

## **STUDENT MISTREATMENT POLICIES**

### ***EQUAL OPPORTUNITY/ NON-DISCRIMINATION / ANTI-HARASSMENT /NON-RETALIATION POLICY***

It is the policy of the University of Miami and the Miller School of Medicine that no person within the jurisdiction thereof shall, on the basis of race, religion, color, sex, age, disability, sexual orientation, gender identity/expression, veterans status, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or harassment (including all forms of sexual harassment, sexual violence, domestic violence, dating violence, and stalking) under any educational/employment program or activity of the University. Retaliatory actions against any person who has, in good faith, reported a potential violation or participated in a subsequent investigation is also prohibited. The following non-exclusive list of statutes apply:

#### ***TITLE IX, 1972, EDUCATION AMENDMENTS***

"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 in recruitment, admissions, financial aid/scholarships, facilities and housing, course offerings and access, educational programs and activities, counseling, health insurance benefits and services, marital and parental status, athletics, and employment assistance under any education program or activity receiving Federal financial assistance."

#### ***TITLE VII OF THE CIVIL RIGHTS ACT OF 1964***

Title VII makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex in employment.

#### ***TITLE VI, CIVIL RIGHTS ACT OF 1964***

Title VI prohibits exclusion from, participation in, denial of benefits, and discrimination under federally assisted programs on ground of race, color or national origin.

#### ***THE AGE DISCRIMINATION ACT OF 1975 (ADA)***

The ADA prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance. This applies to persons of all ages including non-traditional students. Under the ADA, it is unlawful to exclude a person on the basis of age from participation in, deny benefits, or subject to discrimination, under any program or activity receiving Federal financial assistance.

The University reaffirms its commitment to the concept of nondiscrimination and to providing an educational forum and work environment free of discrimination, harassment, and retaliation. Discrimination, harassment, or retaliation of any kind by any administrator, faculty member, employee, or student is absolutely prohibited. A violation of this policy shall constitute grounds for disciplinary action up to and including dismissal or expulsion from the University of Miami and the Miller School of Medicine.

Federal law and university policies prohibit retaliation against a person who, in good faith, complains about discrimination, files a charge of discrimination, or participates in a discrimination investigation or lawsuit.

All complaints of discrimination, harassment or retaliation brought under the above statutes or any other statute prohibiting discrimination not mentioned above will be addressed in accordance with the Grievance Procedure described below.

### **GRIEVANCE PROCEDURE**

Under the University's grievance procedures, Miller School of Medicine students may address their complaints of discrimination, harassment, or retaliation by reporting such complaints to the University in writing, via secure online reporting system the Physicianship Incident Reporting System:

[http://www.mededu.miami.edu/MedEd/PIRS/index\\_html/PIRS\\_System/Submit\\_Incident\\_Report](http://www.mededu.miami.edu/MedEd/PIRS/index_html/PIRS_System/Submit_Incident_Report) or by calling the 24-hour Mistreatment Reporting Hotline (305-689-2222 or 2-2222 from a campus phone), either informally or formally. Subject to the University's statutory disclosure requirements under the Clery Act or any other applicable statutes, all reasonable efforts will be made to preserve and protect the confidentiality of all parties involved, provided that these efforts do not interfere with the University's ability to investigate and take appropriate corrective action. Students are encouraged to file a complaint within thirty (30) calendar days from the date the incident occurred; however, if extenuating circumstances occur, complaints may be filed later than the 30-day period. Retaliation or subsequent harassment against a student who files such a complaint or participates in an investigation is prohibited.

### **INFORMAL (VERBAL)**

Students, who feel they have been discriminated against or harassed, may contact the Associate/Assistant Dean(s) for Student Services, the Associate/Assistant Dean(s) for Student Affairs, the Senior Associate Dean for Undergraduate Medical Education, Regional Dean for Medical Education or the medical school ombudsman to receive necessary counseling and/or arrange for an investigation of the complaint. Within five (5) working days of the student's complaint, the dean or ombudsman is responsible for notifying the Equality Administration Office (EAO) of the action taken to resolve the matter so that a confidential record can be maintained by the Office of Student Affairs and the EAO.

A student who is not satisfied with the informal resolution to their complaint should file a formal complaint with the Equality Administration Office within ten (10) working days of the receipt of a final response from the appropriate dean or ombudsman to Equality Administration.

### **FORMAL (WRITTEN)**

All formal complaints of discrimination/harassment shall immediately be reported to the Executive Director of Equality Administration in the [Equality Administration Office](#); you can contact the Executive Director through the office by e-mail at [staff.ea@miami.edu](mailto:staff.ea@miami.edu) or by phone at (305) 284-3064. This office will also be available to assist complaint facilitators, ombudsperson, students, administrators, and faculty in the complaint. Any University student who believes that she or he has been subjected to discrimination,

harassment, or retaliation may file a complaint through the appropriate procedures described below.

**A. Students must report their complaints as follows:**

**1. Student - Student Complaint**

Complaints of discrimination, harassment (including sexual violence, domestic violence, dating violence and stalking) or retaliation by a University student against another University student shall be reported to the Associate Dean for Student Affairs; you may contact the Associate Dean through the Office of Student Affairs by e-mail or by phone at (305) 243-2003. Complaints may also be filed online via the Physicianship Incident Reporting System: [http://www.mededu.miami.edu/MedEd/PIRS/index\\_html/PIRS\\_System/Submit\\_Incident\\_Report](http://www.mededu.miami.edu/MedEd/PIRS/index_html/PIRS_System/Submit_Incident_Report) or by calling the 24-hour Mistreatment Reporting Hotline (305-689-2222 or 2-2222 from a campus phone). In cases where the students involved are students of other University schools or colleges, reports should be directed to the Equality Administration Office as noted above. Students who assert complaints of harassment, sexual violence, domestic violence, dating violence, and/or stalking, will be informed of their right to also report the incident/s to the appropriate law enforcement agency. If the student has obtained a judicial no-contact or restraining order as a result of the incident/s, a copy should be provided to the Associate Dean for Student Affairs so that the Miller School of Medicine may take appropriate steps if necessary.

**2. Student - Faculty Complaint**

Complaints of discrimination, harassment or retaliation by a faculty member against a student of the University shall be reported to the Equality Administration Office as noted above. A Faculty Sexual Harassment Counselor will collaborate with the Equality Administration Office and appropriate individuals/other offices as necessary in order to investigate the complaint.

**3. Student - Administrator / Employee Complaint**

Complaints of discrimination, harassment or retaliation by an administrator/employee against a student of the University shall be reported to the Equality Administration Office as noted above. The Equality Administration Office will collaborate with the appropriate individuals/offices as necessary in order to investigate the complaint.

**4. Student - Third Party Complaint**

Complaints of discrimination, harassment, or retaliation by a third party (including visitors, patients, applicants, vendors, others) against a student of the University shall be reported to the Equality Administration Office as noted above. The Equality Administration Office will collaborate with the appropriate individuals/offices, as necessary in order to investigate the complaint.

**B. Complaint Facilitator- Ombudsperson**

In addition to the above persons in positions of authority, students may contact the University ombudsperson who is a member of the University community and serves as a support to the complainant and advisor on the policies and procedures on how to report a grievance. The Ombudsperson's responsibilities shall include listening to complaints and providing necessary counseling on how to handle these concerns, accompanying the individual in a meeting, as appropriate, with the person in position of authority and providing guidance on the University's non-discrimination/anti-harassment grievance

procedures. The processing of complaints by the Ombudsperson shall include involvement by the Equality Administration Office and the Office of Student Affairs. The Ombudsperson shall not make policy, override a policy or investigate a complaint.

The Ombudsperson shall notify the Equality Administration Office immediately of student's complaint and the action taken to address the matter so that a confidential record can be maintained by the Equality Administration Office.

The University Ombudsperson can be reached at: <http://ombudsperson.med.miami.edu/> or via phone at: 305-243-8400.

### **C. Verbal Complaint**

Any student, who believes that she or he is the subject of harassment (including sexual harassment), discrimination, or retaliation, is encouraged to seek resolution by reporting the matter to the appropriate office. The Associate Dean for Student Affairs or Services shall make every reasonable effort (normally within fifteen (15) working days) to promptly inquire into the facts of the charge of discrimination/harassment upon becoming knowledgeable of the complaint. The responsibility of the associate dean is to listen to the student grievance, investigate the facts surrounding the complaint, provide counsel and attempt to achieve a mutual resolution between/among the parties. The complainant has the right to end the informal resolution process at any time and begin the formal grievance procedure by filing a writing complaint.

The associate dean shall, within five (5) working days of the resolution, provide a written statement to the Equality Administration Office specifying the resolution of the problem or complaint.

### **D. Written Complaint**

A student is required to submit a written statement to the Office of Student Affairs (student- student) or the Equality Administration Office for all cases. The written statement is to include the following: the name(s) of the complainant(s), the accused, and any witnesses; the date, time, location, and details of the incident(s); and the desired resolution. Students who do not provide this information may impede a thorough investigation of the complaint. Nonetheless, the student shall receive counseling and guidance from the Office of Student Affairs (student – student) or the Executive Director of the Equality Administration Office for all other cases.

### **E. Investigation**

Upon the filing of a written complaint by a student, the Office of Student Affairs or the Equality Administration Office shall contact the Dean of the Miller School of Medicine of the commencement of the investigation. Normally, the investigating office shall have up to 30 to 60 calendar days to investigate the charges of discrimination/harassment. Such investigations shall consist of, but not limited to, interviewing the parties involved, interviewing witnesses with relevant and material information, and reviewing related supporting documents.

Any individual who knowingly provides false information pursuant in connection with the filing/submission of a complaint of discrimination, harassment or retaliation, or during an investigation will be subject to appropriate discipline, up to and including dismissal from the University.

At the conclusion of the investigation, the Office of Student Affairs or the Equality Administration Office shall notify the Dean of the Miller School of Medicine of the results of the investigation and collaborate on the resolution and implementation of any corrective action, as well as follow up in writing with the student/respondent regarding the complaint. The Office of Student Affairs reserves the right to refer any case to the Dean of Students on the Coral Gables campus for adjudication.

**1.** In cases where the accused is a student and it is determined that the reported behavior may represent a violation/s of the Equal Opportunity/ Non-Discrimination/ Anti-Harassment/Non-Retaliation Policy, the Grievance Procedure Involving Medical Students will be utilized to process the investigation and subsequent case. Please consult the Grievance Procedure Involving Medical Students attached at end of this policy for a detailed description of the disciplinary process. In cases involving alleged violations of the Equal Opportunity/Non-Discrimination/Anti-Harassment/Non-Retaliation Policy, the standard of evidence that will be used will be the preponderance of the evidence standard. Additionally, in connection with the processing of such cases, the complaining and responding parties will have the option to be accompanied by an advisor of their choice. Possible sanctions in response to findings of violations of the Equal Opportunity/Non-Discrimination/ Anti-Harassment/Non-Retaliation Policy may include probation, suspension, dismissal and/or expulsion from the Miller School of Medicine and/or the University. At the conclusion of the investigation and/or the disciplinary proceedings, the students involved will be simultaneously informed, in writing, of the findings and any corrective/disciplinary actions.

**2.** In the case where the accused is faculty member, the matter shall be reviewed by the Miller School's Senior Associate Dean for Faculty Affairs who with the Vice Provost for Faculty Affairs and Provost, shall make a determination as to whether the charge is to be referred to the Committee on Professional Conduct for processing in accordance with the procedures set forth in the Faculty Manual. Further detail is available in the Faculty Manual. Separate and apart from a referral to the Committee on Professional Conduct, the Equality Administration Office, the Vice Provost for Faculty Affairs and/or the Dean of the Miller School of Medicine (or his designee) may take appropriate corrective action(s). At the conclusion of the investigation and/or the proceedings before the Committee on Professional Conduct, the student and the faculty member will be informed of the investigation's findings and any corrective/disciplinary actions.

**3.** In the case where the accused is an administrator/employee, the Equality Administration Office will conduct an investigation and in conjunction with the respective dean/vice president shall implement appropriate corrective action to be taken. At the conclusion of the investigation, the student and the employee will be informed of the investigation's findings and any corrective/disciplinary actions.

A complainant not satisfied with the decision shall have ten (10) working days to request an appeal in writing to the University's Vice President for Human Resources. A request for an appeal by the complainant or respondent shall state specific reasons why the findings/resolution was improper. The appeal is limited to considering evidence not previously available to the Equality Administration office (or designee). The Equality Administration Office will provide the Vice President with the written record of the investigation, the decision and other appropriate documentation not previously available.

The Vice President for Human Resources shall review the findings and respond to the request within ten (10) working days. If the Vice President for Human Resources determines that the decision is not supported by the evidence, the complaint will be reopened for further investigation. If the Vice President for Human Resources determines that the investigation was thorough and complete, the request for an appeal shall be denied, and the complainant/respondent will be notified that the internal discrimination complaint procedure is complete. The decision of the Vice President will be final.

#### **F. Time Limits**

Complaints of harassment, discrimination, or retaliation, both formal and informal, should be filed within thirty (30) calendar days from the date the most recent incident occurred. In addition, the Office of Civil Rights imposes a one hundred eighty (180) day time limit on filing a complaint.

#### **G. Off Campus Programs and Activities**

Students who feel that they have experienced discrimination, harassment, or retaliation while participating in off-campus programs and activities should immediately report such incidents to the Office of Student Affairs or the Equality Administration Office. Off-campus programs and activities include, but are not limited to, medical mission trips, national and international externships, applied learning experiences and or social activities.

### **GLOSSARY OF TERMS**

#### **Assault**

To threaten bodily harm or discomfort to another person or commit or aid in the commission of an act that causes bodily harm or discomfort to another person is prohibited. (For University purposes, self-defense or defense of another is limited only to the use of force sufficient to protect a person from injury by another.)

#### **Consensual Relationships**

To avoid the appearance of a conflict of interest, favoritism, or bias in the workplace, which may be prejudicial to the interests of the University, its members, and the public interest it serves, and to help insure that each member of the UM community is treated with dignity and without regard to other factors that are not relevant to that person's work. Amorous, romantic or sexual relationships ("amorous relationships") between members of the University community, where one of the parties has academic, supervisory, administrative or other authority over a subordinate (junior) party are highly problematic, even when entirely consensual. The amorous relationship may create, or be perceived as creating a conflict of interest that undermines the objectivity of evaluations.

#### **Policy**

Members of the University community are prohibited from entering into amorous relationships with persons over whom they have evaluative authority.

Supervisors who engage in an amorous relationship must take whatever steps are necessary to ensure that they do not simultaneously have evaluative authority and an amorous relationship in a way that disadvantages the subordinate (junior) party.

### **Procedures**

Such steps may include, for example, withdrawing from a position as thesis advisor or teaching assistant supervisor. These steps should be taken in a way that does not disadvantage the junior party. If an amorous relationship develops with a subordinate / junior party (student) the supervisor/senior party (teaching assistant) must report the situation to the relevant program director, department chair, or dean, who will act to determine the best means of resolving potential conflicts and shall maintain the confidentiality of the information.

Failure to comply with this policy is prohibited.

### **Dating Violence**

Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.

### **Domestic Violence**

Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

### **Harassment or Harm to Others**

Any words or acts, whether intentional or a product of the disregard for the safety, rights, or welfare of others, which cause or result in physical or emotional harm to others, or which intimidate, degrade, demean, threaten, haze or otherwise interfere with another person's rightful actions or comfort is prohibited.

### **Hazing**

Hazing and/or hazing-related activities are prohibited.

### **Retaliation**

To harass, threaten, or otherwise commit an act against another person who has reported a possible policy violation or who has participated in an investigation into the possible violation of a policy is prohibited.

### **Sexual Assault / Battery**

Non-consensual oral, anal, or vaginal penetration by or union with the sexual organ of another or by any other object is prohibited.

### **Sexual Harassment**

Sexual harassment is a form of discrimination covered under Title IX, 1972, Education Amendments and Title VII of the Civil Rights Act of 1964. Sexual harassment includes, but is not limited to, physical or verbal abuse of a sexual nature including graphic commentaries about an individual's body, sexually degrading remarks used to describe an individual, or unwelcome propositions and physical advances of a sexual nature. Sexual harassment also includes the threat or insinuation that sexual submission or the lack thereof will be used as a basis for employment or education decisions affecting or interfering with an individual's salary, academic standing or other conditions of employment, academic, or career development.

**Sexual Violence**

Sexual violence shall refer to 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.

**Stalking**

Stalking means a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

**Unauthorized Entry**

Any student who enters, attempts to enter, or remains in or on top of any room, building, motor vehicle, trailer, machinery or other structure without proper authorization may be subject to University disciplinary action, as well as arrest and prosecution by legal authorities.