

## **Palmetto College Non-Harassment Policy**

USC recognizes the human dignity of each member of the University community and believes that each member has a responsibility to promote respect and dignity for others so that all faculty, staff and students are free to pursue their goals in an open environment, able to participate in the free exchange of ideas, and able to share equally in the benefits of the University's employment and education opportunities. To achieve this end, the University believes it should foster an academic, social, and living environment that is free from discrimination and harassment based on race, sex, gender, gender identity, transgender status, age, color, religion, national origin, disability, sexual orientation, genetics, protected veteran status, pregnancy, childbirth, related medical conditions or any other category protected by law.

The University is also committed to the principles of academic freedom and believes that a learning environment where the open exchange of ideas is encouraged and integral to the mission of the University. The University vigorously embraces faculty, staff, and student rights to the legitimate freedom of expression, speech, and association.

Nothing in this policy is intended to impede the exercise of those rights protected under the First Amendment of the U.S. Constitution. The University recognizes that the conduct prohibited in this policy extends to behavior and speech that is not constitutionally protected and which limits or denies the rights of faculty, staff and students to participate or benefit in the employment and educational program.

The standard mandated by this policy represents the bare minimum of acceptable behavior. The University's commitment to civility, mutual respect, and tolerance to "respect the dignity of all persons," as expressed in the Carolinian Creed - should cause the members of the University community to adhere to an even higher standard of behavior in these matters• not because we are required to do so, but because conscience dictates it.

### **Policy**

It is the policy of the University of South Carolina to ensure that all faculty, staff and students are able to work, learn and live in an educational and campus environment that is free from discrimination and harassment based of race, sex, gender, gender identity, transgender status, age, color, religion, national origin, disability, sexual orientation, genetics, protected veteran status, pregnancy, childbirth or related medical conditions or any other category protected by law, in all programs, activities, and services of the University.

This policy recognizes federally protected categories of faculty, staff, and student characteristics as well as those characteristics protected as a matter of USC policy.

### **Scope**

This policy applies to the conduct of faculty, staff, and students in all aspects of employment, academic, residential, athletic, and social activities, operations, and programs at the University. Any faculty, staff student or student organization that violates this policy shall be subject to disciplinary action up to and including suspension and expulsion from the University. Violations of this policy are a conduct offense and will be handled under the USC or campus Student Code of Conduct, as appropriate.

## **Definitions of Prohibited Conduct**

### **Discrimination**

Discrimination is the unfair or unequal treatment of an individual or a group based upon race, sex, gender, gender identity, transgender status, age, color, religion, national origin, disability, sexual orientation, genetics, protected veteran status, pregnancy, childbirth, related medical conditions or any other category protected by law, that interferes with or limits the ability of an individual or group to participate in or benefit from the services, activities, or privileges provided by the University.

### **Harassment**

Harassment is a specific type of illegal discrimination. It includes conduct (oral, written, graphic, or physical) which is directed against any faculty, staff, student or group of students because of or based upon one or more of the characteristics articulated above, that is sufficiently severe, pervasive, or persistent to interfere with or limit the ability of an individual or group to participate in or benefit from the programs, services, and activities provided by the University. Such harmful conduct may include, but is not limited to, objectionable epithets, demeaning depictions, or treatment, and threatened or actual abuse or harm. Harassment does not include the use of materials by students or discussions involving students related to any characteristic articulated above for academic purposes appropriate to the academic context.

### **Sexual Harassment**

Sexual harassment is also included in this policy. Sexual harassment is a specific type of discrimination, which is defined as unwelcome conduct of a sexual nature that is sufficiently severe, or pervasive that it adversely affects a faculty, staff, student or student group's ability to participate in or benefit from the programs and services provided by the University. Examples of conduct that may constitute sexual harassment in violation of this policy include, but are not limited to, the following types of unwelcome and harmful behavior:

#### **Physical Conduct**

- Unnecessary or unwanted touching, patting, massaging, etc.
- Impeding or blocking movements
- Acts of sexual violence
- Other unwanted conduct of a physical nature

#### **Non-Verbal Conduct**

- Suggestive or insulting gestures or sounds

#### **Verbal Conduct**

- Direct propositions of a sexual nature
- Sexual innuendos and other sexually suggestive or provocative behavior
- Repeated, unwanted requests for dates
- Repeated inappropriate personal comments
- Unwelcome and inappropriate letters, telephone calls, electronic mail, or other communication or gifts
- Requests for sexual favors

Sexual harassment may occur between members of the same or opposite sex. Sexual harassment directed at any student or other member of the University community, regardless of his or her sexual

orientation is a violation of this policy. Sexual harassment does not refer to occasional, nonsexual compliments, nonsexual touching, or other nonsexual conduct.

### **Sexual Assault**

The University of South Carolina, as an institution, recognizes that sexual assault and acts of interpersonal violence (including harassment and stalking) and prevention education are serious issues to our community. The university will not tolerate acts of sexual assault and interpersonal violence. All reported instances will be investigated and appropriate disciplinary, criminal, and/or legal action will be taken. Appropriate support services will be made available to faculty, staff, and students. This policy applies to all members of the University community regardless of sexual orientation or gender identity.

As members of the University community, all individuals are expected to comply with and abide by the University policies and guidelines- and, Title IX, in addition to other federal, state, and local laws, whether off campus or on-campus. The use of alcohol and other drugs in conjunction with an incident of sexual assault and/or acts of violence does not mitigate accountability for the commission of these acts or diminish the seriousness of the offense.

Any act that constitutes a sexual assault or interpersonal violence of another person will not be tolerated and is a violation of the University policies and Code of Student Conduct and may result in sanctions up to and including expulsion from the University. Disciplinary action on the part of the university does not preclude the possibility of criminal charges against the individual.

### **Rationale**

Acts of sexual assault and interpersonal violence interfere with the educational mission by:

- Endangering the physical and emotional safety of community members
- Damaging trust in the community
- Offending the dignity and violating the autonomy of community members
- Disrupting the academic progress of victims or survivors during the abusive relationship and during any subsequent attempt at recovery.

The University strongly encourages all members of the campus community to provide a written or verbal report to the university police regarding any incident of sexual assault or violence. Whether legal or disciplinary action is desired, an anonymous report may be filed at any time with the following campuses. This report provides University staff with information about the crime that may be valuable in their efforts to prevent future crimes and educate others.

### **USC Lancaster**

[https://www.sc.edu/about/system\\_and\\_campuses/lancaster/internal/faculty\\_and\\_staff/human\\_resources/non\\_harassment\\_policy/index.php](https://www.sc.edu/about/system_and_campuses/lancaster/internal/faculty_and_staff/human_resources/non_harassment_policy/index.php)

### **USC Salkehatchie**

[https://sc.edu/about/system\\_and\\_campuses/salkehatchie/internal/notices/index.php](https://sc.edu/about/system_and_campuses/salkehatchie/internal/notices/index.php)

### **USC Sumter**

[https://www.sc.edu/about/system\\_and\\_campuses/sumter/internal/non\\_harassment\\_policy.php](https://www.sc.edu/about/system_and_campuses/sumter/internal/non_harassment_policy.php)

### **USC Union**

[https://sc.edu/about/system\\_and\\_campuses/union/internal/title\\_ix/](https://sc.edu/about/system_and_campuses/union/internal/title_ix/)

## **University Definitions**

For the purposes of this policy and related procedures, the term sexual assault is defined as one or more of the following:

### **Offensive Touching Sexual Assault**

The touching of intimate parts (such as genitalia, groin, breast, buttocks, mouth, and/or clothing covering them); touching an unwilling person with one's own intimate parts; or forcing an unwilling person to touch another's intimate parts.

### **Non-consensual Sexual Assault**

Unwilling or non-consensual penetration of any bodily opening with any objects or body part. This includes but is not limited to penetration of a bodily opening without consent using coercion.

### **Forced Sexual Assault**

Unwilling or non-consensual penetration of any bodily opening with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another's mental or physical condition of which the assailant was aware or should have been aware.

### **Consent**

To permit, approve or agree to comply or act. Consent must have the following elements:

- Both individuals are physically free and capable to act.
- Someone who is incapacitated cannot consent. Incapacity can result from any situation or condition that prevents a person from having the capacity to give consent, including but not limited to the following: the use of drugs or alcohol, when a person is asleep or unconscious, or because of an intellectual or other disability.
- Both individuals are fully conscious.
- Consent can be withdrawn at any time.
- Both are clear about their intent to engage in sexual activities and their desire to do so is willing.
- Silence or an absence of resistance does not in and of itself constitute consent, force, or threat of either cancels consent.
- Past consent of sexual activities does not imply ongoing future consent.

Consent to engage in sexual activity with one person does not give consent to engage in sexual activity with someone else.

Confidential Resources - Confidential reporting resources are not required to report the survivor's identity when reporting the incident to campus and/or local authorities. Confidential resources on and/or for each of the Palmetto Campuses are indicated by clicking on the campus link provided below.

### **Palmetto College Columbia**

[https://sc.edu/about/initiatives/safety/stop\\_sexual\\_assault/index.php](https://sc.edu/about/initiatives/safety/stop_sexual_assault/index.php)

### **USC Lancaster**

[https://www.sc.edu/about/system\\_and\\_campuses/lancaster/internal/faculty\\_and\\_staff/human\\_resources/non\\_harassment\\_policy/index.php](https://www.sc.edu/about/system_and_campuses/lancaster/internal/faculty_and_staff/human_resources/non_harassment_policy/index.php)

### **USC Salkehatchie**

[https://sc.edu/about/system\\_and\\_campuses/salkehatchie/internal/notices/index.php](https://sc.edu/about/system_and_campuses/salkehatchie/internal/notices/index.php)

### **USC Sumter**

[https://www.sc.edu/about/system\\_and\\_campuses/sumter/internal/non\\_harassment\\_policy.php](https://www.sc.edu/about/system_and_campuses/sumter/internal/non_harassment_policy.php)

### **USC Union**

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### **Victim's Bill of Rights**

Victims of sexual assault who report their experience to University officials can anticipate that:

- All sexual assaults will be treated seriously.
- Victims will be treated with dignity and respect and in a nonjudgmental manner.
- Campus organizations and services that can assist victims will be identified.
- When a crime is reported to University officials, those officials will help in notifying proper authorities.
- When victims report and choose to pursue action against alleged assailants, assaults will be investigated and adjudicated by appropriate criminal and/or University authorities.
- University personnel will not discourage victims from reporting, nor encourage them to underreport or report the incident as a lesser crime.
- Victims may invite an advisor they choose to accompany them through University disciplinary proceedings.
- A victim will be notified of the outcome of related University disciplinary proceeding. The victim and the charged student must respect the privacy of all involved.
- University personnel will cooperate in obtaining, securing, and maintaining evidence (including a medical examination), necessary in legal proceedings.
- Victims will be made aware of any State or Federal laws regarding mandatory testing of sexual assault suspects for communicable disease and whether these professionals can notify a victim of the results of these tests.
- Victims will be notified of mental health services available.
- Victims will be afforded the opportunity to request immediate transfer of classes or other steps to prevent unnecessary or unwanted contact or proximity to an alleged assailant when reasonably available.
- All faculty, staff and students have the right to an environment free from sexual or physical intimidation, or any continuing disruptive behavior that would prevent a reasonable person from attaining their educational goals. Disruptive behavior of this nature should be reported to appropriate University staff, so it can be addressed.
- The sexual history of the victim is not considered relevant to the truth of the allegation; therefore, information regarding sexual history external to the relationship between the victim and the alleged assailant will not be considered in discipline hearings.

**Responsible employees include, but are not necessarily limited to**

- President
- Chancellors
- Provost
- Vice President for Student Affairs and other Student Affairs Staff
- Athletics Director and Associate/Assistant Athletics Director and Coaches
- Deans
- Department Chairs/Heads
- Director of University Housing and other Housing Staff
- Student Conduct Staff
- Equal Opportunity Programs Director and Staff
- Law Enforcement/Security Personnel
- Resident Mentors
- Student Organization Advisors
- Faculty Advisors
- Greek Life Advisors

**Palmetto College Campuses Procedures**

Any faculty, staff or student may file a complaint against another student, student organization, faculty, staff or other member of the University community who is believed to have violated this policy or otherwise engaged in discriminatory or harassing behavior.

The following Palmetto College Campus Officials serve as the lead offices for the receipt and investigation of all complaints of discrimination and harassment involving members of the University community, including complaints involving faculty, staff, students, and student organizations. Any faculty, staff or student who believe they have been subjected to discrimination or harassment, or who has knowledge of or has witnessed discriminatory or harassing actions, should contact the appropriate Palmetto College Campus Official listed below.

**USC Lancaster**

Student Complaints	Todd Lekan, Associate Dean of Academic and Student Affairs Phone: 803-313-7009 Email: <a href="mailto:tlekan@mailbox.sc.edu">tlekan@mailbox.sc.edu</a>
Faculty/Staff Complaints	Tracey Mobley-Chavous, Human Resources Manager Phone: 803-313-7152 Email: <a href="mailto:tmobley@mailbox.sc.edu">tmobley@mailbox.sc.edu</a>

**USC Salkehatchie**

Student Complaints	Bryan Love, Associate Dean of Academic and Student Affairs Phone: 803-812-7466 Email: <a href="mailto:bryanlov@mailbox.sc.edu">bryanlov@mailbox.sc.edu</a>
Faculty/Staff Complaints	Lisa Bonnette, Human Resources Manager Phone: 803-812-7361 Email: <a href="mailto:lisarj@mailbox.sc.edu">lisarj@mailbox.sc.edu</a>

**USC Sumter**

Student Complaints	Kristopher Weissmann, Director of Student Affairs Phone: 803-938-3763 Email: <a href="mailto:weissmak@uscsumter.edu">weissmak@uscsumter.edu</a>
Faculty/Staff Complaints	Marchetta Williams, Human Resources Manager Phone: 803-938-3721 Email: <a href="mailto:mlwillia@uscsumter.edu">mlwillia@uscsumter.edu</a>

**USC Union**

Student Complaints	Randy Lowell, Associate Dean of Academic and Student Affairs Phone: 864-424-8046 Email: <a href="mailto:lowell@mailbox.sc.edu">lowell@mailbox.sc.edu</a>
Faculty/Staff Complaints	Susan Jett, Human Resources Manager Phone: 864-424-8027 Email: <a href="mailto:jettsp@mailbox.sc.edu">jettsp@mailbox.sc.edu</a>

## **Complaint Procedures**

The designated Palmetto College Campus Official will ensure that the complaint is fairly and expeditiously investigated and if necessary, that appropriate sanctions are assessed.

In the event of an anonymous or victimless complaint, the Palmetto College Campus Official will investigate such complaints to the greatest extent possible. The Palmetto College Campus Official will interview any witnesses to the acts and, if alleged offenders are identified, the alleged offenders. The Palmetto College Official will then issue a report of findings to the Campus Dean and Office of the Palmetto College Chancellor.

Once a report of discrimination or harassment is received by the Palmetto College Campus Official, unless the complaint is anonymous, the Palmetto College Campus Official will contact the individual who has made the complaint (“complainant”) to discuss confidentially the specifics of the complaint and provide guidance and information regarding the resolution process. If the complaint has been resolved, the Palmetto College Campus Official will ensure that the complainant is satisfied with the resolution and determine whether further investigation is warranted.

Complainants will be asked to provide the following information: a description of the alleged acts, the date(s) the alleged acts occurred, the names, if known, of the individual(s) or group(s) allegedly engaging in discriminatory or harassing acts, and the names of witnesses, if any. If the complainant wishes his or her name not be disclosed, the Palmetto College Campus Official will explain that such a confidentiality request may limit the ability of the University to respond but that the Palmetto College Campus Official will take all reasonable steps to investigate consistent with the complainant’s request as long as doing so does not prevent the Palmetto College Campus Official from responding effectively to the complaint or prevents the Palmetto College Campus Official from stopping potential discrimination or harassment of others. In all situations, the Palmetto College Campus Official will take every effort, to the extent allowed by law, to protect the privacy of the persons involved. The number of persons with knowledge of the complaint shall be kept to a minimum and only those persons with a need to know will be notified of the complaint. Following this initial meeting, the faculty, staff, or student may choose not to pursue the complaint request informal resolution by the Palmetto College Campus Official or proceed with a formal complaint with the Palmetto College Campus Official.

If the Palmetto College Campus Official determines the complaint is one that can be resolved informally, the Palmetto College Campus Official will explain the informal resolution process to the complainant and if the complainant agrees, the Palmetto College Campus Official will proceed with informal resolution. Some complaints are not appropriate for informal resolution, such as sexual assault complaints or complaints that involve violence or a threat of violence. In the event a complainant withdraws their complaint before resolution is accomplished, the Palmetto College Campus Official will continue to investigate the complaint to the extent possible to determine what occurred and then recommend, if appropriate, steps to remedy the situation.

In certain circumstances, the University may impose emergency action upon a faculty, staff, student or student organization when there is reason to believe, based upon available evidence, that the faculty, staff, student or student organization poses an immediate threat to the safety, health, or welfare of persons, property, or to the orderly operation of the University. Such emergency action can include, but is not limited to, suspension, limitation of privileges, orders of no contact, or housing relocation or removal. Emergency action is interim in nature pending the outcome of conduct procedures. In cases involving potential criminal conduct, the Palmetto College Campus Official will determine whether appropriate law enforcement authorities should be notified.

## **Resolution Procedures**

### **Informal Resolution**

The informal resolution process is intended to be flexible to enable the Palmetto College Campus Official to address a complaint in the most effective and expeditious manner possible. Informal resolutions are accomplished with the consent of the complainant and assistance of other offices or administrators on campus in the area relevant to the complaint. The complainant, after receiving explanation of the informal resolution process, will be asked to sign a form consenting to informal resolution.

Informal resolution may be achieved by: (a) action taken by the complainant, when appropriate, to address the matter directly with the alleged offender; (b) action to negotiate a resolution undertaken by the Palmetto College Campus Official, with the consent of both parties; or (c) mediation undertaken by the Palmetto College Campus Official, with the consent of both parties. The complainant, at his or her discretion, may end the informal process and begin the formal resolution process at any time. Although the process focuses on conciliation, not sanctions, disciplinary action, including an oral or written warning may be issued if agreed upon by all parties. In all cases in which informal resolution is achieved, the Palmetto College Campus Official will make a written report of the resolution to file with the copy of the complaint. In the event an oral or written warning is issued to an alleged offender, if the alleged offender is an employee, a copy of the warning is sent to employee's supervisor. In the case of a student or student organization, a copy of the warning is sent to the Campus Dean and the Palmetto College Office of the Chancellor. If the complaint is not settled by informal resolution, the Palmetto College Campus Official will proceed to formal resolution.

### **Formal Resolution**

In a formal resolution process, the Palmetto College Campus Official will provide a copy of the complaint to the alleged offender within five (5) business days personally, by certified mail, return receipt requested, or electronically (by a means capable of verifying delivery). The alleged offender ("respondent") will have five (5) business days in which to respond in writing to the complaint. A copy of the respondent's response will be provided to the complainant, who will have five (5) business days to respond in writing to the alleged offender's response.

### **Complaint Investigation**

The Palmetto College Campus Official will interview the complainant, the respondent, witnesses identified by the parties, and anyone else whom the investigator believes may have knowledge of the facts regarding the complaint. The Palmetto College Campus Official may conduct independent research regarding the facts of the complaint. Investigations are normally completed within 35 working days but if warranted by circumstances, this time may be increased at the discretion of the Palmetto College Campus Official.

### **Complaint Findings**

Based on the information obtained during the investigation, the Palmetto College Campus Official will issue a report of its findings to the complainant and respondent. There are two categories of findings: (1) no reasonable cause to believe illegal discrimination or harassment occurred, or (2) reasonable cause to believe a violation has occurred.

In the event the Palmetto College Campus Official finds there is no reasonable cause to believe that illegal discrimination or harassment occurred, the complaint will be dismissed, and the complainant will be advised that if they are dissatisfied with the decision, a complaint may be filed with the Office for Civil Rights of the United States Department of Education or the Civil Rights Division of the United States Department of Justice.



In the event the Palmetto College Campus Official finds that there is reasonable cause that a faculty, staff, student or student organization engaged in illegal discrimination or harassment, the Palmetto College Campus Official will issue a report of findings, along with recommendation as to appropriate sanctions. If the student is also an employee of the University, and the conduct involves the student's capacity as a University employee, the report must also be forwarded to the student respondent's immediate administrative official. The report of findings will include a statement of the complaint, a chronology of the investigation, the information discovered, witness summaries, a list of documents pertinent to the investigation, the findings of the Palmetto College Campus Official, and any recommended sanctions the Palmetto College Campus Official believes are warranted.

### **Student Hearing Procedures**

The Palmetto College Campus Office of Student Conduct will then send written notification to the accused student or student organization representative indicating the nature of the complaint. The student or student organization representative will be given the opportunity to meet with the Palmetto College Campus Office of Student Conduct to discuss the allegations.

Failure of the student or student organization representative to meet with the Palmetto College Campus Office of Student Conduct could result in disciplinary action being imposed based on the available evidence.

If the student or student organization representative disagrees with the finding of the Palmetto College Campus Office of Student Conduct or the recommended disciplinary action, the student or student organization representative is offered several options to resolve the charges, including an informal administrative hearing, a formal administrative hearing, a University conduct hearing or mediation. At any such hearing, the Palmetto College Campus Official investigator will present the report of findings. The procedures for these hearings are fully described in the Code of Student Conduct section of the handbook.

Decisions resulting from administrative hearings or a University conduct hearing may be appealed by a student or a student organization to the Palmetto College Campus Dean in the following limited situations: (1) there was a procedural error committed in hearing the case which significantly prejudiced the findings; or (2) new evidence, which could not have been available at the time of the hearing and which is material to the outcome of the case, becomes available. The procedure for appeal is fully described in the Code of Student Conduct section of the handbook.

### **Student Sanctions**

The Palmetto College Campus Official and the Student Discipline Committee may recommend sanctions to the appropriate hearing tribunal. Disciplinary action for student or student organization violations of this policy may include a variety of sanctions.

The severity of the sanctions is determined by several factors, including but not limited to:

- whether there was physical harm or threat of physical harm to others
- whether there was violence or the threat of violence
- whether there was damage to University or student property
- whether the respondent had engaged in similar conduct in the past
- whether the proposed sanction will provide education and training to deter future violations
- whether the proposed sanction will make the victim whole
- whether the proposed sanction will increase the University community's awareness of student discrimination and harassment

Sanctions for individual student violations may include the following:

- expulsion
- suspension

- conduct probation
- conditions/restrictions on University privileges
- written warning
- fines and restitution
- housing sanctions
- required attendance at educational or community service events
- any other sanctions deemed appropriate by the Palmetto College Campus Dean and Office of the Student Discipline Committee

Sanctions for student organization violations may include the following:

- permanent revocation of organizational registration
- suspension of rights and privileges for a specified period
- conduct probation, conditions/restrictions
- written warning, fines, and restitution
- required attendance at education or community service events
- any other sanctions deemed appropriate by the Palmetto College Campus Dean and Office of the Student Discipline Committee

### **Record Keeping**

While a complaint is being investigated, all evidence regarding the complaint must be maintained in the confidential files of the Palmetto College Campus Official handling the complaint and once the complaint is resolved all records regarding the complaint will be kept in confidential files within the Palmetto College Campus Official. These records will include the complaint, recordings, interview notes, witness statements, correspondence, investigation summaries and reports, and documentation of remedial actions. Access to these records shall be on a need to know basis only. These records will be maintained for a minimum of five years.

### **Non-Retaliation**

It is a violation of this policy for any person to retaliate, intimidate or take reprisals against a person who has filed a complaint, testified, assisted or participated in any manner in the investigation or resolution of a complaint of discrimination or harassment. Appropriate disciplinary actions shall be taken against any person who has been found to have violated this policy.

### **Reporting and Monitoring**

The Palmetto College Campus Dean will provide an annual report to the Palmetto College Office of the Chancellor summarizing the discrimination and harassment complaints and the resolution (informal and formal) of such complaints.

### **Dissemination and Training**

The Palmetto College Campus Official is responsible for ensuring that all faculty, staff, and students at the Palmetto College Campus are aware of their right to be free from discrimination and harassment. To achieve this goal, all new students will be informed of this policy and their rights and obligations under it during orientation.

Training will be provided to faculty, staff and students and student organizations to understand their rights and obligations under the policy, to whom to report violations, and the procedures for investigations and hearings. Training will also be provided to faculty and staff members who interact with students in order that these individuals understand their responsibility to report any incidents of discrimination or harassment report to or observed by them.