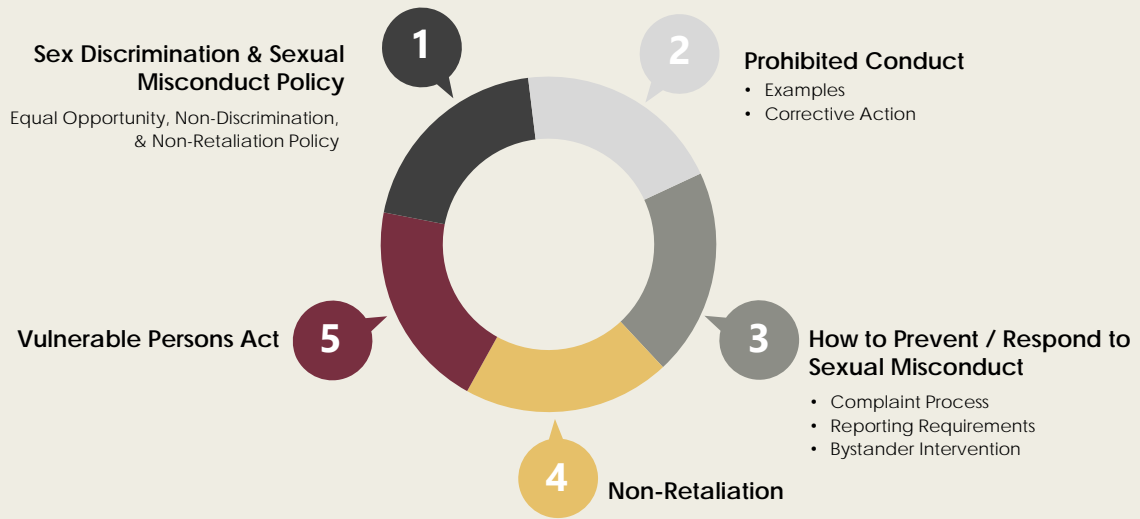


FLORIDA STATE UNIVERSITY
OFFICE OF HUMAN RESOURCES

NEW EMPLOYEE ORIENTATION
Sexual Misconduct
Awareness and Prevention Training
.....

Welcome. The following presentation will cover the basics you need to know with regards to sexual misconduct compliance at FSU. Once you are settled into your new job or if you have any questions, I recommend you attend further training or reach out to the Office of Equal Opportunity and Compliance.

Agenda



This presentation will cover:
(read slide)

FSU's Policies

Sex Discrimination and Sexual Misconduct Policy

Title IX Statement

Equal Opportunity, Non-Discrimination, and Non-Retaliation Policy

Equal Opportunity and Non-
Discrimination Statement



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The University's primary non-discrimination policy is the Equal Opportunity, Non-Discrimination, and Non-Retaliation Policy. Together with the University's Equal Opportunity and Non-Discrimination Statement, they establish all protected groups recognized by the University and set forth complaint and investigative procedures. Because requirements related to sexual misconduct are more nuanced, the University has a dedicated Sex Discrimination and Sexual Misconduct Policy, which is accompanied by a Title IX Statement. A copy of the Title IX Statement is provided for you as a handout. This presentation will review key pieces of the Sex Discrimination and Sexual Misconduct Policy, hereto referred to as 'the Policy'.

Policy Coverage

Everyone:



24/7 – All programs and activities:



On Campus



Off Campus

- Business / academic trips
- Study abroad
- Office / department parties
- Business dinners / lunches
- Non-University activities that have consequences that carry-over to the workplace or academic environment.

First and foremost, the Policy is applicable to everyone. That means all employees, including faculty, staff, and ops, all students, and all other 3rd parties. The Policy applicability is two-fold in that it both provides protection for, but also sets expectations of behavior for all. The Policy is effective 24/7; and applies to both University programs and activities, in addition to incidents that happen outside of the University's purview that have consequences that carry-over to the workplace or academic environment.

Equal Opportunity/Non-Discrimination

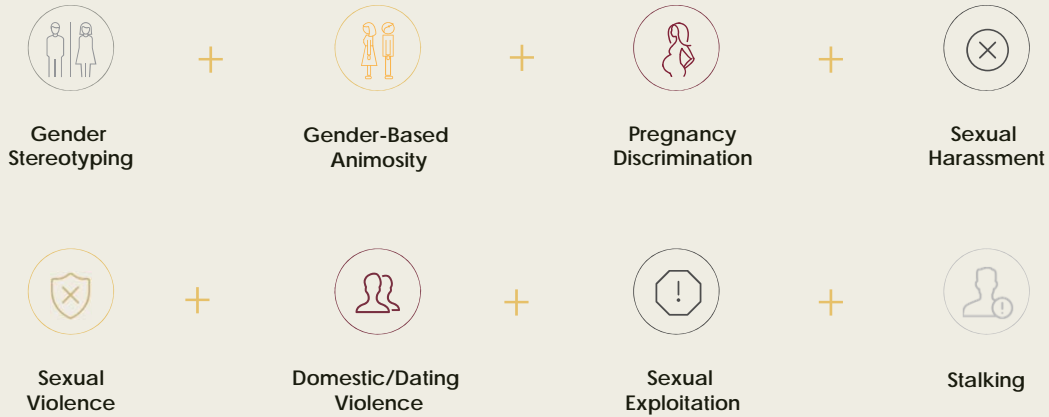
Employment/education decisions may not be based on a protected group status
Cannot:



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Starting with the basics...Equal Opportunity/Non-Discrimination means that all employment and educational decisions, from application through separation, may not be based on a protected group. For this presentation, I will specifically be referencing the protected groups: sex, gender identity, gender expression, and sexual orientation. FSU employees, students, and 3rd parties, may not: limit someone's employment or educational opportunities; take a negative employment or academic action; create a quid pro quo environment; or create a hostile environment based on a protected group status. Doing so would constitute sexual misconduct under the Policy.

Sexual Misconduct – Prohibited Conduct



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Sexual misconduct is an umbrella term. Specific behaviors that constitute sexual misconduct and are expressly prohibited by the Policy are:

Gender Stereotyping. Which is defined as overgeneralization of characteristics, differences, and attributes of a certain group based on their gender. Gender stereotypes create a widely accepted judgment or bias about certain characteristics or traits that apply to each gender.

Examples are: Women are supposed to be shy, passive and submissive. Women are organized and clean. Men are expected to be tough, aggressive, dominant and self-confident. Men are lazy and messy.

Gender-based Animosity. Hatred of, contempt for, or prejudice against someone based on their gender.

Examples are: "Transgender people should just get over it and be the sex they were born as."

Pregnancy Discrimination. Treating a female employee or student unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Examples are: refusing to hire or not providing appropriate reasonable pregnancy accommodations if requested.

Sexual Harassment. Quid pro quo and hostile environment. We will discuss them more in detail shortly.

The next behaviors we are going to cover are also criminal in nature. Regardless of any type of criminal investigation, the University still has an obligation to address the situation. In fact there are many services and resources that must be offered internally. Even if the person accused of the situation is not affiliated with the University, we can still provide services and resources to the Affected party.

Sexual Violence. Any sexual act performed without the consent. Also known as rape, sexual battery, and sexual assault.

Domestic/Dating Violence. Violence between an individual who is or recently has been in a

continuing and significant relationship of a romantic or sexual nature, and another party. Or violence within a family and/or household.

Sexual Exploitation. Any act of taking non-consensual, unjust or abusive sexual advantage of another person for one's own advantage or benefit or to benefit or advantage anyone other than the person being exploited.

Examples are: non-consensual videotaping/photographing; and escort service; or knowingly transmitting an STI.

Stalking. An intentional course of conduct repeated over a period of time that is typically invasive and meant to intimidate. Under this Policy, the behavior would be associated with a past relationship or interest in a future relationship.

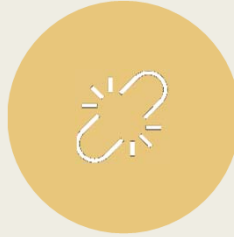
Examples are: appearing at a person's home, class, or work; frequently calling, texting, etc.; social media; or vandalizing a person's property.

Consent to Sex (and Being Touched)

Consent = intelligent, knowing, unambiguous, and voluntary.



Consent is active, not passive. Failure to say 'no' does not mean 'yes'.



Consent can be withdrawn at any time and prior consent does not mean future consent.



Someone cannot give consent if they are:

- Significantly impaired by drugs/alcohol
- Asleep/unconscious/mentally impaired
- Under 18
- Coerced (bribed, threatened, physically forced)

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Whether for your own knowledge or for recognizing signs of what could be a sexual assault when receiving a disclosure, the key is understanding 'consent.' Receiving consent is critical for any kind of touching, both social and sexual, both in the work/academic environment and out. In order for consent to be valid, it must be given when someone has the mental capacity to do so and understands what they are agreeing to (i.e., intelligent and knowing). It also need to be straight forward without any hidden agenda (i.e. unambiguous) and not coerced in any way, either directly or indirectly (i.e., voluntary).

Consent is active; it does not always have to be verbal, but the other person needs to demonstrate a willingness. Failure to say 'no,' distance yourself, or fight back does not mean 'yes.' Even if consent has been given, it can be withdrawn. If you received prior consent, it does not mean you have future consent; getting consent has to occur every time.

Consent, even if given, is invalid if:

- Someone is significantly impaired by drugs and/or alcohol. Think about it this way, if someone is not sober enough to safely drive a vehicle, then they are not sober enough to give consent. Even if someone is giving verbal consent, if they do not presently have the right mental capacity to understand what is going on and to make a clear decision, the situation is a no-go.
- Someone is asleep, passed out/unconscious, or has a mental disability.
- Someone is a minor (under 18). In Florida we have a law that allows for consent

when the parties are age 16-24, but outside of that each party must be a legal adult (at least 18).

- Someone is bribed, threatened, or physically forced. This is any kind of intimidation or coercion, both direct and indirect.

Sexual Harassment

Quid Pro Quo (“This for That”)

Submission to, or rejection of, unwelcome conduct of a sexual nature that is used as the basis for an employment/academic decision or is made a term or condition of employment/academic status.

Examples:

Job: “You do me this ‘favor’ and I can guarantee you the job.”

Falsifying timesheets: “Don’t worry about being out, I will make sure you get your 40 hours.”

Merit pay: “You know what you have to do to get on that list.”

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Sexual Harassment as a term is interchangeable with sexual misconduct. As defined in the Policy, it refers to a quid pro quo and hostile environment.

Quid pro quo is the creation of a situation where a person in a lesser position of authority/power is either rewarded or punished by the person of greater authority/power based on their submission to, or rejection of, sexual/romantic advances. It is important to understand that these situations can also be created based on perceived authority, even if there is no real authority. For example, a Teaching Assistant (TA) might not believe they are in a position of authority if they are not the instructor of record and it is their supervising professor who assigned grades. However, the students will not understand those nuances, they will perceive the TA as having authority/influence over their grades. Therefore, what might be a simple invitation to lunch may be interpreted as more. Consider a situation from the other person’s perspective before acting.

Other examples:

- More straight forward: “you do me this ‘favor’ and I can guarantee you the job.” Whether the person actually has the authority to get someone the job is irrelevant; if they have capitalized on the perception, they are using coercion.
- “Don’t worry about being out of work, I will make sure you get your 40 hours on your timesheet.” Whether as an enticement to start a relationship, or a benefit of being in a relationship, it is fraud and the person of greater authority will be held accountable.
- “You know what you have to do to get on the merit pay list.” Well, this could mean that you need to be on time, do your job, and provide additional assistance when needed.

But if it is followed by a 'wink-wink,' a caress, or a "see you this evening," then the meaning is that submission to, or rejection of, will become the criteria for receiving merit pay.

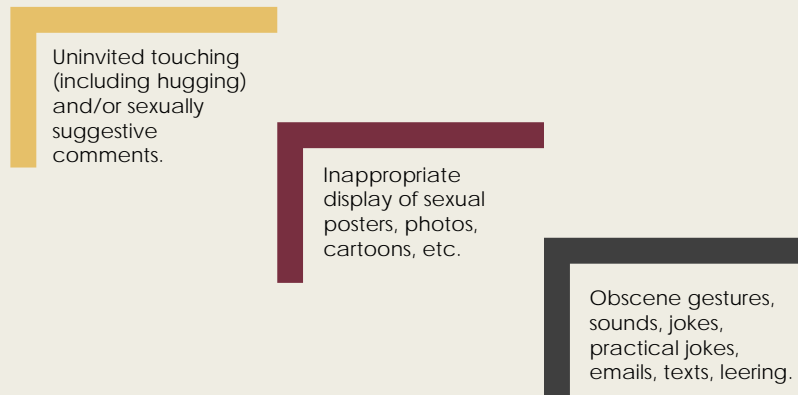
Intentional and perceived quid pro quo situations can be mitigated by making sure decisions are not made in a vacuum. The more oversight, the more it creates a check and balance.

Sexual Harassment, cont.

Hostile Work/Educational Environment

Unwelcome sexual or gender-based conduct that is sufficiently severe, frequent, or pervasive enough that both a subjective and an objective person would find they created an intimidating, hostile, or offensive environment or that they unreasonably interfered with an individual's access to opportunities or benefits.

Examples:



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The more commonly occurring type of sexual harassment is the creation of a hostile work or academic environment. There does not have to be an authority/power differential, it just takes someone, whether intentionally or ignorantly, behaving inappropriately related to sexual or gender-based conduct. A hostile environment is created when the unwelcome sexual or gender-based comments, actions, behaviors either:

- Unreasonably interferes with an individual's access to opportunity or benefits (e.g., work, class, activities/events); or
- Are sufficiently severe, frequent, or pervasive enough that they result in a intimidating, hostile, or offensive environment.
 - 'Severe' means that a single occurrence of the conduct is sufficient enough to create a hostile environment.
 - For example, unwelcome kissing and groping or an altercation with derogatory language and threats are likely to immediately result in a hostile environment.
 - 'Frequent' and 'pervasive' refer to conduct that is not severe, but through a cumulative effect build up to a hostile environment.
 - For example, unwelcome hugs or general offensive language might be something that someone 'tolerates' in a limited capacity, but if the behavior continues, escalates, or more people start doing the same, it will become a hostile environment.
 - It is your responsibility to not willfully do anything that is inappropriate, but also to gauge the reaction of others to minimize ignorantly making someone uncomfortable. For example, if you

reach out to hug someone and they either hold out their hand for a shake or lean in for a hug but do not actively participate, they then are not consenting to a hug.

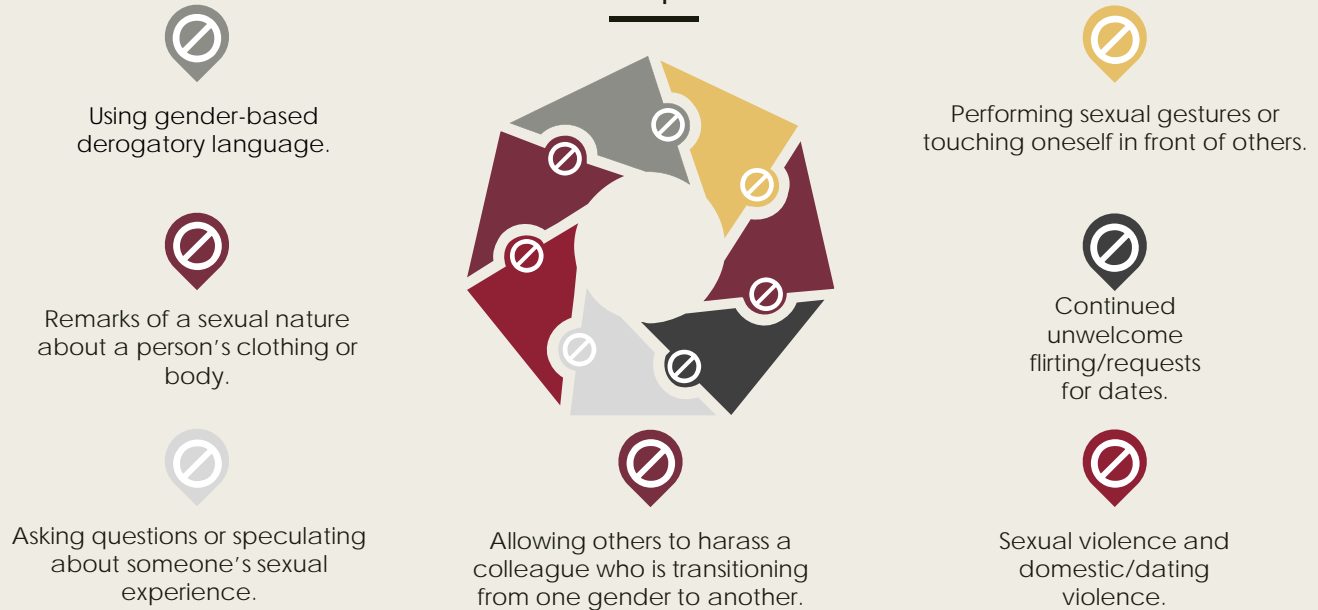
- You are also expected to help monitor your environment, especially if you are a supervisor. Behaviors need to be stopped and addressed before they create a hostile environment.

Other examples of behaviors/actions that can create a hostile environment include:

- Uninvited touching (including hugging) and/or sexually suggestive comments.
- Inappropriate display of sexual posters, photos, cartoons, etc.
- Obscene gestures, sounds, jokes, practical jokes, emails, texts, leering.

Sexual Harassment, cont.

Examples



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More examples of behaviors/actions that can create a hostile environment are:

- Using gender-based derogatory language.
- Remarks of a sexual nature about a person's clothing or body.
- Asking questions or speculating about someone's sexual experience.
- Performing sexual gestures or touching oneself in front of others.
- Allowing others to harass a colleague who is transitioning from one gender to another.
 - The University specifically recognized gender identity and gender expression as groups protected from discrimination. Make sure you are using a person's preferred name and pronoun.
- Continued unwelcome flirting/requests for dates.
 - The University prohibits relationships between individuals that create a conflict of interest, i.e., one party has supervisory or institutional authority over the other. If you do pursue a relationship in the workplace, remember your behavior should be respectful and that all responses other than an unequivocal 'yes' mean 'no.' Understand that, due to workplace dynamics, the other person may not wish to offend

you with a negative response, they may instead be evasive or non-committal. This does not mean 'try harder.'

- Sexual violence and domestic/dating violence.

Corrective Action: Who & What

Anyone who:

Engages in sexual misconduct; including sex or gender-based discrimination.

Is complicit in an act of sex discrimination or sexual misconduct.

Knowingly files a false claim; A report that does not rise to the level of a Policy violation is not a false report.

Retaliates against someone.

Fails to comply with mandatory reporting requirements or fails to enact interim measures.

Up to and including:

Termination for Employees.

Expulsion for Students

No trespass orders for Visitors, Vendors and other 3rd Parties.

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As an employee (and as a student) you can receive corrective action if you:

- Engage in sexual misconduct;
 - Including sex or gender-based discrimination;
- Are complicit in an act of sex discrimination or sexual misconduct;
- Knowingly file a false claim;
 - A report that does not rise to the level of a Policy violation is not a false report.
- Retaliate against someone; or
- Fail to comply with mandatory reporting requirements or fail to enact interim measures.

Corrective action is up-to and including:

- Termination for employees;
- Expulsion for students; and
- No trespass Orders for visitors, vendors, and other 3rd parties.

Where to Report a Disclosure or Make a Complaint

Reports/Complaints against Students:

Online
<https://report.fsu.edu>

Sexual Misconduct
Title IX Director
Mandy Hambleton
mhambleton@fsu.edu
(850) 644-1774

Other Discrimination
Dean of Students
Department

Reports/Complaints against Faculty, Staff, or Third Parties:

Human Resources
Equal Opportunity
& Compliance (EOC)
Amber Wagner
amwagner@fsu.edu
(850) 645-1458

Human Resources
Equal Opportunity
& Compliance (EOC)
Marcy Valenzuela
mvalenzuela@fsu.edu
(850) 645-9469

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If you need to report and act of sexual misconduct, based on your own experience or if someone disclosed to you, the University has dedicated employees who handle these matters.

If the person being accused of the behavior is a student, then the report/complaint needs to go to the Title IX Director in the Title IX Office. If the person being accused of the behavior is an employee or other third party, then the report/complaint needs to go to the Office of Equal Opportunity and Compliance in Human Resources. The most straightforward way to make a report/complaint is to go to report.fsu.edu.

Making a Complaint or Filing a Report

If you are the Affected Party, or are filing a complaint on behalf of another, you can:



Disclose to anyone in a position of authority, including your: supervisor, Chair, Dean, etc., who will then File a Report.



Disclose directly to the Title IX Director or the Office of Equal Opportunity and Compliance.

If someone has disclosed to you, you must decide if you are a Responsible Employee and determine your reporting obligation:

Err on the side of caution and report.



Make the report, do not investigate!



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Please remember that we are all here to help each out, so it is possible/probable that a student or one of your co-workers may disclose to you information of a personal nature or share situations that are making them uncomfortable. They may not go directly to the Title IX Director or the Office of Equal Opportunity and Compliance to make a complaint. Part of the University's expectations are that you are creating an environment where someone feels like they can get help, but also when they do, you are expected to know how to report the information you receive in order to get them help. It is going to be your responsibility to file a report.

Employee Reporting Obligation

You are considered a Responsible Employee and have a mandatory reporting obligation if the:



Affected party is a student



Affected party is someone you supervise



Incident involves sexual violence



Incident involves a minor

Everyone is encouraged to report - All incidents.

The report must be made within 2 days to the Title IX Director or the Office of Equal Opportunity and Compliance.

Even if you have told: FSUPD, your supervisor, or the Victim Advocate Program, you still need to make an official report.

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The University encourages the reporting of all incidents, as we can't help if we don't know, but there are times as an employee when you will be required to file a report. You are considered a 'Responsible Employee' with a mandatory reporting obligation if the:





- Affected party is a student;
- Affected party is someone you supervise;
- Incident involves sexual violence; or
- Incident involves a minor.

The report must be made within two days to the Title IX Director or the Office of Equal Opportunity and Compliance. To make a report, you can go to report.fsu.edu, send an email, or make a call.

Remember, even if you report the information to others, like FSUPD, your supervisor, or the Victim Advocate Program, you still need to make an official report.

Reporting Triggers

“Knew or Should Have Known” Standard Duty to report & respond if:

-  Any individual mentions/tell you.
Even if it is 2nd or 3rd hand report
(co-workers/police/media).
-  The Affected party or Responding party tell you
directly that an incident occurred or they are
being accused by another.
-  You witness (see or hear) a situation.
-  You hear it through the rumor mill.



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In situations where you are a Responsible Employee, the reporting trigger is anything that you ‘know’ or ‘should know.’ This includes a duty to file a report and respond if:

- Any individual mentions/tells you.
 - Even if it is 2nd or 3rd hand report (co-workers/police/media).
- The Affected party or Responding party (i.e., the accused) tells you directly that an incident occurred or they are being accused by another.
- You witness (see or hear) a situation.
- You hear it through the rumor mill.

When in doubt – report!

Privacy vs Confidentiality



If you are a Responsible Employee in a given situation, you are a mandatory reporter and cannot keep the information confidential. However, you should maintain privacy.



Once a report is made, the Title IX Director or EOC will work with the Affected Party if they wish the matter to remain confidential.



The ONLY Confidential Sources on Campus are:

FSU Victim Advocate Program

Mental health counselors:

- University Counseling Center
- Employee Assistance Program

Medical staff at University Health Center

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Although a person may ask you to keep something confidential, if it is a situation in which you are a Responsible Employee, then by Policy you can't; you need to file a report. What you can do is reassure the person that the information will be handled privately and that the Title IX administrator who reaches out to them will discuss confidentiality options with them. The only employees on campus, who are confidential sources from minute one are:

- FSU Victim Advocate Program
- Mental health counselors:
 - University Counseling Center
 - Employee Assistance Program
- Medical staff at University Health Center

How to Handle a Disclosure

Reassure the individual that you are available to listen and help.

Let them know that certain things they may tell you about (i.e., discrimination or sexual misconduct) will require you to notify University Title IX administrators.

- Requests for confidentiality can be made to the Title IX administrator.
- If they have not already disclosed, provide contact information for the Victim Advocate Program or take them directly to their office.

If disclosed: make sure the person is immediately safe; help the individual contact the Victim Advocate Program; and if requested, call the police. Let the person know who you are making your Title IX report to and that a Title IX administrator will be in contact.

Report to the Title IX Office or Equal Opportunity and Compliance.

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If you are in a situation where someone is disclosing information of a personal nature or that makes them uncomfortable, related to sexual misconduct, you should:

- Reassure the individual that you are available to listen and help.
- Let them know that certain things they may tell you about (i.e., discrimination or sexual misconduct) will require you to notify University Title IX administrators and that requests for confidentiality can be made to the Title IX administrator.
- Provide contact information for the Victim Advocate Program or take them directly to their office if they have not already disclosed.
- If they do disclose: make sure the person is immediately safe; help the individual contact the Victim Advocate Program; and if requested, call the police.
- Let the person know who you are making your Title IX report to and that a Title IX administrator will be in contact with them.

- Report to the Title IX Office or the Office of Equal Opportunity and Compliance.

Eliminating Victim Blaming

Communication with Affected Party should be trauma informed. This means not assigning blame intentionally or inadvertently.

Victim-blaming includes any statement or question that focuses on what a victim of sexual misconduct, especially sexual/dating/domestic violence, did or didn't do.

Implies that the behavior makes them fully or partly responsible.

Doing or saying something that creates doubt of your belief of their experience.

Avoid saying things like:

- *"Did you do anything that could have been misinterpreted?"*
- *"What were you thinking?"* or *"You should have known better."*
- *"Were you drunk?"* or *"What were you wearing?"*
- *"Why didn't you fight back?"*

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Key to being a good listener and being able to get the individual who disclosed help is to not do or say anything that could be perceived as victim blaming. Whether you have a long history with a person or if you just met, make sure you are only acting within your role at the University, and are not doing or saying anything that creates doubt of your believe of their experience. You should avoid saying things like:

- *"Did you do anything that could have been misinterpreted?"*
- *"What were you thinking?"*
- *"You should have known better."*
- *"Were you drunk?"*
- *"What were you wearing?"*
- *"Why didn't you fight back?"*

Yours is the role of listener and reporter, not investigator or judge. Instead you can say things like:

- *"I hear you."*
- *"I see this has clearly upset you"*
- *"I understand you are saying this has been..."* Describe what they have reported to you.
- *"Is there something specific I can do to help?"*
- *"Can I get you in touch with a victim advocate?"* or the police?

Bystander Intervention

Bystander: Anyone in the community who sees or hears about a behavior that could lead to something high risk or harmful. By taking action to intervene on these behaviors, bystanders can help eliminate violence from the community.



Direct

Do something that lets the people involved know that you see what is happening; this can be as simple as a check-in.



Delegate

Engage help from others.



Distract

Think of a distraction that will diffuse the situation or calm things down in the moment.

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We have gone over, in depth, what to do if someone discloses to you related to a situation that has previously occurred. In addition to your reporting obligation, the University also asks that you be willing to intervene during active situations as a bystander. If you are witness to a situation unfolding, that could be prevented or mitigated by getting involved, then we ask that you do so without risking your own safety. There are three general approaches to bystander intervention:

- Direct: Do something that lets the people involved know that you see what is happening; this can be as simple as a check-in.
- Delegate: Engage help from others., including calling the police if needed.
- Distract: Think of a distraction that will diffuse the situation or calm things down in the moment.

The idea is to not just disregard the situation as not your problem. The question to ask is, "Would I want someone to step in on my behalf?" If yes, then are you willing to do the same for others?

Non-Retaliation

Retaliation is prohibited against individuals who:



Make a complaint
(internal/external/lawsuit)



Help someone report



Participate in
investigations



Otherwise oppose
discrimination

Retaliation is Defined Broadly:



Any action that could
discourage a complaint



Any negative
employment/academic
action



Creating a hostile work
environment

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The University wants to ensure that everyone feels they can speak-up and get help if needed. To that end, the University prohibits retaliation against anyone who:

- Makes a complaint (internal/external/lawsuit);
- Helps someone report or fulfills their reporting obligation;
- Participates in an investigation (this includes: complainant, witnesses, and the accused); or
- Otherwise opposes discrimination.

An act of retaliation is defined very broadly; it is considered:

- Any action that could discourage a complaint;
- Any negative employment/academic action because of a complaint; or
- Creating a hostile work environment because of a complaint.

Even if it is determined that the underlying complaint was unsubstantiated, if any of the mentioned actions occurred

because someone participated in a protected activity, that is a distinct violation of Policy.

Vulnerable Persons Act



Florida Law: requires everyone in the state to personally report child abuse to the Florida Department of Children and Families (DCF).
Child Abuse, Abandonment, or Neglect:

- Sexual Harassment
- Sexual Violence



Also report to FSUPD (all) and Human Resources, EOC (if sexual harassment/violence).
They will handle any investigation or referral.
If the child is in immediate danger, call 911, then report to DCF and FSUPD.



FDLE sexual predator and sexual offender registry
Website: <https://offender.fdle.state.fl.us/> or Toll-free #: (888) 357-7332

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We also want to make you aware of your reporting obligations related to the Florida Vulnerable Persons Act. This law is applicable to you as a Florida resident, not just an FSU employee. The law requires that if you know or suspect that a child is being abused, abandoned, or neglected you must report it to the Florida Department of Children and Families. This is applicable both on- and off-campus. Each individual in the know has a distinct reporting obligation.

If the situation is occurring on-campus or during a University activity, you should also call the FSU Police Department. Thirdly, if the incident involves sexual harassment/violence of a minor, it should be reported to the Office of Equal Opportunity and Compliance.

If there is an immediate threat or medical emergency, call 911.

Takeaways

Model appropriate behavior

- Set the tone/culture (professional filter)
- Reporting is encouraged
- Silence and inaction also send a message

Proactively manage class/work environment

- Know your responsibilities
- Actively promote inclusion
- If you see something, say something
- Remind students/Regularly circulate policies
- Take all complaints seriously

Contact Human Resources

- For consultation
- To report incidents BEFORE taking action, especially if recent protected activity (Non-Retaliation)

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Here are a few takeaways from this presentation:

- Model appropriate behavior
 - Set the tone/culture (use your professional filter)
 - Reporting is encouraged
 - Silence and inaction also send a message
- Proactively manage your class/work environment
 - Know your responsibilities
 - Actively promote inclusion
 - If you see something, say something
 - Remind students/Regularly circulate policies
 - Take all complaints seriously
- Contact Human Resources/Office of Equal Opportunity and Compliance
 - For consultation

- To report incidents BEFORE taking action
- Especially if recent protected activity
- Make sure you are not doing anything that can be perceived as retaliation.

Available Resources



(read slide)



THANK YOU

To make a report or get help contact:

Human Resources

Equal Opportunity & Compliance,

(850) 645-6519

eoc@fsu.edu

report.fsu.edu

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