



UNIVERSITY OF MIAMI POLICY AND PROCEDURE MANUAL

TITLE:	Policy on Protection of Youth and Mandatory Reporting of Child Abuse, Neglect or Abandonment	REFERENCE: Florida Statute §39.201 - 39.206, as amended from time to time (“Florida Statutes”)
CATEGORY:	University-wide	PAGE: 1 of 9
APPROVER:	Office of Human Resources	EFFECTIVE: May 1, 2018

I. PURPOSE

This purpose of this Policy is to provide guidance to all members of the University of Miami (“University” or “UM”) community regarding the mandatory requirements in Florida law that govern the reporting of suspected Child Maltreatment.

“Child Maltreatment”, as used in this Policy, means the abuse (including sexual abuse), abandonment, or neglect of a child.

This Policy supersedes any conflicting information contained in any University policy or procedure with respect to the definitions of, or procedures relating to, Child Maltreatment.

II. SCOPE

This Policy applies to UM Students (defined below); University employees, including all officers, professional staff and administrators (“Employees”); University faculty, including adjunct and visiting faculty (“Faculty”); University affiliates, including contractors, vendors, volunteers, preceptors and on-site supervisors for clinical rotations, or other third parties within the University’s control (“Affiliates”); and other visitors or guests of the University (“Guests”).

- As used in this Policy, “UM Students” means any student, including visiting students, enrolled full-time, part-time, to audit a course, or to participate in a medical residency program, at any University campus, under the auspices of the University, and/or using the University resources.

Related University policies and procedures, include, but may not be limited to:

- University Procedures for Policy on Protection of Youth and Mandatory Reporting of Child Abuse, Neglect or Abandonment; and
- [University Sexual Misconduct Policy](#).

A UM Student, Employee, or Faculty determined to have engaged in, or failed to report, Child Maltreatment shall be in violation of this Policy, and subject to disciplinary action, up to and including separation from the University. Affiliates or Guests who violate this Policy may have

their relationship with the University terminated and/or their privileges and access to the University's premises revoked.

This Policy is not limited solely to the University's campuses. Many University students, faculty and staff work with, supervise, or are under supervision of, employees of the University's affiliates and teaching sites (including, without limitation, placements for internships, externships, or clinical rotations, with solo practitioners, business entities, governmental agencies, or hospital sites such as Jackson Memorial Hospital, John F. Kennedy Hospital, and Veterans' Administration Medical Center).

The University reserves the right to take action against any member of the University community who commits an act of Child Maltreatment outside the scope of this Policy.

III. POLICY

The University is committed to the protection, safety and welfare of children who come into contact with members of the University community, and requires registration, screening, and periodic training for all persons involved in youth programs to identify and address issues that may affect the youth in the University community.

In the State of Florida, any person who knows, or has reasonable cause to suspect, that a child is being, is in danger of being, or has been in the past, subjected to abuse (including sexual abuse), abandonment, or neglect, must immediately report this information to the Florida Department of Children and Families ("DCF"), regardless of where it occurs, in order that no harm comes to the child.

Any University employee who receives information from a faculty, staff, other employee, student, affiliate, volunteer, guest or child, of known or suspected Child Maltreatment committed either:

- (a) on University property; or
- (b) during a University-sponsored event, program or activity,

is required to report such information directly both to (i) DCF and (ii) the University Title IX Coordinator.

If the child is in imminent danger or risk of harm and requires immediate protection, contact the University of Miami Police Department or 911 prior to contacting DCF.

Any member of the University community found to be in violation of this Policy is subject to appropriate discipline, up to and including separation from the University. Retaliation against anyone who files a good faith complaint of Child Maltreatment, anyone against whom a complaint of Child Maltreatment is filed, or anyone who participates in an investigation of Child Maltreatment, is prohibited. Likewise, the University will not tolerate or condone the deliberate filing of false accusations. An individual found to have made, or encouraged another to make, a bad faith complaint is in violation of University Policy and may be subject to disciplinary action.

IV. DEFINITIONS

For purposes of this Policy, the following definitions apply:

- A. **"Abandoned" or "Abandonment"** means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or

has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this subsection, “establish or maintain a substantial and positive relationship” includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities.

- B. **Abuse** means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.
- C. **Adult** means any natural person other than a child.
- D. **“Child” or “youth”** means any unmarried person under the age of 18 years who has not been emancipated by order of the court.
- E. **Harm** to a child’s health or welfare can occur when any person:
 - 1. Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury.
 - 2. Commits, or allows to be committed, sexual battery, or lewd or lascivious acts, against the child.
 - 3. Allows, encourages, or forces the sexual exploitation of a child,
 - 4. Exploits a child, or allows a child to be exploited;
 - 5. Abandons the child.
 - 6. Neglects the child.
 - 7. Exposes a child to a controlled substance or alcohol.
 - 8. Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control a child.
 - 9. Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
 - 10. Negligently fails to protect a child in their care from inflicted physical, mental, or sexual injury caused by the acts of another.
 - 11. Has allowed a child’s sibling to die as a result of abuse, abandonment, or neglect.
 - 12. Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.
- F. **Institutional child abuse or neglect** means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child’s care.
- G. **Mandatory Reporter** means any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected.
- H. **Neglect** occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired.

- I. **Professionally Mandatory Reporters** mean anyone who is legally required to provide their name to the DCF Abuse Hotline when reporting Child Maltreatment. Professionally Mandatory Reporters include, but are not limited to:
1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
 2. Health or mental health professional other than one listed in subparagraph 1;
 3. Practitioner who relies solely on spiritual means for healing;
 4. School teacher or other school official or personnel;
 5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
 6. Law enforcement officer; or
 7. Judge.
- J. **Retaliation** means any adverse action taken against an individual for making a good faith report of Child Maltreatment or participating in any investigation or proceeding as a result of such report. Retaliation includes threatening, intimidating, harassing or any other conduct that would discourage a reasonable person from performing their duties under this Policy.
- K. **Victim** means any child who has sustained or is threatened with physical, mental, or emotional injury identified in a report involving child abuse, neglect, or abandonment, or child-on-child sexual abuse.
- L. **Youth Program** means any camp, visit, program or activity that:
1. Involves any youth who are (a) not enrolled or accepted for enrollment in credit-granting courses at the University; or (b) not an employee of the University; and
 2. Either (a) takes place in a University facility; or (b) is sponsored, recognized or authorized by the University, whether on-campus or off-campus.

V. TITLE IX COORDINATOR AND COMPLIANCE OVERSIGHT

- A. The **Title IX Coordinator** is the University's representative responsible for monitoring compliance with this Policy, as well as related applicable statutes and regulations concerning the prohibition of Child Maltreatment in University programs and activities. The Title IX Coordinator is also responsible for providing education and training regarding this Policy, and any applicable procedures as set forth in this Policy. The Title IX Coordinator is available to assist all members of the University community, on all University campuses, with any questions about this Policy.
- B. The Title IX Coordinator is authorized to establish University-wide procedures regarding compliance with this Policy, and to implement the following requirements:
1. The Youth Program must be registered with the University prior to start, and must meet applicable standards for the protection of youth and mandatory reporting of Child Maltreatment.

2. Background checks and periodic training are required for everyone working with a Youth Program.
- C. The Title IX Coordinator will ensure that a current copy of this Policy and applicable procedures are publically available at www.miami.edu/youthprograms.

VI. REPORTING REQUIREMENTS

A. Reporting Requirements for University Faculty and Employees

1. University Faculty and Employees, when acting in a professional capacity, are Professionally Mandatory Reporters.

However, in accordance with Florida law, a University Employee who is a “member of the clergy” (defined as a priest, rabbi, practitioner of Christian Science, or minister of any religious organization or denomination usually referred to as a church, or an individual reasonably believed so to be by the individual consulting that person) is not required to report any communication by a person: (a) made privately for the purpose of seeking spiritual counsel and advice from the member of the clergy in the usual course of their practice or discipline; and (b) not intended for further disclosure except to other persons present in furtherance of the communication.

2. University Faculty and Employees, when acting in a professional capacity, who know, or have reason to believe, that Child Maltreatment has occurred shall immediately and without delay report the information as follows:
 - a. To DCF; and
 - b. To the Title IX Coordinator, if the individual making the report learned of the Child Maltreatment while acting as an employee of the University.
3. The report shall include all information known to the individual making the report, as required by, and subject to, applicable law and University procedures:
 - a. Demographical information of the persons involved in the situation being reported. This includes the names, ages, dates of birth (if known), race, gender, social security number (if known).
 - b. A means to locate the subjects of the report. Some common means to locate may include, but not be limited to:
 - i. Home Address
 - ii. Phone number
 - iii. School Name, Address, and Phone Number
 - iv. Parents/Caregivers Work Location, Address, Phone Number
 - v. Directions to the home
 - c. Specifics of the incident being reported to the extent known:
 - i. What happened to the victim?
 - ii. Who caused the harm?
 - iii. What were the affects to the victim?
 - iv. Any known history, frequency, etc. of the same or similar incidents.

B. Reporting Requirements for All Other Persons

1. Other members of the University community, including UM Students, Affiliates, and Guests are Mandatory Reporters.
2. Other members of the University community, including UM Students, Affiliates, and Guests are also required to report such Child Maltreatment immediately and without delay as follows:
 - b. To DCF; and
 - c. To the Title IX Coordinator, if the Child Maltreatment:
 - i. Took place in University facilities or on University property; or
 - ii. Was committed by a current or former employee or volunteer of the University; or
 - iii. Occurred in connection with a Youth Program, regardless of the location; or
 - iv. Took place while the Victim was a UM Student.
3. The report shall include all information known to the individual making the report, as required by, and subject to, applicable law and University procedures, as indicated in Section V.A.3 above.

C. Reporting of Past Incidents

The obligation to reported suspected Child Maltreatment applies even if the individual who may have been the victim of past Child Maltreatment is no longer a child at the time when the past Child Maltreatment is disclosed or otherwise suspected.

VII. RESPONSIBILITIES OF FACULTY AND EMPLOYEES

All University Faculty and Employees shall take the following actions to implement this Policy and support compliance with applicable legal requirements:

- A. Provide to the Title IX Coordinator all required information about Youth Programs occurring in their respective areas; and for Youth Programs that recur on a regular basis, ensure that the up-to-date registration information is provided for each such recurrence;
- B. Provide this Policy and applicable procedures to all persons involved in the administration of such Youth Programs, and assist in the coordination of compliance therewith;
- C. Ensure that all persons involved in the administration of such Youth Programs, including themselves, complete required screening and periodic training, and prohibit individuals who do not meet screening and training requirements from participation in the Youth Program until those requirements are met; and
- D. Cooperate with the University's investigation of Child Maltreatment under this Policy, and if informed of an investigation of Child Maltreatment by DCF or other external agency, shall inform the Title IX Coordinator.

VIII. LEGAL IMPLICATIONS AND CONSEQUENCES

- A. Cooperation with Other Agencies. The University shall cooperate fully and appropriately with any investigation of suspected Child Maltreatment by DCF or law enforcement agency. If the individual suspected of Child Maltreatment is a member of the University community, the University shall coordinate its own investigation or other actions in response to a report in cooperation with that agency.
- B. Confidentiality.
1. The confidentiality of a report of suspected Child Maltreatment, including the identity of an individual who makes a report under this Policy, the individual suspected of Child Maltreatment, and the child who may be the subject of Child Maltreatment, will be protected consistent with relevant federal and state laws.
 2. The University will report instances of Child Maltreatment in accordance with applicable laws, including, but not limited to, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"). Pursuant to the Clery Act, the University includes statistics about certain offenses in the University's annual security report, and provides those statistics to the United States Department of Education, but does so in a manner that does not include any identifying information about persons involved in an incident.
- C. Immunity for Good Faith Reporting. Pursuant to the Florida Statutes:
1. Any person, official, or institution participating in good faith in any act authorized or required by law, or reporting in good faith any instance of Child Maltreatment to DCF or any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action; and
 2. However, a person who knowingly and willfully makes a false report of Child Maltreatment or who advises another to make a false report, is guilty of a felony of the third degree, punishable by up to 5 years imprisonment and a \$5,000.00 fine, and may be assessed additional fines of up to \$10,000 by DCF for each false report.
- D. Non-retaliation. Retaliation against anyone who files a good faith complaint of Child Maltreatment, anyone against whom a complaint of Child Maltreatment is filed, or anyone who participates in an investigation of Child Maltreatment, is prohibited. Pursuant to the Florida Statutes, any person making a report of Child Maltreatment as required by law shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of their making such report.
- E. Failure to Report.
1. Any University Faculty or Employee who fails to report suspected Child Maltreatment in violation of this Policy may be subject to discipline for professional misconduct, up to and including termination of the individual's appointment to or employment with the University. Individuals may not assign to another person their duty to report under this Policy. Each individual has an affirmative duty to make the report themselves, and is required to report even if they believe the incident has already been reported.

2. In addition, the Florida Statutes provide the following penalties:
 - a. A person who is required to report known or suspected Child Maltreatment and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree punishable by up to 5 years imprisonment and a \$5,000.00 fine.
 - b. A fine of \$1 million will be assessed against the University each time that a Faculty or Employee (a) knowingly and willfully, upon receiving information from another Faculty or Employee, fails to report known or suspected Child Maltreatment committed on University property, or during an event or function sponsored by the University; or (b) who knowingly and willfully prevent another person from doing so.

IX. CONTACT INFORMATION; RESOURCES

A. Florida Department of Children and Families (DCF)

1317 Winewood Boulevard
Building 1, Room 202
Tallahassee, Florida 32399-0700
Phone: 850-487-1111
Fax: 850-922-2993
Website: <http://www.myflfamilies.com/>

Incidents of Child Maltreatment may be reported to DCF by:

1. **Telephone:** Call the Florida Abuse Hotline: 1-800-96ABUSE or 1-800-962-2873 or Florida Relay 711 or TTY: 1-800-453-5145
2. **Fax:**
 - o Complete either:
 - the DCF Fax Reporting Form - <http://www.dcf.state.fl.us/programs/abuse/docs/faxreport.pdf>; or
 - the University Online Reporting Form (see below)
 - o Fax the completed form to 1-800-914-0004
 - o Retain a copy of the fax transmittal report.

Please do not fax multiple allegations of abuse or neglect for multiple families at a time. By submitting them one at a time, they will likely get processed faster.

3. **Online:** At <http://www.myflfamilies.com/service-programs/abuse-hotline/report-online> and select *Report Child Abuse Online*.

B. University Title IX Coordinator

Bonnie M. Muschett, JD, MBA, CCEP
Director of Compliance
Office of Title IX Compliance
1320 South Dixie Highway, Suite 100

Coral Gables, Florida 33146
Telephone: 305-284-8624
Email: titleixcoordinator@miami.edu
Website: www.miami.edu/youthprograms

To report incidents of Child Maltreatment to the Title IX Coordinator:

1. Go to www.miami.edu/youthprograms
 2. Select *Report Child Maltreatment*.
 3. Either:
 - Upload a copy of the completed DCF Fax Reporting Form; or
 - Complete and submit the University Online Reporting Form. (*You will receive a copy of your report via email, which you may then submit to DCF via fax.*)
- C. This Policy and the applicable University procedures are posted online at:
www.miami.edu/youthprograms