

June 2017

Breach: Understanding the Mandatory Reporting of Title IX Violations as Pedagogy and Performance

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Breach: Understanding the Mandatory Reporting of Title IX Violations as
Pedagogy and Performance

by

Jacob G. Abraham

A dissertation submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
Department of Communication
College of Arts and Sciences
University of South Florida

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Date of Approval:
June 16th, 2017

Keywords: Critical Communication Pedagogy, Social Drama, Performativity, Ontology, Non-human Agency, Institutional Practices

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DEDICATION

First and foremost, I would like to dedicate this dissertation to my family. Growing up in a family that valued education, critical thinking, and always encouraged me to overachieve as a perpetual underachiever has led me to where I am today. To my mother, who has always gifted me with right balance of love and guilt that any great Jewish mothers understand, becoming anything less than a “nice, Jewish doctor” would have been an unfathomable travesty though it would never have caused her to love me less. To my father, who, in his love of books and learning, never shies away from a debate, and is always willing to read my work and discuss it, even when he’s wrong. Thank you both for always believing in me and reminding me that I can set higher goals. To my grandparents, with me and beyond, I work everyday to make you proud, and ensure you have the evidence to claim you truly have the best grandchild when bragging to others.

Next, I dedicate this work to my teachers, formal and otherwise. From elementary, to middle, Advance Placement teachers and those from Hebrew High, without those of you who challenged me continually I would not be the thinker, writer, or speaker that prepared me for undergrad and beyond. To all the amazing competitors, teammates, and coaches in the speech and debate community, there are just too many to name; you fostered a desire to embrace critical frameworks, the power of narratives, and the fortitude to fight with disenfranchised peoples. To the professors in graduate school, Dr. B and Anne, the Communication and WGS faculty and advisors at USF, and my committee members (the posse), who encouraged my curiosity and reminded me that I had the ability to write this document. And to my peers, cohort members,

roommates, exercise buddies, you have taught me in myriad settings and that I've remained close-enough-to-sane this long is credit to you.

And finally, to you, taking time to read this. Thanks! I hope you find as much value as I found time to write it.

ACKNOWLEDGMENTS

The culmination of this process would not have been possible without my committee members. I thank Michelle Hughes Miller for introducing me to mandatory reporting policy, without you I would not have developed a fixation on the artifact of this project. I thank Mariaelena Bartesaghi for always encouraging me, providing guidance when I first began the doctoral program, and emboldening me to embrace the avant-garde and the unconventional. I thank Aubrey Huber for setting an incredibly high bar for what good pedagogy must entail, supporting me as a teacher and scholar, and refusing to accept any justification for my procrastinations. Finally, I thank Chris McRae, I came to USF, in part, because I was captivated by one of your presentations at the 2012 NCA in Orlando, and have been beyond fortunate to be your advisee. You have been patient, insightful, critical, empathetic, and reassuring. If not for your guidance and instrumental leadership, this project would have been untenable. Thank you all, and to my other professors and advisors at USF, as well, for making me the academic I am today.

I must thank the amazing ladies at Jet City Espresso. If not for the space you created and welcomed me to, I have no idea where much of my writing would have taken place. If graduate students had corporate sponsors I would put Jet City on my graduation robes. Thank you for frequently ask how my work was going, reserving the best writing spot for me, and always knowing when I was ready for another cup of coffee.

I am also indebted to scholars and teachers who enabled and sustained me in this journey. Anne Nicotera, for letting me TA for her during my MA, challenging me to justify non-human

agency long before it became a part of my dissertation, and also listening as I worked through some of my ideas when I was embarrassed to ask my committee for help. Don Boileau, who took me to the most important NCA panel I've ever attended. And to Mary Schick, Peter Pober, and the GMU Forensics Legacy, this document is testament to the value of the forensic arts.

To my friends, who have put up with and cared for me, I am thankful for you. Cody Hawley, for never taking too long to pay rent and walking my dog; Jaime Robb, CincoSoccer teammates, and the Bengali soccer troupe, for teaching me to play soccer; Charles Jones, Meredith Clements, Alyse Keller, Erin Scheffles, Erin Gough, my cohort; Adolfo Lagomasino and Grace Peters, for helping make sure my teaching is up to par; Brooks Oglesby, my "director;" Jon Ray and Alex Morales, for invaluable copy edits; to the collection of people, places, and things that count as muses; Josh Wartel, Jess Rauchberg, Hunter O'Brien, AJ Legree, the USF Water Polo team, and Taylor Serrette, students who prove that teaching is research. To Kelly Dyer, Sandra Carpenter, and Farah Ardeshir, you have all done so much for me and are among the most important friends I have made during my time in graduate school, you continue to make me a more conscious thinker and better everyday-scholar. To Anne and Mikki, for making sure I always filled out the right paperwork and disproving everyone who refuses to admit that I am funny. And to Alisha Menzies, for pho, misspelling my name in her acknowledgments, walking me through every step of earning this degree, for live music, St. Pete people watching and shenanigans, you are the greatest peer mentor ever!

I should probably also thank Apple, Amazon, and Spotify, my external hard drive and two USB sticks, my laptop, myriad campus printing resources, binder clips, two pairs of headphones, the USF library, every text I cite, and any other non-human actors that have gotten me through it all.

Finally, to those I forgot to include herein, thank you for forgiving me...

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ABSTRACT

This dissertation examines how institutions generate, teach, and authorize normative performances through texts and/as pedagogical practices. Through an analysis of the University of South Florida's mandatory reporting policy, training, and *Title IX Incident Report Form*, this project examines how institutions construct and privilege certain values, performances, and individuals as means of generating the legal compliance of the institution independent. These practices are valued independent of how such compliance enables and limits the relationship between students and teachers. I argue the University's texts and pedagogical practices serve to substantiate, authorize, and perform the materialization of certain privileges and the normative standards for the performances of mandatory reporters – those specifically designated “responsible employees,” which includes graduate, teaching, and research assistants supervising or teaching possible victims. I further rely on critical communication pedagogy as a means of analyzing USF's practices and calling for an altered pedagogy that better accounts for the subjectivity of individuals not previously recognized by/through current institutional practices. While USF's mandatory reporting policy is merely one institutional mandate, the practices expressed and outlined in this research are indicative of the practices of institutions more broadly. Understanding those practices is essential to recognizing the ways institutional and individual actors relate and interact.

CHAPTER 1

BECOMING THE (RESPONSIBLE) EMPLOYEE

INTRODUCTION

I enter this research as a participant. I enter this research not as an entirely willing participant. I am forced to participate. I am told how to participate. I look for the corner which frays, allowing me to unravel the fabric of my participation.

Given the trio of federal statutes utilized to combat violence and gender-based discrimination on college campuses in the United States – Title IX, the Clery Act, and the Violence Against Women Act – institutions across the country are required to create internal policies that bring them in accordance with the laws. If colleges and universities fail to maintain compliance they risk losing their access to federal funding. In an attempt to clarify and coordinate the laws, the Department of Education’s Office for Civil Rights published a 2011 “Dear Colleague Letter” explaining that institutions not pursuing sexual-harassment and sexual assault allegations in compliance with Federal Statutes would be subject to losing correlative federal funding (Sokolow). Because of the federal mandate to enforce these laws, my university, the University of South Florida (USF), has identified me as a “mandatory reporter.”

This dissertation brings into conversation research happening across performance studies and pedagogy to better understand public policy that address the systemic discrimination resulting from sexual misconduct, harassment, and violence that exists on college campuses across the US. My goal is to evaluate and critique the policy and training for mandatory reporting established and taught at USF in order to identify how large scale institutions constitute

the roles of individuals as means of mitigating conflicts that threaten the institution. I focus on three distinct questions. First, how does USF's mandatory reporting policy and training comport and/or contrast with critical communication pedagogy? Second, how does mandatory reporting policy and training work to mitigate systemic inequality in light of cultural norms and values? Third, how does the University, by/through policy and training, exert and conceal agency as a strategy for enforcing contradictory and ambiguous mandatory reporting policy? These practices are fraught with mechanisms that fail to reflexively engage the ways institutions privilege and maintain their own legal absolution at the expense of individuals implicated in the everyday operations of an institution. In other words, USF expresses the details of an authorized, normative performance of mandatory reporting procedures, by policy and training, to meet the standards of federal regulation. The mandated performances serve to absolve USF of legal culpability following reports of Title IX violations. In doing so, administrators and the willfully compliant mandatory reporters and victims are privileged, whereas individuals who (intentionally or not) fail to uphold the normative performances face potential punitive consequences.

Embracing the critical perspective that no communication is neutral, I conduct this research with a commitment to marking the ways mandatory reporting policy and training politically privilege certain individuals, despite the University's attempt to mark them as such, "based on respect and fair treatment of all people" (Hernandez 1). The assertion that respect and fair treatment is upheld for "all people" is an assertion that USF treats all individuals with the same standards, as opposed to politically siding with any particular set of individuals. This dissertation examines the "paradigms, value structures, epistemological, and political orientations" situated through mandatory reporting policy and training at USF (Kincheloe 112).

I argue the taken-for-granted performances of institutions to privilege certain values, texts, pedagogical practices, and individuals operate to sustain the institution's legal compliance. USF uses texts to generate, authorize, and perform the materialization of normative standards of mandatory reporting that work to enable and constrain the relationships between students and teachers. The relationship is enabled in a way that leads students to believe reporters are capable, authorized, and supportive resources, willing and able facilitators in the reporting process. However, while reporters are enabled as a resource they are limited in their ability to assist students in any way beyond the prescriptions of the policy and training.

In this first chapter, I offer an introduction to USF's mandatory reporting policy and training materials, the generated texts. In order to frame the project, I begin with an examination of one particular incident that inspires my active pursuit of this research. This segment of personal narrative and the supplemental explanatory material is a primer to the later chapters of the dissertation, and serves to ground my presence and significance in the research. In this chapter, I introduce key terms, concepts, and contradictions that, under the auspices of USF policy and training, mandatory reporters are forced to navigate. This work is significant as it identifies how institutions generate the normative performances individuals are expected to enact and how those expressions exemplify the enacted agency of an institution.

The Researcher Researching

As a "mandatory reporter," I am an active participant in the research about the pedagogy and performance of mandatory reporting. I am both the researcher and the researched. This position is a precarious one because I believe mandatory reporting policy and training is in conflict with the philosophical perspectives extending from critical, feminist, and queer performance and pedagogy theories. I ask questions like, how and what does mandatory

reporting policy and training material teach? How are subsequent classroom teaching practices influenced by the policy? I examine my participation in mandatory reporting in terms of pedagogy and performance. In other words, what does critical communication pedagogy say about what is generated by/through mandatory reporting? How do the policies and training materials script the performances and identities of mandatory reporters and victims who disclose Title IX violations?

John T. Warren contends the Self is a constantly reforming entity, subject to relations with the Other and the broader social worldview they operate within (“Absence” 36). I embrace Warren’s call to better see Self in relation to the Other, within the social context of mandatory reporting of sexual misconduct, harassment, and violence. I bring my own body into the research, sharing my perspective as someone marked by the University as a mandatory reporter, and as someone then authorized to mark others. Warren writes that we learn and create difference as we mark it, distinguishing differentiation as meaningful: “I locate the body as different – that [Other] body got marked, through my inspection, as meaningful, thus disavowing my own connection with that difference” (“Absence” 43). In this way, I locate my body in relation to other bodies, those whom I may be called to mark as Other, as victim, because of my role as mandatory reporter. I account for how the University marks me as Other, as compliant, responsible employee. I ask how these differences are made meaningful, and what the implications of that difference are for all those impacted by the policy.

Because Title IX does not define the category of responsible employee, rather this label is set by each individual institution, I focus on the policy and training materials that directly implicate me with regard to the pedagogical missions of both the university I operate with(in) and my own performances as an instructor. Identified as a responsible employee at USF, I am

required to “promptly report allegations or instances of sexual harassment (including sexual violence) by or against any USF System employee(s), student(s), or group(s)” (Hernandez 12). As a graduate assistant, my duty to report is mandatory when “supervising or teaching the Complainant” (Hernandez 12), whereas “direct or indirect knowledge” of alleged sexual harassment or violence, with the exception of confidential resources (of which GAs are not included), mandates that as a responsible employee I still “*should report*” an incident (Hernandez 10).

Definitions, laid out by the institution, become the absent, the mundane, the indivisible, the unmarked of the everyday (Warren, “Absence” 47). These definitions create privileged distinctions between the mandatory reporter and victims of sexual misconduct, harassment, and violence. This work allows me to avoid blindness to the underlying values and systemic imbalance generated through mandatory policy and training materials.

(RE)INTRODUCTION

On October 22nd, 2015 I sit in the office of a fellow graduate student, dismayed with my lack of a dissertation topic. I am venting my frustrations, like graduate students do together, when a ding springs from my laptop and red dot with the number 1 inside hangs at the top corner of my email inbox icon. The lingering dot bothers me. I have no choice but to open the email.

The subject line reads: “FROM ASSISTANT GRADUATE DEAN RUTH BAHR: Notice of required Title IX and VAWA Training for all GA/TAs” (B. King).

As I read through the email I feel the tension of the prior three weeks of failed attempts to settle on a sufficient dissertation topic blistering in my fingers and furrowing my brow. I reread the email and audibly groan.

Good afternoon, All:

USF policy (Sexual Misconduct/Sexual Harassment) regarding “Responsible Employees” under Title IX has recently been updated. In order to ensure all GA/TA are fully trained in their responsibilities as mandated reporters of report sexual harassment [sic], including sexual violence, several opportunities to receive training have been arranged between the Office of Graduate Studies and the Title IX Office within the Diversity, Inclusion, and Equal Opportunity Office. If your duties include classroom instruction, supervision of any student at any level (even if only in the absence of the assigned supervisor), or work with any student organization in an advisory capacity AND/OR if you are someone a student could reasonably believe has the authority to act, you are required to attend one of the training sessions. (B. King)

I am semi-familiar with mandatory reporting having discussed it in a class on Feminist Pedagogy; I know that I am, in fact, a mandatory reporter; as I understand the policy I have to report to the University if someone discloses a Title IX violation to me, but I have, literally, no conception of how that works. However, I have never been outright told by anyone that I am a mandatory reporter, and never had an experience that warranted any action. I know if someone tells me about a sexual assault or I witness one I am bound to tell some superior of mine, but this makes me feel uncomfortable. What if someone tells me or I witness something and they, for whatever reason, rather I not tell the University? What if I’m unsure if something is actually a Title IX violation, or if I perceive an event differently than those directly involved in it?

Having heard my groan, my peer pulls away from her grading to ask what is wrong. “Check your email,” I grumble, “We have to go to training for mandatory reporting.”

“Training for what? I don’t have time for training.”

“Neither do I. I’m supposed to pick a dissertation topic and I’m nearly done with coursework, how am I ever going to sit through training for a policy I know is problematic. This is going to be miserable.” My rant continues and my voice rises as I un hinge my distaste for mandatory reporting.

“I’ve never seen you this heated over an email. Maybe this should be your dissertation topic,” she proposes.

Mandatory Reporter Policy

The aforementioned email was sent to graduate students across the University of South Florida three days after *USF System Policy # 0-004 Sexual Misconduct/ Sexual Harassment (Including Sexual Violence)* was updated (Hernandez). The email noted that, to ensure all GAs and TAs were trained properly, we had only three options for possible training, four days away on the 26th two sessions would be offered, or eight days away on the 30th there would be one session. The training was scheduled to last for three hours, in a 500-person auditorium, with the first two hours of training dedicated to explaining Title IX, the Cleary Act, the Violence Against Women Act, and directions for how to file a report to the Title IX coordinator, led by the USF Senior Deputy Title IX Coordinator. The final hour would consist of a lecture on victim’s advocacy run by a representative from the USF Center for Victim Advocacy and Violence Prevention.

Mandatory reporting policy exists, foremost because of federal mandates. Charlotte Savino writes, under the 2013 reauthorization of the Violence Against Women Act schools were required to put in place a series of new safeguards that would better prohibit Title IX violations, track crime on campus, and improve student awareness about gender-based violence (3). These laws serve a vital purpose on college campuses as Laura Dunn explains, “campus sexual

violence is a silent epidemic,” with vastly underreported assaults, victims’ fearing the stigma of reporting, self-blame and embarrassment, and a concern that the assault would not warrant police action (566).

The Association of Title IX Administrator (ATIXA) reported, when working in tandem, federal regulations requires college and universities to report crimes that occur on campus:

...failure to do so can result in substantial fines being imposed on the institution by the Department of Education. Guided by the language of the Clery Act and subsequent amendments, the College is required to define which employees – called Campus Security Authorities – must report crime information they receive. (1)

While Campus Security Authorities are defined by the law, institutions are allowed to designate which employees are held to the absolute legal standard, which also requires they keep track of crime statistics. This level of responsibility is usually given to university law enforcement. Other employees are then held to a reporting standard designated by internal policy that facilitates Campus Security Authorities in their duties. USF, for instance, designates “Supervisor Employees” and “Responsible Employees” (Hernandez 11-12).

As ATIXA explains, “generally the laws are intended to protect members of the campus community, visitors and guests from criminal and discriminatory behavior” (1). While “mandatory reporter” is not a legally defined position or mandated position, identified individuals assist institutions in early detection of concerning and/or disruptive behavior. Mandatory reporters also help to identify at-risk situations and maintain the obligation to “provide a ‘prompt and effective remedy’” to victims of gender discrimination and sexual misconduct, harassment, and violence (ATIXA 1).

Any attempt by the University to curtail the tide of sexual misconduct, harassment, and violence on campus should not go unrecognized, but such recognition does not absolve any policy or training efforts from critical inquiry. Performances enable the solidification of policy as the unquestioned, mundane, and banally acceptable as the policy is reproduced. When critique is prevented, discouraged, or absent structurally mandated privileges and oppression are maintained.

No idea, including those within this text, is beyond question when, as Joe Kincheloe reminds, there is no objective or neutral description of the world (55). When the context surrounding the construction of policy is altered or reinterpreted, which is inevitable, the policy not only may no longer serve its purpose, but might reveal that the policy never served its identified purpose. As universities set forth reporting policy, they authorize how individuals should report an incident and how to respond to those reports. While institutions must also grapple with a presumed responsibility to reduce traumas on campus, “administrators are grappling with how to balance... victim sensitivity with their legal and social obligations” (Engle 408).

University Policy as Pedagogy

I contend all facets of education, mandatory reporting policy and training material included, are contestable political spaces that must be examined as producers/products of mundane structures that constitute the university. These structures are indicative of agency and accountability that can be examined through critical inquiry and engaged reflexivity of “our selves, our values, assumptions, and practices” (Fassett and Warren 50). In other words, mandatory reporting policy and training communicate to and about those who are a part of the university. The distinction between a mandatory reporter, a non-confidential source, and a

confidential source – like employees at the Center for Victim’s Advocacy, who do not bare a responsibility to report back to the institution – influences the dynamic relationships between victims seeking to disclose and those to whom they disclose.

The institutional constructions that discipline the identities and actions of affiliated people warrant critical inquiry to reveal how institutional patterns normalize performances (Fassett and Warren 100). In this work, the policy and training materials substantiate normative and authorized forms of communication in that mandatory reporters are sanctioned to follow the guidelines outlined by/through University documents. A commitment to acquiring a more nuanced understanding of how power, privilege, culture, and identity are performed is essential to scrutinizing mandatory reporting policy and training materials as a means of uncovering who is privileged and how the institution ensures its legal compliance.

The relationship between students and teachers is vital to mandatory reporting’s successful assurance of legal compliance. Teachers are the most frequently authorized point of interaction between students and the school. Given the normative interactions of the classroom or office hours, teachers develop working relationships with students, especially compared to a Title IX administrator, who a student may have little to no interaction with and therefore not seek out in the case of a Title IX violation. If schools are trying to better collect data on Title IX violations, teachers are most likely the most credible and accessible source to whom students will disclose.

In order to further frame this discussion, I embrace the challenge Fassett and Warren set when they argue:

If the point of critical work is, in Freire’s terms, to reveal the process of knowledge construction, to make that process plain and accessible to all (and not just philosopher-

kings and academics), then it is most important we reveal the grappling, that we reveal we don't fully know where we're headed. (9)

The policies and practices of universities are often designed by lawyers and administrators, not academics and students who have to perform the policies and practices, structured to protect the institution before meeting the needs of implicated individuals. My goal is to critique these processes constructed by lawyers and administrators in order to reveal how victims and mandatory reporters are implicated in policy and training. As academic theory is used to guide pedagogical praxis, university policy guides those practices as well. Both theory and policy influence meaning making and communication practices in educational settings.

TRAINING

I find a seat toward the back of the large lecture hall, as hundreds of other graduate students trickle in. In the space in front of me I rest my laptop, the screen is black, and I place across my keyboard a printed out copy of something that resembles the PowerPoint slides we are about to see on the projector screen.

To my right is the friend from the other day; we whisper criticisms and jokes to each other about the abysmal quality of this lecture.

“If I ask a question will I become ‘that guy’?” I ask her.

“Not if it's a good question,” she says, raising her eyebrows while looking at me with some serious side eye that quickly turns into an eye roll. We chuckle, as though I was ever afraid to be *that guy*.

A question has been brewing in my head when it dawns on me that I have previously seen this presenter speak on campus. I remember listening to her speak as part of a panel following a screening of “The Hunting Ground” on campus earlier in the semester. I asked a

question that night too but left frustrated by the ease with which she side stepped my question about mandatory reporting's potential for re-victimizing people. I still want her to admit the University's policy has the potential to be seriously problematic.

I raise my hand to ask my question.

The Necessity of Training

In 2013, executive director of the ATIXA, Brett Sokolow warned that universities must be careful not to become overzealous with mandatory reporting policy. Sokolow wrote:

Unfortunately, mandatory reporting related to Title IX is widely misunderstood on campuses, and in their zeal to deal with every single instance of sexual misconduct, college administrators are in danger of seeing a drop in reporting from victims... they are forgetting that some victims want to fall through the cracks, at least initially. Title IX is intended to empower victims, not make them into observers who merely watch from the sidelines as administrators get carried away with resolving complaints that the victims never made.... victims lack a safe space and are going to go underground.

Institutions are, in part, trying to uphold the law and relieve themselves of legal culpability in instances of sexual misconduct, harassment, and violence. Legal liability for misconduct on campuses can jeopardize a school's "fiscal and structural integrity" (Engle 408).

This dilemma of integrity can be seen as an opportunity to pass judgment on universities, but it further begs us to question how problematic and contradictory values become present as a function of mandatory reporting policy. The guidelines of the Cleary Act, Violence Against Women Act, and Title IX all leave institutions responsible for defining which employees must be mandatory reporters. The Association of Title IX Administrators, in a policy brief, caution against the government's lack of specificity, noting:

The language... would allow the College to exclude some faculty some of the time and many professional staff from the obligation to report. Such an approach, however, risks creating confusion for faculty and staff, takes a minimalist approach to the ethical obligation to inform our community about serious crimes, and makes the institution more vulnerable to enforcement action. (1)

The policy operates to protect those wishing to report, and is a response to reports of instances where such reports were ignored, covered up, or hushed. However, once a student, (un)aware of a faculty member's reporting status, reports to a faculty member, the University policy mandates the faculty member must still report, even in instances where the student wishes for the faculty reporter to retain confidentiality. With this policy, there exists an imperative of compliance.

Inadequate Training. In an excessive approach to combatting sexual assault, myriad institutions are making every member of a university's staff and faculty a mandatory reporter (DeAmicis). This further increases an institutions need to train mandatory reporters on the policy so the reporters might accordingly follow it. The responsibilities institutions have to students, employees, and the government places them in a precarious situation because the mandate from the government is to ensure that training exists not that training is effective at reducing Title IX violations. The government standard is that universities comply with the law, not the effective reduction of crime.

Universities are working to provide students and faculty access to information, but that information is consistently lacking depth beyond the sharing of policy and offering information about reporting to police; minimal information exists focusing on the definitions of consent, the impacts of intoxication, the debunking of rape myths, or a focus on prevention (Lund and Thomas 535). Even when institutions are providing resources, training sessions, women's and

victim's advocacy centers, access to online content, and other materials, students are still not being served by those resources through a lack of comprehension, awareness, or access to the disseminated information (Hayes-Smith and Levett 346). This means that universities are protected from losing their access to federal funding by taking steps to comply with law, rather than steps that mitigate the greater problem of Title IX violations on campus.

No research exists on the perception or perspectives of mandatory reporters, especially with regard to their role in preventing and/or reporting sexual assault. Mandatory reporters are situated at the fulcrum between victims and institution, a position fraught with issues of trust and the underlying potential to mute reports (Burnett, Mattern, Herakova, Kahl, Tobola, and Bornsen 473). Without sufficient training, mandatory reporters are apt to inhibit victims from accessing available resources, by either not knowing the content, having access to it, or sharing it, and, in worst case instances, causing further trauma by mishandling the response to a disclosure (Campbell, Wasco, Ahrens, Sefl, and Barnes 1241).

Prepared mandatory reporters have the ability to access and disseminate basic resources to victims, in addition to directing victims to individuals who can provide more customized personal and legal advice, such as victim advocates. Instead, mandatory reporters are guided to comply with the directive instead of provide individualized support to victims in a way that mitigates future Title IX violations. Jill Engle suggests that regardless of which individuals are deemed mandatory reporters, universities must be more specific with their policies and training thereby allowing anyone who hears a disclosure to facilitate the victim on a path to reporting that is safe for everyone involved (415). Ultimately, universities fail to recognize the diverse experiences, willfulness, and needs of reporters and disclosers.

(IR)RESPONSIBILITY

As I left the auditorium and headed back to my office a familiar voice came from behind me, “Hey! Jacob! Wait up!”

I turned and noticed a classmate, friend, and representative of the graduate student union. We had emailed back and forth earlier in the week about what input our union had into the University mandate to attend the training session.

“That was fun.” I griped with a mocking grin.

“The whole thing was a bit ridiculous. I’m not entirely sure what they were thinking. How about when they told us that once someone reports to us we are statistically at risk of being swept up in any sort of retaliation for being included in a report? Seriously?”

We went back and forth for a few minutes complaining about all the moments we found somewhere along a spectrum of comically inappropriate to overtly offensive.

“Have you settled on a dissertation topic yet?” she inquired.

“I think I may have found something... especially after sitting through that.”

“Oh, cool!” she added, “Good question by the way.”

The University of South Florida’s Policy

The University of South Florida’s Office of Diversity, Inclusion, and Equal Opportunity updated the “Title IX Incident Report Form” in June of 2015. The two-page form is to be completed:

... by any USF employee (if not identified as a ‘confidential resource acting in a specific role’), who observes or receives a disclosure of an alleged Title IX incident to include, but not limited to gender-based discrimination, sexual harassment, non-consensual sexual contact (battery/rape), domestic/intimate partner violence, stalking and/or bullying. (1)

The form requests information regarding the person reporting, the “complainant,” the “respondent” (the accused), the risk level the incident poses, details of the incident, and a description of any actions taken by the complainant subsequent to the incident.

The University’s steps to formalize the reporting process are a means of enacting authority over those implicated in the process. Freire writes:

If true commitment to the people, involving the transformation of reality by which they are oppressed, require theory of transforming action, this theory cannot fail to assign the people a fundamental role in the transformational process. The leaders cannot treat the oppressed as mere activists to be denied the opportunity of reflection and allowed merely the illusion of acting, where as in fact they would continue to be manipulated. (126)

Freire’s premise underlines the inherent conflict and contradiction of mandatory reporting, as I will reveal throughout the course of this document.

According to the *Title IX Incident Report Form*, a report must be filed if someone “*observes or receives* a disclosure of an alleged Title IX incident” (emphasis added, 1). It is at the moment of *observation or disclosure* when all participants lose individual control of the experience, and are mandated to follow protocol to fill out and file an *Incident Report Form* that will work its way through the Office of Diversity, Inclusion, and Equal Opportunity, with or without a victim’s affirmative consent. This report can become a secondary victimization; a further perceived violation of the legitimate rights or entitlements of the victim (Orth 314). The mandatory reporter disclosed to has a subsequent requirement to share the disclosure with the Title IX Coordinator or the Title IX Senior Deputy Coordinator. If mandatory reporting is against the victim’s wishes, the violation of their intentions or absences of affirmative consent is

a clear secondary victimization. Additionally, this marked moment subsequently (re) writes the relationship between student and teacher in a way dictated by USF.

The e-mail sent out to graduate students is a first step in exerting the institutional authority of the University with regard to this topic. Beyond the message that attendance was mandatory, the email included attachments of learning materials; those materials were subsequently provided in hard copy at the October 26th, 2015 training session (Coombes). Multiple pages of the handouts – and corresponding PowerPoint slides – explain the reporting process. Given the University mandate that “USF System employees in the above-identified Responsible Employee positions who know or reasonably should know of sexual harassment (including sexual violence) must report it to the Title IX Coordinator or the Title IX Senior Deputy Coordinator...” an incident report form, presumably, must be filled out (Hernandez 13).

The policy continues:

... and must inform the Complainant of the following: 1) The reporting obligations of responsible employees; 2) Complainant’s option to request confidentiality and available confidential advocacy, counseling, or other support services; AND 3) Complainant’s right to file a Title IX complaint with the university and to report a crime to campus or local law enforcement. (Hernandez 13)

The policy requires the “Complainant” be reminded of the reporting obligation of the person they are disclosing to after they disclose. It is at this moment the story is temporarily out of the disclosing persons hands, and has to be shared with the Title IX Coordinator or the Title IX Senior Deputy Coordinator. This moment also potentially implicates the mandatory reporter in the victim’s trauma.

The training materials offer more than one explanation of the order in which one

conducts a report, but do not teach how to interact with a victim that does not want to proceed with the mandate to report their disclosure. For example, “Your Role As A Responsible Employee,” offers a seven step protocol for when “you receive ‘Actual Notice’ or you have ‘reason to believe’ there has been a circumstance that falls under Title IX” (Coombes 7). In this description of the reporting process the first step contradicts prior materials that suggest the first step is having “actual notice,” rather “Before an employee/student reveals information, ensure they understand that you ARE NOT a confidential resource” (Coombes 7). This second description creates a dilemma; how would a responsible employee know to share their status as a non-confidential resource with having been given what amounts to “Actual Notice” or “reason to believe” that a Title IX violation occurred?

At no point is training offered with regards to how to interact with a person disclosing a traumatic experience. However, mandatory reporters are encouraged to offer “acknowledgment and support” and share resources about confidential resources (Coombes 6). Mandatory reporters are taught contradictory and ambiguous information at the behest of the institution, and, at times, at the expense of victims.

(RESISTANT) EMPLOYEE

“Yes, you in the back,” the Senior Deputy Title IX Coordinator points in my direction. No one else near me has raised a hand, and for that matter hardly anyone has looked up from their laptops before the impending moment where I drop my tone to make sure the sound of my voice travels through the entire room as I ask my question(s).

“So, I’m somewhat confused here. Are we supposed to somehow know before the ‘actual notice’ or ‘reason to believe’ that comes when a student visits during office hours or pulls us aside in the hallway after class or perhaps even includes some comment in an email that this

student was about to make a disclosure? Are we expected to be perpetually reminding students of our status as non-confidential resources so they know that just in case something horribly traumatic happens to them we might not be able to help them in the way they define themselves? How is this not putting us at risk of victimizing people who disclose when we now have to share their experience with you if they specifically ask us to remain confidential? How is this not putting us at risk of being forced to violate the trust of someone who comes to us, perhaps in confidence, with such sensitive information? Who are we responsible to: the University or our students?” I wait impatiently for an answer.

The Coordinator responded, “Well, the student won’t be forced to take action, they have rights and we want to make sure they understand their rights. But we want to direct them through our office first.”

PERFORMANCE AS THEORY AND METHOD

This dissertation is performance, on multiple levels. I interrogate performances of mandatory reporters, of texts, and of staged aesthetic performance. These ideally, authorized, and enacted performances include what USF identifies as the performance of a mandatory reporter. In this dissertation, I examine how varied theories contextualize (alternative) performances and how I envision/interpret performing the role of mandatory reporter. I move between personal narratives, theoretical work running across/between communication, performance, and pedagogy, and texts representative of the USF policy to combat and educate about sexual misconduct, harassment, and violence, with a focus on the role of mandatory reporters.

In order to know what and how mandatory reporting is communicated, I operate through a performative lens. As Judith Butler suggests, once something is performed it creates reality

(527). Stemming from Butler's assertion the expression of mandatory reporter effectively constitutes the identity in reality.

Beyond Butler's framing of reality, this work stands as an example of what Joe Kincheloe argues is a method of bricolage: "an eclectic process...grounded on an epistemology of critical complexity" (131). I embrace a critical way of knowing, identifying the topic of my work and the methods of analysis as all worthy of critique. Bricoleurs, Kincheloe notes, avoid "modes of reasoning that come from certified processes of logical analysis... stand clear of preexisting guidelines and checklists developed outside the specific demands of the inquiry at hand" (132). Such an organic merging of methodological and theoretical approaches to inquiry promotes an understanding of method as "technology of justification... a way of defending what we assert we know and the process by which we do it" (Kincheloe 133). While no less rigorous and detailed, my method of bricolage is merely less prescribed, as a researcher I negotiate method and theory allowing a critical consciousness of the project to expand continually. I rely on no singular author, but build an analysis through the synthesis of existing scholarship.

This work is an investigation into how USF's constitution of mandatory reporting policy conflicts with the pedagogical imperatives of critical communication pedagogy. My objective is to identify how the policy and training materials (re)construct mandatory reporters in disclosures of sexual misconduct, harassment, and violence on campus. Additionally, I identify how the (re) defined roles of mandatory reporters illuminate the ways power and privilege coincide or conflict with critical communication pedagogy. Such research confers with Bryant Keith Alexander's assertion that critical performative pedagogy enables sense making, facilitating personal and public reflection of underlying social value (333). Through a performance indicative of critical

performative pedagogy, audiences/readers and I can make better sense of the mandatory reporting of disclosures of sexual violence.

Performance provides the language to implement this analysis, since performance offers a theory of communication as a process not a product (Hamera 6). University policy is designed to streamline the process of handling disclosures of sexual misconduct, harassment, and violence on campus in order to manage the responsibilities institutions have to students, employees, the government, and any other stakeholders. Performance enables the active participation and simultaneous embodiment of the mandated process of reporting the disclosure of sexual violence. By this I mean that performance offers a context for understanding and bringing the policy to life; the language of performance studies frames mandatory reporting, the training, and disclosure that trigger a report, as observable performances, and the staging of a performance allows the performer and audience to engage with and experience the policy and training materials.

I utilize performance as a method for this research because it specifically allows for engaged inquiry into the University's policy. Ronald J. Pelias and James VanOosting write, "Performance studies calls into question the privilege of academic authority" (221). While they write about what does or does not count as academic research and who has the ability to authorize someone as a researcher, their sentiment is inspiring of an alternative endeavor. I draw from Pelias and VanOosting to question authority in academia beyond just modes of research. In this case, policy and training reflect the mandated performances privileged by USF, just as certain methods of research are privileged. Performance enables my examination and critique of the ways policy authorizes disclosures of sexual misconduct, harassment, and violence on campus and, subsequently, mandates individuals' performances.

PEDAGOGY AS PRAXIS

Policy is pedagogy; as policy is performed, directly or through training, it perpetually becomes a learned reality. Foundational to this project, then, is an understanding of critical communication pedagogy. Fassett and Warren determined research on communication pedagogy lacked a sufficient dedication to understanding where it coincides with critical theory; among their goals as scholars was to connect the dots between critical pedagogy, performative pedagogy, and feminist pedagogy, among other ideas (7). Much of their work will guide the analysis in this dissertation and will be used to critique the ways policy preforms and is performed.

Drawing most prominently from critical pedagogy, critical communication pedagogy seeks to address limitations in the definitions of critical and other relative pedagogies. A critical pedagogy itself would offer an incomplete lens for this research. Elizabeth Ellsworth suggests, critical pedagogy suffers from idealism that “exacerbate[s] the very conditions we were trying to work against” (91). Fassett and Warren subsequently contend, critical pedagogy’s major flaw, despite its profoundly moving potential, “is too modernist, abstract, and utopian for concrete situations, fleshed individuals, palpable conflicts” (26). Expanding the analysis to include critical performance and feminist pedagogies allows critical communication pedagogy to offer a more applied and embodied framework for examining mandatory reporting.

Scholarship of critical communication pedagogy acts as a lens for analysis and critique. At the University of South Florida offices including Human Resources, the Office of Diversity, Inclusion and Equal Opportunity (DIEO), the Office of Student Rights and Responsibilities (OSRR), and Title IX Coordinators, require employees and students learn about Tile IX and mandatory reporting; there is an expectation that everyone within the University will abide by

what is learned. Policy, therefore, is enacted pedagogical practice. Keith Nainby reminds, “communication practices are learned and become habituated over time” (17). Even if the mandate is not successfully taught or learned there is still an expectation/responsibility to perform the policy.

RESEARCH QUESTIONS AND CHAPTER PREVIEWS

The remainder of this chapter will serve to explain the following chapters of the dissertation. I begin with a focus on my position as researcher/researched, an overview of the policy, and the justification of performance as a theoretical and methodological framework.

While my goal in this dissertation is to examine the construction, enactment, and consequences of the USF policy and training concerning the performance of mandatory reporting of sexual misconduct, harassment, and violence, the analysis functions to identify the problematic components that upon being revised will better suit the expressed (but not generated) values of USF. As practices are generated/constituted by current mandatory reporting policy and training, pedagogical practices that value and embrace the expectations/desires/needs of victims and mandatory reporters are constrained. This dissertation identifies how the normative practices of the University fall short of addressing the structural causes of Title IX violations in an effort to mitigate legal culpability of violations that have already occurred and sustain the institution’s current policies and practices. While focusing on USF, I articulate how any institution can concretize its authority through the texts and practices that delineate mandated normative performances. Finally, I outline an autoperformance that highlights how a performer might embody some of the conflicts of the current policy and training in order to emphasize what aspects of USF’s texts and practices can be imagined anew.

Chapter 2: Mandatory Reporting's Conflicts and Commitments to Critical Communication Pedagogy

In Chapter 2, I situate University policy and training, expressed to employees and students as a means of addressing the institutional need to reduce Title IX violations, through critical communication pedagogy. The habitual performances normalized by policy and training solidifies decontextualized practices of handling everyday interactions (Nainby 17). In this way, institutional policy that mandates action is a pedagogical practice. Critical communication pedagogy is used to reframe and unsettle the static pedagogy of mandatory reporting. Training materials offer step-by-step guides to reporting a disclosure, creating a specific relationship between the discloser and reporter in a way that completely disregarding the diversity of details that might occur during the process. Education of community members regarding sexual misconduct, harassment, and violence on campus, teaches concrete policy as it is expected to be performed/implemented, again, without any regard for the unique context of individual disclosures.

Deanna Fassett and John Warren's ten commitments of critical communication pedagogy draw together critical, communication, performative, and feminist pedagogies (39-56). These ten commitments operate as a backbone for examining the overlap and contradictions of mandatory reporting policy and training and critical communication pedagogy. Chapter 2 examines the pedagogical implication of mandatory reporting policy and training for pedagogy that values disclosures as practice. Most communication and pedagogy scholarship relating to disclosure is specifically targeted at student and teacher disclosures of identity as it happens within the classroom. Missing from the literature is a discussion of disclosures beyond the classroom, especially as it pertains to sexual violence and students who may be seeking assistance as a

function of their disclosure. As part of the larger social structure of an institution of higher learning, I subsequently argue, mandatory reporting policy and training are problematic for pedagogy that values disclosure in and out of the classroom.

Chapter 3: Mandatory Reporting as Redressive Measure

In Chapter 3 I utilize performance as a method to analyze the University's policy. In this case, policy and training materials reflect the authorized, and mandated, performances privileged by the institution. Performance theory enables an examination and critique of how policy and training authorizes disclosures of sexual misconduct, harassment, and violence on campus and, subsequently, mandates employee performances.

The guiding theoretical framework of this chapter is Victor Turner's concept of the social drama. Turner's conception of the social drama is itself not a tool for analysis, but a vocabulary for the stages of ritual response to inevitable human conflicts (Turner 78). I convert Turner's vocabulary into an analytical tool that enables examining how privileges are expressed as mandatory reporting policy and training operate to mitigate (and create further) drama.

I examine mandatory reporting policy and training as the University's management of a drama to ensure it does not lose access to federal funding. I further hypothesize a reconceptualization of Turner's fourth stage of the social drama, theorizing about instances when social drama fails to reach a conclusion or fall back to an earlier stage of the drama causing a new drama, due to, what I call, reflexive negligence.

Chapter 4: Authorized/ing the Performance of Mandatory Reporting

In Chapter 4, I argue institutions develop agency through the creation and required implementation of texts. I assert the agency of non-human actors, large-scale organizations like USF, in this instance, to propose institutions use their agency to authorize rules and regulation

formulated by/through texts, texts that become self-authorizing as they also acquire an agentic capacity of their own. I argue the ability to enforce policy is a generative, communicative process wherein which institutions and texts are able to assert their role as pedagogical agents while diffusing responsibility for their exertion of agency. I address how this theory operates through USF's mandatory reporting policy and training.

Further, identifying texts and institutions as performative agents enables an examination of how institutions use text to authorize only normative performances of mandatory reporting. This allows institutions to distance themselves from individuals who fail to perform normative standards. I further engage in conversation with early scholarship on performativity in order to problematize the institutions work in limiting the agency of individuals disclosing and mandatory reporters.

Chapter 5: Dialogue and Engagement with a Future of Mandatory Reporting

My goal, in Chapter 5, is to offer performance as a means of investigating a component of sexual violence not yet studied through performance; the institutionalized response of mandatory reporting.

In this chapter, I investigate the ongoing mandatory reporting policy through aesthetic performance. Chapter 5 includes the details of an autoperformance that works to critique mandatory reporting policy as a step towards inviting a public audience into the research. The autoperformance operates as a counter measure to problematic components of mandatory reporting policy and training mentioned throughout the previous chapters.

I articulate how creating the performance is a detailed and rigorous process of conducting research, and a continuation of the work done in prior chapters. Chapter 5, then, is a return to my embodied participation in the research, one where I answer how I attempt to remain reflexive in

articulating the processes of researching, writing, staging, and presenting an aesthetic autoperformance, in addition to the work of prior chapters. This final chapter identifies, in an embodied manner, an individual response to how the University objectifies mandatory reporters and limits both victim's and reporter's ability to express their own agency when it stands in opposition to policy and training.

Policy and training expressed normalized responses to sexual misconduct, harassment, and violence. An autoperformance that critiques and unravels the problematic aspects of the University of South Florida's policy and training materials is an answer to how one might employ Augusto Boal's notion that performance is "rehearsal for the revolution" (122). As policy and training construct, authorize, and normalize the identities, roles, and responsibilities of those involved in disclosures, autoperformance is a commitment to ongoing critique and an active step toward revolutionizing the existing policy and training by embodying a resistance to the problematic findings expressed in earlier chapters.

CHAPTER 2

MANDATORY REPORTING'S CONFLICTS AND COMMITMENTS TO CRITICAL COMMUNICATION PEDAGOGY

College campuses across the United States are faced with the significant problem that between one quarter and one fifth of women are targeted or the victims of a sexual assault (Griffin, Pelletier, Griffin, and Sloan 2; Hartmann 287-8; Sinozich and Langton; Amar, Strout, Simpson, Cardiello, and Beckford 579; & Fisher, Cullen, and Turner) This staggering statistic is merely one item on a still growing list of justifications for colleges and universities, receiving federal funding, across the US to take steps seen as mitigating or preventing sexual assaults.

Further spurred by the Department of Education's Office for Civil Rights publication of a 2011 "Dear Colleague Letter," institutions have drawn up mandatory reporting policies. Despite these policies having a nationwide impact, they are not interpreted in a consistent and applicable manner by college and universities across the US. Even so, legislation and schools' policies are little more than a "symbolic effort," attempts that appear to combat Title IX violation with knowingly ineffectual or ill-targeted approaches; such symbolism still influences everyday practices, whether individuals know it or not (Griffin, Pelletier, Griffin, and Sloan 3; Gregory and Janosik 60).

Colleges and universities cannot exist if they are unable to maintain legal compliance, which enables their continued access to federal funding. But institution also utilize mandatory reporting policy to funnel individual disclosing to community resources, track and sanction repeat offenders, and sustain the public image of providing safety and security (Amar, Strout,

Simpson, Cardiello, and Beckford 580). While some disclosing individuals may be in search of confidential resources, non-confidential mandatory reporters can be resource guides, especially when given extensive training (Amar, Strout, Simpson, Cardiello, and Beckford 587).

As policies are constructed, institutions are required by federal regulations to provide training and access to information regarding the law, an institution's specific policy, any procedures set forth. Beyond having policy and corresponding education components, institutions' have "obligations to act on sexual harassment and sexual violence among students and staff in accordance with Title IX," the initiation of this process is generated by/through mandatory reporting (Lund and Thomas 530). Research on access to training and informational resources is varied. While the access to information has steadily increased over the past several years, the quality of training and investigation procedures are still questionable, as there is no clear way to assess the detail, extent, and quality of those materials and practices nationwide (Griffin, Pelletier, Griffin, and Sloan 7; Savino 6; Fisher, Karjane, Cullen, Blevins, Santana, and Daigle 71).

In this chapter, I outline an understanding of mandatory reporting policy and training as pedagogical practice, particularly focusing on research identifying disclosure as a pedagogical tool. I then measure the policy and training materials at USF against the commitments of critical communication pedagogy set forth by Fassett and Warren (39-56).

Existing literature focuses on mandatory reporting in relation to tracking crime, legal implications, and calculating the prevalence of programs working to reduce Title IX violations. I, alternatively, recognize mandatory reporting as a pedagogical practice. I delve into two sets of theory to create a framework for analyzing mandatory reporting procedures and guides.

First, mandatory reporting policy is predicated on the disclosure of a Title IX violation, I mark disclosure as a distinct type of pedagogical practice. Second, I utilize the theory of critical communication pedagogy as a mechanism for understanding mandatory reporting as unavoidably political. Therefore, this chapter serves to reveal the underlying values, assumptions, and politics of, specifically USF's, mandatory reporting policy, procedures, and training.

To critique the University's policy is to mark such habituated/mandated communication as a site of power, marking the institution's mechanical disciplining of the performances, language, and values of individuals (Fassett and Warren 59). Mandatory reporting policy, training, and the *Incident Report Form* work to maintain and privilege USF's public image and legal absolution in ways that enable and constrain the relationships between student and teachers. The policy and training formulate a relationship whereby students are led to believe their teachers are accountable reporters – capable of handling disclosure – and educators are led to believe that students will report knowing the value, purpose, and authority of the reporting process.

These texts also privilege certain individuals and cultural values in the process, particularly those of administrators working to uphold compliance and individuals who enact the normative standard of performance dictated by policy, training, and associated texts. In order to better practice the principles of critical communication pedagogy, this chapter engages in a critique of the authority exerted through USF's mandate.

POLICY AND TRAINING AS PEDAGOGICAL PRACTICE

I begin with a discussion framing disclosure as a distinct type of pedagogical act. Interactions between students and educators often manifest through an exploration of self-disclosures, revealing details about one's self and their experiences (Allen 136). A mandatory

report, whether in or outside the classroom, is a disclosure, and a type of learning experience. My goal here is to fill the gap in existing communication pedagogy literature; thereby initiating a discussion of disclosures of sexual violence, and how both the students seeking assistance and mandatory reporters are caught up in the pedagogical implications that extend out of institutional policy and training.

This research builds off Leda Cooks assertion that the everyday practices of an institution are significant, and perhaps, more important than practices within the classroom, when investigating the values and assumption laden in pedagogical practices (304). Disclosures of sexual misconduct, harassment, and violence have become part of the everyday practices of the educational institution, and are therefore indicative of what type of pedagogy the institution is privileging.

Learning and meaning making through mandatory reporting is not an open-ended collaborative process. Rather, it is an institutionally mandated one that allows the university to claim it meets its own stated responsibilities, where the institution never actively seeks solidarity with those implicated in the reporting process (Freire 49). When USF, through the offices of Human Resources, the Office of Diversity, Inclusion and Equal Opportunity (DIEO), the Office of Student Rights and Responsibilities (OSRR), and Title IX Coordinators, requires employees and students learn about mandatory reporting policy, it exerts its authority, subsequently using training to set an expectation that everyone follow the normative performance of policy.

Mandatory reporting training sessions are enacted pedagogical practices, communicative of the University's values and privileged enactment of the materials. The ability of individuals to then uphold the values and perform the policy is indicative of the success of such pedagogical practices.

Pedagogy of Disclosure

At the onset of any mandatory report is the victim's disclosure of a Title IX violation. Lawrence Wheelless and Janis Grotz describe self-disclosure as any message about the self an individual shares with another (338). In this section I articulate disclosures as a distinct type of pedagogical act and examine the implications of disclosure with regard to mandatory reporting policy and training.

Regardless of setting, mandatory reporting is inherently based on the premise of disclosure. The sharing of information, including that which triggers a report, inside or out of the classroom, allows for all involved to learn from lived experiences. Either way, disclosures that trigger mandatory reports are meaningful to USF. Even though the University has attempted to mitigate the influence of policy over in-class disclosures of Title IX violation, by reclassifying them as schoolwork, not a policy-triggering disclosure, the process as a whole is a meaningful pedagogical practice (Hernandez 4). Any disclosure with regard to mandatory reporting has the potential to illicit personal and institutional marginalization and cultural stigmatization from others individuals, the institution, or the government. Nevertheless, individuals disclosing find that despite their vulnerability, their reports are trivialized or they are personally blamed for a crime; victims who report may experience greater risk of depression, anxiety, and other mental health issues, physiological stress, lower academic performance, and fear of retaliation, or negative media attention (Belknap and Erez 200-1). Mandatory reporting has material consequences beyond legal culpability.

Joseph Mazer, Richard Murphy, and Cheri Simmonds describe self-disclosure as the interpersonal sharing of intrapersonal information (175). Disclosures are generally identified as an effective means of improving educators' perceived levels of caring, credibility, and

trustworthiness. For instance, sharing personal stories about having been a student might help an educator humorously articulate how to handle an assignment they themselves completed as a student. However, engagement through disclosure extends beyond the classroom, and in many instances beyond the topics and materials of a course. For example, students often ask for my age, I assume because I am a graduate student, but such an attempt at eliciting a disclosure has nothing to do with the content of the courses I teach.

Self-disclosure as merely an interpersonal phenomenon is used in education research to identify student-teacher relationships as an interactive process where teacher self-disclosure leads to increased student participation and an improved perception of the student-teacher relationship (Baxter; Fusani; Goldstein and Benassi; Mottet, Martin, and Myers). When disclosures are welcomed and affirmed, by students or teachers, an active recognition of power and authority between students and educators or educators and institutions is made possible. Students and teachers better enact engaged pedagogy when they recognize each other as equal participants in learning. This is more so the case if mutual respect exists between the person disclosing and the listener. As bell hooks writes, in *Teaching to Transgress*:

Engaged pedagogy does not seek simply to empower students. Any classroom that employs a holistic model of learning will also be a place where teachers grow, and are empowered by that process.... Professors who expect students to share confessional narratives but who are themselves unwilling to share are exercising power in a manner that could be coercive. In my classrooms, I do not expect students to take any risks that I would not take, to share in any way that I would not share. (21)

In this instance, hooks is proposing that educators must be willing to level with their students, and make themselves just as vulnerable as is encouraged of students. However, a mutual

acknowledgment of vulnerability is complicated when the institution, not the educator, is expressing a standard that students are to be more vulnerable, as is the case with mandatory reporting procedures.

As disclosure is used to effectively build trust and credibility between students and educators, educators become valuable for institutions as entry points for reporting Title IX violations, as such disclosures already require vulnerability.

Most communication and pedagogy scholarship relating to disclosure is specifically targeted at student and teacher disclosures of identity as it operates in the classroom. Missing from the literature is a discussion of the type of disclosures where students speak to sexual violence and may be seeking assistance, and a discussion of disclosures outside the delineated space of classroom. A distinction between inside and outside the classroom is vital, because according to USF policy, disclosures in the classroom can go unreported as “verbal expression, written or other material that is relevant and appropriately related to the subject matter of a USF System course/curriculum” (Hernandez 4).

To better understand how USF’s mandatory reporting policy and training is implicated in pedagogy, I examine scholarship that more specifically frames disclosures. In this section I lay out how current policy and training relate to intentional and strategic disclosures, followed by an explanation of disclosure as policy and training pertain to safety.

Intentional Disclosure

USF policy and training materials regulate potential interactions, without regard to the intent of someone disclosing. Policy and training make absolutely no mention of the possible impacts mandatory reporting has on the relationship between students and reporters; an educators mandated inability to recognize intent could severely undermine their teaching relationship with

a victim. Ann Miller, James Katt, Tim Brown, and Stephen Sivo contend that disclosures are a means of developing ethos or credibility, for both students and educators (12). Intentional sharing helps develop clout between students and educators, improving the potential for learning.

At the heart of a disclosure event is the sentiment of trust, an extension of the previously mentioned ethos or credibility that disclosures can establish between educators and students. Because victims of sexual assault are subject to stigmatization for being a victim, the disclosure of sexual violence is an instance in which the victim is embracing their vulnerability, and in search of a trusting figure (Sable, Danis, Mauzy, Gallagher 157). Whether in or outside the classroom, vulnerability is indicative of the aforementioned ethos developed between student and teacher.

Comparably, unwillingness to engage intentional vulnerability is a consequence of a systematic imbalance of power between teacher and student (Fassett and Warren 92). Expressing vulnerability is a tactic for uncovering the otherwise repeated, sanctioned, and nearly invisible structures and performances that regulate our everyday lives. An instance of vulnerability makes visible, “the mechanisms of power’s production... strategic rhetorics of educational practice... our relationships with one another,” it indicates some alternative threat or force, therefore, being vulnerable invites an interrogation of that force (Fassett and Warren 93). One example Fassett and Warren use to conceptualize this use of vulnerability is the performance of drag; a man wearing women’s clothes reveals and challenges the way gender is constructed, (re) enacted, and possibly punitive.

As evidenced through disclosure, putting one’s identity and body at risk of stigmatization and subject to the procedures – produced by policy and triggered by a report – are a violation of the expected performance of the mundane, the absence of a violation. However, a normative

enactment of policy operates to mitigate the visibility brought on by a disclosure, reducing it back into the mundane by operationalizing it into the structured process. Institutions are fully aware that normalcy will be breached from time to time. Institutions account for those disruptions by creating subsequent mundane practices that mitigate the visibility of such breaches. If everyone involved in a disclosure normatively performs the mitigating practice the mundane functioning of the everyday is restored.

In other words, the everyday expectation is that Title IX violations do not occur, but when, on the rare occasion one does occur, a report triggers the mechanism of power responsible for diminishing the consequences of that Title IX violation disclosure. The normalizing practice is in place to veil the vulnerability of a victim's disclosure; thereby, creating the illusion that normalcy was never breached despite the presence of vulnerability.

Because the directive of institutional pedagogical practice is for reporters to remain in compliance, without recognizing a flexibility to deviate from the normative practice, policy and training neglect to allow mandatory reporters to identify or honor the intent of someone disclosing sexual misconduct, harassment, or violence. Policy and training failing to acknowledge each disclosure exhibits a distinct context. This directive constitutes a clear privileging of compliance over the individual needs of a victim or a reporter's ability to assess and accommodate both the victim and the institution.

David Bleich argues, "Disclosure in teaching presupposes readiness of the context, which includes a certain level of trust of peer and authority figures" (48). This presumption of trust is essential to the disclosure of sexual violence. With no mechanism for guaranteeing that mandatory reporters are sufficiently trained to handle disclosures victims are, potentially,

walking into a trap where reporters cannot ensure legitimate assistance even if a victim is intentionally trying to trigger mandatory reporting protocols.

If mandatory reporters are ill prepared to handle intentional disclosure, they face an even greater dilemma should they face a strategic disclosure.

Strategic Disclosure

Beyond intentional disclosure is the category of the strategic disclosure. In a strategic disclosure individuals need to identify the significance of the disclosure. The desire to share information is still important, but strategic disclosures are marked by an awareness of the value and use of the disclosure.

Rosamond King offers a definition of *strategic disclosure*, “the revelation of identity based on context rather than predetermined decisions” (101). King asserts strategic disclosures come from aware individuals, actively in tune with an ongoing discourse. For example, during mandatory reporter training it is suggested that some students will come to office hours to disclose Title IX violations, knowing the protocol they have triggered and the status of an instructor, this would be both an intentional and strategic disclosure given the ongoing discourse and context. Conversely, from the mandatory reporters perspective, disclosing one’s status as a reporter would be out of context in most situations. Few college courses have content that would warrant an instructor to disclose their status as a mandatory reporter during the first week of class, thereby prohibiting such a disclosure from being strategic.

King suggests that most disclosures are not strategic because they fail to fit in with an ongoing conversation and lack contextual cohesion. Non-strategic disclosures lead to a perceived discomfort and danger, the threat of uninvited disclosure (R. King 101). This danger and discomfort is a function of perpetual unease that anyone could, without warning, disclose

information to a recipient who rather remain ignorant to the content of a disclosure. Should victims and/or mandatory reporters remain unaware of the finer details of mandatory reporting there is a high likelihood of this discomfort. King's assertion of the potential for discomfort or danger that results from non-strategic disclosures is valuable when considering that a disclosure of sexual harassment, misconduct, or violence can occur without any context or forewarning.

Mandatory reporting policy and training work to streamline disclosures. But doing so under the presumption that all Title IX disclosures are strategic is problematic. Evelyn Torton Beck and Crispin Thurlow begin to articulate why the presumption of strategic disclosure is problematic.

Beck offers a slightly different definition of a self-disclosure that addresses ignorant or unprepared participation in disclosures. Beck reminds, "In any given situation we may tell a great deal about ourselves without ever thinking of it as self-disclosure" (159). In order for disclosures to be strategic, they need to be paired with a commitment to identify the dynamics between victims and mandatory reporters, as both disclosers and reporters have no way to preemptively contextualize a disclosure without also triggering the reporting process. Given Beck's assertion, non-intentional and non-strategic disclosures are apt to occur.

Additionally, Thurlow offers an understanding of disclosures from the educator's perspective. He suggests educators learn about themselves by disclosing their own agendas, needs, and frustrations (215). Mandatory reporting policy and training does encourage reporters to identify themselves as such in course syllabi and during the opening week of class, but this does nothing to ensure an interrogation of such an identity. The agendas, needs, and frustrations experienced by reporters are embedded contents of a syllabus if, as is encouraged, Title IX and mandatory reporting language is included in the document. However, there is no guarantee that

mandatory reporters or their students engage in any reflexive contextualization as a result of a mandatory reporter's disclosing their status only through a line in syllabi.

Returning to hooks's prior assertion, a need for balance between educators and students echoes the idea that mandatory reporters remain attuned to their position. Even though educators may not encourage students to disclose, a function of personal preference when teaching or lack of preparedness, educators are marked by institutional policy as authorized to handle disclosures. The University does not ensure all of its mandatory reporters are fully prepared, but by labeling and training reporters the institution is compliant with federal regulation. As such, USF maintains that all mandatory reports are qualified and capable reporting resources, thus defining reporters in possible inaccurate ways to the individuals who disclose.

The lack of clarity regarding responsibility, identity, and context, threatens the goal of university policy to provide safety and security, "based on the respect and fair treatment ... that is free of discrimination... part of the effort to maintain an environment that is comfortable for all people" (Hernandez 1).

Safety and Security of Disclosures

As previously mentioned, USF's policy and training constitutes mandatory reporting as a route to protecting and maintaining the wellbeing of victims, in addition to everyone at the University, through proper disclosure practices. Given this presumption, the policy and training are worth investigating as they do or do not construct notions of safety and security.

Despite University published documents noting policies are designed to ensure the safety and wellbeing of victims and mandatory reporters, Bryant Keith Alexander reminds us it is often necessary to dismiss the cliché of pedagogical spaces being safe (330). I contend the supposed safety and security, created by maintaining a fair, respectful, comfortable and discrimination-free

environment, as expressed in USF's policy, is just such a cliché that operates to frame the institution as legally compliant without ensuring such safety and security.

An institution's expressed presumption of sentiments like safety and security as concepts that can even be stabilized and maintained, language functions to shield the institution from criticism. In communicating the supposition of safety and security, the University further justifies only the actions of those who follow the policy in the idyllic manner and has a built-in defense against those who fail to enact the policy. By simplifying a description of policies and practices to provide/maintain concepts like safety and security a critical analysis of those policies and practices can be reframed as oppositional to the notions safety and security. As such, the aphorism of safety and security stands as a buffer against efforts to alter or critique the privileged institutional practices.

Julia Johnson and Archana Bhatt pose an alternative to the strategic disregard of criticism, reminding educators to solicit feedback from students as it pertains to any disclosures. Although some feedback may not be positive, they conclude that even when a disclosure causes discomfort it is not a bad thing. Johnson and Bhatt write, "In critical cultural work, invoking discomfort usually means one is doing something right" (241). They use examples that would not count as reportable disclosures, instead focusing on how students make assumptions about race, gender, and sexuality while interpreting disclosures, but the scholars' ideas are still applicable. Educators are encouraged to garner feedback regarding disclosures, and to reference any discomfort associated with learning that extends from a disclosure. They suggest this is where students learn in a reflexive manner, writing: "In challenging our students and building alliances with them, we have learned the importance of vulnerability and humility in creating bonds between people differently positioned on power hierarchies" (241).

Johnson and Bhatt's call for feedback, following the disclosure of sexual violence, conflicts with USF's policy and training guidelines. Mandatory reporting policy puts no imperative on the reporter to hold a discussion with a victim following their disclosure, and, quite contrarily, discourages further discussion. The reporter (often an educator) is actually removed from the process, as their responsibility is solely to comply with filling out the Incident Report Form (2). In this dynamic, any discomfort a reporter feels for being forced to abandon the victim or a victim feels being abandoned by the reporter is made moot given the way policy and training construct the process following a report, as only the Title IX Coordinator is authorized to engage in dialogue (Coombes 7). Dialogue is structured to assist the victim in learning their rights and understanding the institution's policy.

The pedagogy of mandatory reporting is situated and fails to turn in and question itself. For example, the training materials merely outline a protocol for following one's role as a responsible employee. Nowhere in the policy or training is there language to encourage context-based deviation from the protocol. Instead the training materials encourage reporters to ensure they have "complied with [their] role" (Coombes 7). While a mandatory reporter could conceivably contact the Senior Deputy Title IX Coordinator, such a concept is completely absent from the training materials. The only section of policy that references dialogue suggests that questions about an individual's reporting responsibility should be directed to the Title IX Coordinator or Senior Deputy Coordinator (Hernandez 13).

Framing mandatory reporting as a static pedagogical practice reveals a contradiction between the stated goals and applicability of the policy. Scott William Gust shows how this contradictory dynamic might influence the classroom. Gust uses autoethnography to share how he became an "out" teacher, and his analysis of identity disclosure offers translatable insight into

disclosures of sexual violence. He describes how disclosures have an inherent component of violence. Gust notes disclosures are impacted by the “(absence of) malice I sometimes perceive in a ‘violent other’” (45). In this instance, the other is anyone on the receiving end of a disclosure, and in the moment of the disclosure there is at least, what Gust calls, a “gasping second of violence” (45). This moment of violence is a function of the potential threat someone perceives in the absence of knowing how an other will respond to their disclosure.

This potential for violence is transferable to disclosures of Title IX violations, as there exists a potential threat to both the victim disclosing and the mandatory reporter who must subsequently disclose their mandated status to fill out a Report Form. I focus on the position of the mandatory reporter, where the gasping second Gust refers to is the moment when a mandatory reporter hears a victim’s disclosure while unaware of that victim’s potential strategy, or lack thereof. Because of the mandate to report a disclosure to the institution the “(absence of) malice” is only open to absolution once the intent and awareness of the victim is uncovered. As such, mandatory reporting policy structurally reinforces violent uncertainty in the moments of disclosures. Even if for only a brief moment, mandatory reporting forces the reporter to experience this violence.

In the instance where a victim is being strategic, they know how the policy operates the potential for violence on the part of the reporter is nullified. But, if the victim does not endorse the mandatory report to the university the mandatory reporter is now a subsequent aggressor to the initial violation. This perpetual potential for violence undermines the ability to practice hook’s notion of an engaged pedagogy, one that values the vulnerable sharing of narrative and mitigates the power imbalances between educators and students.

Mandatory reporting becomes inextricably linked to the pedagogical practices in the classroom as the moment of uncertainty, indicative of a lapse in supposed safety and/or security, can be carried from the moment of the disclosure into the classroom. This potential problem is not addressed by any component of mandatory reporting policy or training materials, meaning the mandatory reporting policy and training are generating uncertainty, an absence of safety and security, and jeopardize the communicated goals of the institution, creating a problematic and precarious identity for mandatory reports as they try to enact the remainder of their responsibilities.

In order to envision mandatory reporting policy and training in a way that enables less limiting and contradictory pedagogical practices, I outline critical communication pedagogy as a frame for further analysis.

CRITICAL COMMUNICATION PEDAGOGY

In their pursuit of better understanding the relationship between communication and pedagogy, Fassett and Warren determined research on communication pedagogy lacked a sufficient dedication to understanding where it coincides with critical theory. They sought to connect the dots between critical, performative, and feminist pedagogies, among other ideas (7). Observing communication ideas within the aforementioned pedagogies, Fassett and Warren unify this work for communication pedagogy scholars. They recognize how communication persists and maintains institutional power in pedagogy, adding that a critique of the structure must remain attuned to the lives and bodies of those involved. Fassett and Warren outline ten commitments of critical communication pedagogy (39-56).

In identifying what they saw as the limitations of the definitions of critical and other relative pedagogies, Fassett and Warren contend that critical pedagogy alone offers an

incomplete lens for researching pedagogy. Similarly, Ellsworth suggests critical pedagogy suffers from idealism that “exacerbate[s] the very conditions we were trying to work against” (91). Additionally, Fassett and Warren contend, critical pedagogy’s major flaw, despite its profoundly moving potential, “is too modernist, abstract, and utopian for concrete situations, fleshed individuals, palpable conflicts” (26). As such, I outline Fassett and Warren’s ten commitments: identity; power is fluid and complex; culture is central; pedagogical practices as constitutive of larger social structures; pedagogy as contextually meaningful; language is central; reflexivity as essential act; pedagogy and research as praxis; understanding human subjectivity and agency; and dialogue and relationships. These commitments offer a means of contextualizing mandatory reporting by remaining attuned to the implications of the status quo.

As Fassett and Warren explain these tenets are an ideological underpinning, “certain agreed upon (and often taken-for-granted) assumptions... responsibilities, promises to keep” (38). The commitments are a set of values I hold myself to in research, writing, teaching, my pedagogical praxis, my everyday life, and by extension a set of values I use to measure the pedagogical practices I am mandated to enact. In the remainder of this section, I explain each of the ten commitments Fassett and Warren outline and apply them to USF’s mandatory reporting policy, procedures, and training practices.

Identity

Critical communication pedagogy takes issue with research that situates identity as static. Fassett and Warren call upon Judith Butler’s notions of performativity and Freire’s discussion of the empowering nature of language to show that identity is fluid. Ultimately, these works set a foundation for identity as a communicative act, and one then critiqued through a lens of communication.

Fassett and Warren are quick to note a recognition of identity as fluid is not achieved solely through an unsettling of linguistic choices, which one might presume when Freire suggests, “changing language is part of the process of changing the world” (qtd. in Fassett and Warren 40). Without the communicative, complex, co-constructions that come through discourse, the nuance of identity is lost to non-strategic essentializing or reductionism. In other words, the details of an individual’s identity are reduced to static stereotypes and assumptions not indicative of unique, relational aspects of identity. With regard to mandatory reporting, this would be akin to assuming victims are always women or traditional students just out of high school. Instead, the multi-disciplinary approach Fassett and Warren take to critical communication pedagogy invites a treatment of identity not as concrete or mundane, but as created, and potentially sustained, through “concrete, mundane activity (i.e., communication)” (40). Therefore, identity must be recognized as perpetually fluid and flexible, not something concretized in policy.

Embodiment. Embodiment, being an essential way individuals express and generate identity, fits within the commitment to recognizing identity as constitutive. It could be seen as an independent, additional, commitment to the ten currently outlined by Fassett and Warren

Warren writes of embodiment, elsewhere, with regard to a performative pedagogy, in line with commitment to identity in critical communication pedagogy, “a performative pedagogy of enfleshment... a study of how human beings constitute their everyday lives, their *identities*, their reality through the embodied practices of their daily lives” (Warren, “The Body” 258, emphasis added). Warren suggests identity is not just a function of labels, which can be used to define people, but the qualities of those labels are carried with/in bodies through perpetual performance.

Mandatory reporting, however, is dependent on the functioning of labels and an ability to establish labels. As soon as a mandatory reporter is given reason to believe someone should be labeled a victim, or “Complainant,” they possess a burden to begin publicly (re) labeling themselves as a mandatory reporter (USF-DIEO 2). The mandatory reporter then situates and fixes the victim’s identity in order to fill out information on a Report Form. The politics of the bodies of those involved in a report are reduced down to collected information in completed paperwork.

Amy Kilgard and Elyse Lamm Pineau discuss what it means to bring bodies into pedagogical spaces. Pushing self and others to recognize bodies in meaningful ways through course assignments and activities, Kilgard suggests developing an attention to the body “as we center, de-center, destabilize, and trouble it through performing, directing, rehearsing, and witnessing performance” (220). For Kilgard, the classroom is a site of performance. Identity, thus, is brought into critical communication pedagogy more clearly through performance and through bodies.

Pineau’s work affirms Kilgard’s assertion that pedagogy is a space for performance, while actively concerned with absolving the consequence that a pedagogy-as-performance metaphor leads to pedagogy being reduced to product (“Teaching is Performance” 4). Extending the importance of the body, Pineau theorizes the body in three ways: ideological, ethnographic, and performing (“Critical Performative Pedagogy” 42).

The ideological body refers to the pedagogy of imprinted identity markers, such as race, class, gender, sexual orientation, and able-bodiedness, among other macro-categories (Pineau, “Critical Performative Pedagogy” 44). These categories allow for an examination of what the body does and why certain ways of marking the body change the meaning of what the body does.

The status of victim or mandatory reporter can be seen as ideological markers, markers the university manages by creating distinct scripts.

The ethnographic body examines how the body is constructed and contested, specifically as conceptions of teacher and student (Pineau, “Critical Performative Pedagogy” 42). As bodies move through pedagogical spaces they learn the social codes enacted by other bodies. In this way, the ethnographic body offers insight to the micro-consequences of the macro-categories of the ideological body (47). The lived experience of a victim or mandatory reporter provides the insight of the ethnographic body. These experiences expose how ideology influences those involved in a disclosure. The focus is on the nuance experienced as a function of the ideological marking.

Third, Pineau explains the performing body as the use of the body as a strategic means of actively and critically participating in and beyond the pedagogical space of the classroom (“Critical Performative Pedagogy” 42). This entails the “rigorous, systematic exploration-through-enactment of real and imagined experiences in which learning occurs” (Pineau, “Critical Performative Pedagogy” 50). Performance encourages the examination of the ideological body by enacting the ethnographic body (“Critical Performative Pedagogy” 52). In other words, the performing body allows for an embodied examination of how observable lived experiences, the ethnographic body, compares to the culturally dictated presumptions of experiences, the ideological body.

Pineau’s concept can be used to conceptualize institutional policy and prescribed performances. Pineau contends schools reproduce bodies by imprinting on them certain cultural/ideological presumptions (“Critical Performative Pedagogy” 44). Similarly, policies operate at a theoretical level. The way institutional policy constructs the images of the people it

references, constructs the ideological body. Ideological practices often dictate ignoring or erasing the nuanced details of bodies, limiting the recognition of how individual bodies might “experience and express their position” (Pineau, “Critical Performative Pedagogy” 46).

The observing of policy in action would be the ethnographic body; instances where a mandatory reporter enacts the policy would then be the performing body. Integrating the ethnographic body into training would mean allowing trainees to observe instances where the policy was enacted. Integrating the performing body into training might then entail explorative enactment by aesthetically staging past and/or imagined disclosures of Title IX violations.

However, prior to the instance where a mandatory reporter is forced to enact the policy with a disclosing victim, no observed framework or embodied practice exists. This means the policy and training currently fail to provide mandatory reporters with an opportunity to interrogate their own an/or other’s identity and experiences during a disclosure, aside from abstract intellectual inquiry. By avoiding the ethnographic and performing bodies prior to official enactments and reducing learning to only the normative conceptions of the ideological body, outlined in texts, institutions leave individuals with only the normative ideologically construction as a frame of reference for their performances. This creates concrete conceptions of individuals who actually have diverse and individual understandings of their experiences.

Recognition of identities as flexible, complex, and fluid is the first commitment of Fassett and Warren’s pedagogy. They continue to explain that power, the way in which influence is wielded, is another concept critical communication pedagogy values examining.

Power as Fluid and Complex

Recognition of power, and by extension privilege, is a focus of critical communication pedagogy. In principle, power is akin to the ability to influence the generative capacity of

individuals; privilege highlights and values certain ways of thinking and being. Leda Cooks frames power as it is contextualized within critical communication pedagogy, writing:

...it has as its goal a critique of the various manifestations of knowledge as sites of power and privilege, the uses of communication to secure or resist power, and the ability of communicative practices to invite change and allow spaces for agency and intervention in the hardened categories of education and schooling as formal institutional practices (294).

Cooks is concerned with how people express their own agency in response to institutional mandates that regulate actions and speech.

In her feminist critique of critical pedagogy's approach to power, Jennifer Gore points out critical pedagogy scholars often mark power as property or something that agents have control over. In order to facilitate student empowerment, the owner of power would have to concede some of their power (Gore 57-8). Ultimately, these possessive ideas regarding power and discourse are limiting, as rhetorically situating a discussion of empowerment too easily slips into a discussion of power as product, not a fluid concept. Conversely, an empowering pedagogy would more aptly conceptualize power as process; interrogating how power operates, not who has it. A mandatory reporter has power, as a person disclosing sexual violence has power, as does the institution. In this way power is relational and fluid depending on circumstance.

Fassett and Warren explain this concept by questioning the term "at risk" students. They ask how such a term would be empowering? What is its purpose? How will people make sense of such word choice? They argue a critical communication pedagogy framework would ask why is a student comparatively at risk? What taken-for-granted and stabilized presumptions lead to such a label? Who is privileged though the use of such a label? These same questions can be applied to the label of mandatory reporter. Is being a mandatory reporter empowering? What

purpose does mandatory reporting serve? How will people make sense of being a mandatory reporter? Answers to those questions are provided, in some form, throughout this dissertation.

John Warren argues the power to identify the other through our gaze is a function of privilege (“Absence” 44). A mandatory reporter performs their role by marking victims in light of a disclosure; the policy grants reporters the privilege to determine who is or is not a victim. Victims have the power to identify themselves as such, which would motivate them to disclose, but they lack the privilege necessary to authorize that label. Reporters are marking difference, and through this act exert power, or privilege, to define the other.

Conversely, the institution marks mandatory reporters. From this alternative perspective reporting is not a privilege, but a duty. The University diffuses responsibility to mandatory reporters. Mandatory reporters have no way to opt out of such an identity marker other than to concede their employment with USF. The institution has the authority to mark its employees. Terminology used by an institution, and the ability to apply such terminology to certain bodies, is a function of the University’s agentic capacity and indicative of its power over those it labels.

From the varied perspective, power fails to remain constant; the negotiations of power substantiate fluidity. A focus on the dynamics of power highlights how mandatory reporting policy and training create levels of disenfranchisement.

If, as Fassett and Warren contend, critical communication educators are responsible for exploring power and privilege, they cannot do so in a way that exclusively interrogates discourse, communication, and performances of others but must also remain critical of the complex nature of power and privilege in their own work (42). For instance, I have the power to write about mandatory reporting, but I do so in service of the institutional requirements of earning a doctoral degree. I also recognize that as a mandatory reporter I have to opportunity to

resist the mandate. While the University grants me the privilege to identify others, I have the inverse power to reject that privilege, though I would do so at some risk.

The continued assessment of the relational dynamics of power and privilege underscores that prescribed practices are grounded within cultural boundaries.

Culture is Central

Culture's role in pedagogy is extensively referenced as significant to research, reading, and teaching. Culture, in this instance, is the amalgamation of values and assumptions that foreclose communication. Fassett and Warren specify the significance of culture, writing, "Recognizing and interrogating cultural [sic.] as central to any classroom or curriculum is to complicate the tendency of positivist scholars to define that space as neutral and 'objective'" (43). They argue because culture is imbued with ideology, it is inseparable from any discourse. For instance, a course syllabus is a theoretical contract that sets guidelines for a course as a distinct cultural space, but a syllabus also has components required by an institution. Institutional components function to maintain cultural standards. Every pedagogical space is influenced by and influences culture, and to assume an absence of culture may lead to a false consciousness (Fassett and Warren 43). As such, it's important not to overlook the facets of culture.

University policy is an example of the functional components of culture; the *University of South Florida System Policy # 0-004 Sexual Misconduct/ Sexual Harassment (Including Sexual Violence)* is one example of a foundational component of an institutional culture. Each of the University's policies influences the space and the consciousness of those that are a part of the institution in some way, whether they know it or not, as the policy creates the standards by which the culture is generated.

Joe Kincheloe articulates culture as significant, noting, “Dominant and subordinate cultures deploy differing systems of meaning based on the forms of knowledge produced in their cultural domain” (56). Communication is a meaning making process; therefore culture is essential to contextualizing any critical discourse surrounding that meaning making process, because it delineates the assumption and values privileged by the culture. Michael Apple takes up the notion that culture and ideology are inseparable from pedagogy (128). He argues schools are sites for both teaching and creating culture (Apple and Weis 11). The culture of the university is generated through mandatory reporting policy and taught through training.

Culture’s significance is highlighted in further critical communication pedagogy scholarship. Leda Cooks, importantly, notes “culture is created through socialization,” extending the assertion that through recognition of culture it becomes possible to move beyond surface comparisons of essentialist differences between individuals and cultures towards the rather more meaningful assumptions and values that underlie our discourses (303). Considering people sit through mandatory reporter training without being required to engage beyond a sign-in sheet and remaining present in the lecture hall during the training reveals a cultural standard of compliance over comprehension. As such, USF’s mandatory reporting pedagogy is revelatory of culture, despite making little overt mention of it.

To talk about how and why culture is used, created, referenced, and concretized, as opposed to demarcating what is and is not included in a particular culture invites a more critical epistemology. While this invitation is lacking within mandatory reporting policy and training, the pedagogical implications revealed by examining mandatory reporting practices is indicative of something bigger, that being the social structures that are used to substantiate the assumptions and value of culture.

Pedagogy Practices as Constitutive of Larger Social Structural Systems

Similar to the way Judith Butler argues gender is “a stylized repetition of act, “our pedagogical and communicative practices are concretized and stylized into mundane acts that come to represent larger social structures (519). As Fassett and Warren articulate, uncovering the supposed neutrality of the everyday and mundane helps to reveal the dynamics of these constituted social structures:

For critical communication educators, the value of analysis is that, through it, we might more readily discern that it is the mundane communication practices in our lives that work to make larger social systems possible. When we fail to note happenings in the classroom... as mundane, taken-for-granted practices of communication that are often ignored as neutral or natural, we deny the lens of analysis that communication researchers can bring to the conversation. (45)

They argue it is imperative to recognize how even simple communicative practices are themselves unique expressions of power open to becoming concrete and mundane. Either way, it is the critical examination that reveals the fallacy of neutrality.

This is akin to how mandatory reporting policy and training acknowledges the links to federal policy, even though it fails to interrogate those links. As directed by the Department of Education and federal law mandatory reporting policy is implicated in a larger effort to combat Title IX violations on college campuses. But the question remains: to what degree is upholding those federal mandates actually about protecting victims compared to protecting access to federal funding?

Two scholars doing this work to interrogate how pedagogy is constitutive of larger social structures include Richie Neil Hao, who questions how silence might be recognized as a form of

participation, and Bryant Keith Alexander, who shares his own presumption of pressure to participate as a student.

In his discussion of silence in the classroom, Richie Neil Hao presents one such example of this overreach. Hao writes that presuming verbal deliberation as an exclusive means of critiquing and expressing resistance to oppression mitigates the use of “silence as a way to communicate or resist in the classroom” (274). Critical pedagogues who assume agency and dialogue is achieved through verbal expression end up privileging a western way of conceptualizing pedagogy.

Silence is also vital to mandatory reporting policies. Dennis Gregory and Steven Janosik suggest that sexual assaults on college campuses are still underreported (60). Victims may be seeking services and assistance, yet the structure of reporting, as taught to them, remains insufficient at helping victims feel like they can securely report a crime. Moreover, Brett Sokolow, Executive Director of the Association of Title IX Administrators, in a 2013 article published by *The Chronicle of Higher Education*, is concerned that overzealous mandatory reporting policy will force victims who feel unsafe “to go underground.”

Bryant Keith Alexander offers similar insight through a story of his own triggering experience. Alexander explains that in one instance, a class performance regarding embodied engagement, a moment Alexander identifies as representative critical performative pedagogy, he felt the need to “*perform student well*” at the expense of “personal pain and grief” (331). Alexander identifies the admitted limitation of critical communication pedagogy “offers students equipment for living and critical mechanisms of sense making... that knowledge, coupled with particular strategies of engagement might lead to possibilities of personal liberation and public engagement of social values” (Alexander 333). There is, of course, no guarantee that engagement

or emancipation occurs through critical communication pedagogy, only the potential of betterment through reflexivity.

I question how Alexander's ideas apply to mandatory reporting as an outlet for victims to report because the structure does not ensure victims can engage with the system in a way that might enable emancipation or some greater sense of control over the process. This flaw is indicative of the heightened risk victims face when a mandatory reporter shares the contents of a disclosure without a victim's consent. Because the university has to account for federal regulation when handling reports of Title IX violations they can never completely prioritize the needs of victims. When the mandatory reporter is triggered by a disclosure to file an *Incident Report Form* that will work its way through the Office of Diversity, Inclusion, and Equal Opportunity without a victim's affirmative consent, the report becomes a secondary victimization, a further perceived violation of the legitimate rights or entitlements of the victim (Orth 314). These instances where the victim feels they lose their privacy beyond the initial person they choose to disclose to are subsequent violations of a victim's consent. In other words, the policy, a system of the larger social structure, constructs a distinct scenario wherein reporters, as they abide by the policy, risk becoming successive threats to victims.

Policy and training at USF do nothing to prepare reporters for handling victims that would prefer a Title IX Incident report not be filed. It is possible that victims just want to tell someone about their experience, and not trigger the institutional response of the larger social structure.

Pedagogy as Contextually Meaningful

Keith Nainby offers a valuable reminder: "there is no set systematically ordered, preexisting traits, capacities, or orientations that might be identified through careful testing of the

scientific questions that are supremely relevant for communication theorizing” (25). This reminder helps frame critical pedagogy and critical communication pedagogy as critical of positivist works, instead embracing notions of subjectivity. Nainby’s move here is to resist the over-generalized application and calcification of practices that disregard the situated context of their use. Fassett and Warren argue, “Critical communication educators seek to place discussion of mundane communication practices... within – always, without exception, within – institutional and social setting contexts” (48). A perpetual examination of how context leads to imbalances of power and injustices can open the door to mitigating strategies. Yet mandatory reporting is to be implemented devoid of any and all context not outlined in the policy or training materials, which leaves mandatory reporters with little to no room for addressing disclosures in a nuanced manner.

Nainby uses meaningful context to philosophically ground communication, suggesting communicative acts “are performed in social contexts” and “communication is a process in which participants actively make meanings within dynamic contexts” (13-14). I contend discourses must be contextually bound in order for them to be recognized as meaningful and critiqued. Conversely, mandatory reporting is mundane, structured, and devoid of dynamism. The reporter’s mandate is to fill out necessary paperwork, explain their reporting obligation, and direct victims to alternative resources and outlets to file additional reports.

The overly specific directive generated by policy and training is prohibitive of the free construction of meaning between victims and reporters. Following the mandate will still produce meaning, but the context of that meaning is directed by policy, not by the victim, nor through a collaborative process between both the victim and reporter.

Mandatory reporter training offers no insight on how to handle a report that deviates from the outlined structure. Nor does the training elucidate how a victim might initiate or behave during a disclosure. It is this type of contextual binding that Fassett and Warren contend is problematic to critical communication pedagogy; policy and training fail to contextualize how complicated a disclosure might become.

As policy and training delineate the responsibility of reporters and discipline communication, there is insufficient language for ensuring reporters are prepared to facilitate victims from making meaning of their own disclosure outside of the context prescribed by the institution. One way context could be further established is through the use of victim-centric language.

Language is Central

Human communication is an ongoing process and these ongoing interactions not only give the symbols we are using meaning but the interactions enable further development of symbols of communication.

Fassett and Warren contend, "...particular selection of words create particular worlds; moreover, each selection of words, each world, implies other possible words, other possible worlds" (49). Therefore, words, while useful, are fraught with potential problems; the subjective, fallible nature of words opens the door for miscommunication. The use of certain words will trigger individuals into certain worlds, confining them to the words of that world.

Feminist pedagogy also identifies language as central when analyzing pedagogical practice. Mimi Orner writes of language as a site of struggle, noting, "it is an illusion to believe that we can ever be fully present in speaking or writing" because symbols are shared and their meanings are split by both speaker/writer and listener/reader (80). The *Title IX Incident Report*

Form is indicative of the political quality of language. When the form directs a reporter to identify the “Complainant” it makes note this is the same person who may also be identified as the “victim,” and the “Respondent” is the person identified as the “accused” (2). The dynamic of comparing these two word pairings is indicative of a desire to retain a sense of neutrality in the form. By referring to the “accused” as the “Respondent” the form minimizes the allusion to a criminal act. In the same manner, calling the “victim” a “Complainant” paints the presumed violence the victim is communicating in a disclosure as less severe.

Both Kincheloe and Freire further support the notion critical pedagogy marks language as significant. For Freire, the oppressed learn to speak the language of the oppressor, but dialogue cannot happen when “some name on behalf of others” (89). One must be able to use words and confer on the meaning of words with others for critical communication pedagogy, or dialogue, to exist. Freire’s approach to the oppressed marking meaning with language is oppositional to the oppressed being forced into using incomprehensible words.

Kincheloe also recognizes that language is neither objective nor neutral. Considering that language is among our most useful tools of discourse, distinguishing the partisan notes of language is essential. For Kincheloe, language loops back into discussions of power:

... critical pedagogists appreciate the fact that language is not a neutral and objective conduit of description of the ‘real world.’ Rather, from a critical perspective, linguistic descriptions are not simply about the world but serve to construct it... critical pedagogists begin to study the way language in the form of discourses serves as a form of regulation and domination.” (55)

The assertion here is that language is used to regulate what is and is not authorized speech, who can and who cannot speak, and what means are even acceptable forms of disseminating speech.

These notions are evident in the everyday practices of the classroom, considering how inescapable language is, in syllabi, textbooks and articles, lectures, even course titles, it becomes futile to deny the centrality of language in pedagogy. Additionally, Kincheloe argues language use is a form of regulation. For instance, the language of requiring students to “watch” a movie for class puts visually impaired students at a structural disadvantage. Observing how language operates opens a subsequent potential to how power and privilege are a function of that language.

The words used throughout mandatory reporting policy and training are consequential for the reporters who are expected to interpret language and then implement it with victims. The finite details of policy are also not worded in an easily decipherable language. The policy itself has sections defining “persons who may file” and people who “*Should* report.” In addition there are three pages defining the distinctions between those who “*MUST* report,” supervisory employees “required to promptly report... allegations, reports, or instances of sexual harassment” and responsible employees only “required to promptly report allegations or instances of sexual harassment... who know or reasonably should know of sexual harassment” (Hernandez 8-13). Despite there being those who “*MUST* report,” earlier in the policy is contradictory language that “Prohibited conduct does not include verbal expression, written or other material that is relevant and appropriately related to subject matter” (Hernandez 4).

Given the University’s need to avoid legal culpability deferring the burden of interpretation allows the University to hold the mandatory reporter culpable for a misinterpretation. This becomes increasingly problematic, as a mandatory reporter is limited to a communal lecture or personal correspondence with the Title IX office if they wish to ask any clarifying questions. If the reporter has a time sensitive question, in the moment of a disclosure, there is no measure in the policy designed to ensure personal correspondence with the Title IX

office will sufficiently assist a mandatory reporter in the moment of need. The pedagogical implications of mandatory reporting, therefore, are a function of language that does not engage reporters but operates to protect the institution.

Through additional personal inquiry and reflexive interrogation, a mandatory reporter might come to better understand the language in mandatory reporting policy and training.

Reflexivity as Essential Act

Keith Berry writes, “reflexive inquiry provides more intimate and informed inquiry” (221). Reflexivity is an essential condition for critical communication pedagogy. Standing as more than reflection and more than just a doing, reflexivity is a process of perpetual cognizance, a questioning of pre-established suppositions about the self and the structures people study and operate with/in.

Reflexivity is a process of interrogating position and privilege in relation to the broader social structures and communicative practices. Fassett and Warren note:

Discerning how our communication, our performances and our language, creates who we are and defines our work as teachers is a reflexive act. It is not simply an act of reflection, an ordering of what was said when and to whom, but rather a process of reflexion, and ongoing effort to call out, to illuminate the (re) creation of our selves, our values, assumptions and practices. (50)

This suggests reflexivity requires more than accounting for what is or what was by illustrating the connections between what is and what was and asking how particular ideas and systems maintain what will be.

In this sense, reflexivity might lead an educator to question how and why they come to facilitate students sitting in desks arranged in conventional columns, facing the front of the room.

Is the practice a function of centering the educator as the authority figure at the front of the room, a way of speaking, literally, down to students, or an unquestioned, yet no less political, practice based on the existing layout of the room? And what values are being substantiated through the educator's choices? To engage in reflexivity an educator would have to delve deeper and ask why these choices are made. A reflexive interrogation might lead an educator to realize the desk arrangement is a passing enactment of power, a function of years of learning by observation that classrooms were "just supposed to be arranged that way," prompting a future rearranging of the desks in a circle and sitting among the students or encouraging students to rearrange the room as they believe will best promote learning at the beginning of each class. Ultimately, reflexivity requires interrogation of the value and systems that influence particular actions.

Reflexive practices must be conscious and constant. For as soon as reflexivity ceases and practices become static, the assumptions of self, everyday life, and pedagogy settle as potentially problematic forces. As a mandatory reporter I am implicated in the policy should I be called to enact it, as students are aware of my status, and as my self-awareness influences my personal pedagogy.

The power of the mandatory reporter is literally to gaze at a disclosing student and authorize the disclosure as worth reporting or not, this position is privileged and problematic. For me, reflexivity includes being up front with students about my responsibility as a mandatory reporter and offering to engage in conversation with them outside of a report. This requires including a written reminder of my status in syllabi, mentioning my duty during the first day of class, encouraging student to look up the policy, and offering to talk with students should they have questions. The strategy is an attempt to help further educate students about the policy and

engage in dialogue about it, or, at the very least, prompt them to look up the policy on their own time.

However, reflexivity also requires recognition of my position and privilege. I come to mandatory reporting policy and training with my own academic training and ability, and interrogate texts given that framework. My identification of the policy and training as problematic is a function of what I see as my dedication to critical communication pedagogy, a position I can only take given my privileged access to the academy. I must also remain aware of Fassett and Warren's caution, "we, as teachers and researchers, create the phenomena we observe" (50). Each time I discuss mandatory reporting in the context of the syllabus or when students occasionally ask about my research, any opinions I have are bound to surface in my discussions. In the few instances students have approached me for more detailed conversations I was bound to enable and constrain facets of my relationships to students by inadvertently sharing my distaste but also expressing my detailed knowledge of the policy and ability to enact it. In the more formal classroom setting my relationships to students is still enabled and constrained. For example, I make particular note of the anti-discrimination language in my syllabus, which highlights Title IX policy, foregrounding my opposition on all sorts of discriminatory actions. I have to remain aware that my language influences, and might diminish, the value some students find, or need, as policy serves them. From this perspective, I remind students of my availability to discuss the policy, creating space for dialogue independent of any possible need to enact the policy. I also share my responsibility to report to the University. I express that if a student needs me to enact mandatory reporting policy I am able.

The University policy also benefits mandatory reporters who do not wish to deeply engage with students. Upon hearing a disclosure, a mandatory reporter can perform their duties

without regard to the consequences of the event, and for some reporters being divorced from any additional responsibility or pedagogically inspired duty is assuredly a privilege.

The practices of mandatory reporters, in and outside the classroom, are indicative of the values and assumptions they hold. Bringing those values and assumptions to the forefront, allowing them to be questioned and qualified is essential to embracing reflexivity. These reflexive practices are themselves a form of inquiry, a means of allowing educators to research themselves. In this manner, reflexive teaching practices are both pedagogy and research.

Pedagogy and Research as Praxis

Praxis is a purposeful collaborative process, as it strives to recognize not just the theory intertwined in practice, but, in the pedagogical sense, how to practice theory as teachers *and* students together.

Kincheloe calls for “radical act[s] of reevaluating... we can’t stop the reevaluation process” when discussing research (137). Though this idea might stand as a better defense of reflexivity, Kincheloe further clarifies that quality research needs to embrace diverse epistemologies, and through listening and learning (140). Researchers and teachers should be committed to understanding epistemological diversity as a means of recognizing the political underpinnings present in their own work.

Mandatory reporting training features no voices of victims or collection of experienced mandatory reporters. Rather, the Title IX Senior Deputy Coordinator, a person tasked with helping the institution comply with the law, leads it. Training and policy are geared towards compliance, rather than engaging mandatory reporters in a thorough listening and learning process that pays attention to the diversity of mandatory reporters. My experience with training also indicates that attempts to question and clarify the directive are met with efforts to calibrate

understanding back towards compliance. There is no potential to use training as a forum for negotiating what a praxis or mandatory reporting might entail.

With regard to teaching, Kincheloe postulates the teacher as someone that must make concessions of authority in order to learn with students. By embracing the role of student, Kincheloe's proposed teacher begins to welcome Freire's premise:

Through dialogue, the teacher-of-the-students and the students-of-the-teachers cease to exist and a new term emerges: teacher-student with students-teachers. The teacher is no longer merely the-one-who-teaches, but one who is himself taught in dialogue with the students, who in turn while being taught also teach. They become jointly responsible for a process in which all grow. (80)

When students and teachers actively listen to each other there is a mutual learning that takes place, beyond the boundaries created by titles of student and teacher. Thus, Kincheloe's idea is more visible as he argues, "teachers must become scholars who understand the multiple perspectives... teachers and students take multiple understandings into account as they improvise critical pedagogy in specific lived situations" (177). In order to develop a mutually meaningful praxis amongst students and teachers, educators committed to critical communication pedagogy have a responsibility to recognize the epistemological perspective of students. Otherwise educators are destined to marginalize, or themselves miss out on learning with, those students.

The epistemological perspective of mandatory reporters, however, is entirely left out of discourse by mandatory reporting policy and training. Mandatory reporters are intermediaries between the at-risk population of victims of sexual harassment, misconduct, and violence, and, therefore, the tools of the institution. No steps are taken to research and integrate mandatory reporters' perspectives into policy or training materials.

For Fassett and Warren, the idea of communication happening “*with*” one another is what brings Freire’s notion of praxis and critical communication pedagogy together (51). It is up to teachers and students to jointly seek out the taken-for-granted, mundane, and concretized moments and deconstruct them together. Praxis requires collaboration, perspective taking, and the willingness to disrupt a process and make it anew. Mandatory reporter training fails to meet Fassett and Warren’s standard.

Praxis is transformational in that a commitment to it will allow for a perpetual decentering of normalized ways of thinking and being. In this way, mandatory reporting policy and training materials decenter the epistemological perspectives of those it inherently silences, victims and mandatory reporters. By failing to account for the possibility that some who disclose an incident of sexual violence do so without wanting to partake in the mandated reporting procedures denies the standpoint of such individuals. Neglecting to enable praxis among victims and mandatory reporters is a clear contrast between the commitments of critical communication pedagogy and the practices of mandatory reporting at USF.

This reduction, prohibiting praxis, constitutes victims and mandatory reporters as cogs in the reporting system meant to follow what amounts to a data collection script. Doing so negates the subjective, dynamic qualities of victims and reporters as agents in the process.

Understanding Human Subjectivity and Agency

Central to critical, feminist, and critical communication pedagogy is the recognition of human subjectivity, the notion that humans are unique, individual thinking beings with the autonomy to make meaning. Underlying much of the feminist pedagogy is a respect of students and teachers as agentic (Lather 123; Gore 56-57). Freire is also remarkably upfront with regard to protecting agency, claiming, “Any situation in which some individuals prevent others from

engaging in the process of inquiry is one of violence” (85). Mandatory reporters’ inability to provide input about the policy they are trained to maintain is a subtle enactment of Freire’s notion of violence.

One way the critical pedagogue embraces others as subjective and agentic is by actively recognizing them as co-investigators, welcoming the unique perspectives of others. Fassett and Warren call for a willingness to not dismiss the rationality of others, “embracing this perspective involves believing that others’ behaviors are purposeful and logical, even if that logic is not readily apparent” (52). While the current guidelines erase the mandatory reporter from the process following the initial disclosure, the relationship between student and teacher may not be as easily severed as the student may continue to be enrolled in courses taught by the mandatory reporter.

Fassett and Warren further argue that critical communication pedagogy can never be singularly situated or grounded. The subjectivity of each and every participant in pedagogy expands the collective capacity to learn whether participants are reflexive or not (53). In this way, critical communication pedagogy takes the potential rationality and autonomy of each individual and invites them into a discourse (Kincheloe 52). While I might find mandatory reporting policy and training problematic, I, as the researcher, cannot deny USF a subjective, agentic, a rational capacity. No matter how able I am to discern what the rationale is for the texts being written as they are, I must respect that some purpose does/did exist.

Conversely, the policy does not respect my rationality to the same, or any, degree. In some way, this dissertation is a form of resistance, acknowledging my own agentic capacity. The University could use this project to trigger changing the policy and training to better engage with mandatory reporters.

This dedication to treating all involved in pedagogy as agentic, as purposeful, is what allows critical, feminist, and critical communication pedagogies to avoid excluding others and their ideas. In the absence of exclusion, all actors are permitted to engage in dialogue.

Dialogue and Relationships

Dialogue is, perhaps, the most essential part of critical communication pedagogy. Critical communication pedagogy values dialogue between educator and student, or, by extension, educator and institution. Through active discussion, individuals, and the institutions they represent, can come to terms with how they relate to each other, what their responsibilities are, and the consequences of those delineations.

There is, of course, no guarantee that engagement or emancipation occurs, only the potential of betterment through reflexivity. This dilemma exists in the current discourse of mandatory reporting, for example, a mandatory reporter is expected to perform normalized “responsible employee” as dictated by the monologue of mandatory reporting training and within policy. Additionally, the “dialogue” of a disclosure and completion of a *Title IX Incident Report Form* is a mundane, structured process, not open to ongoing critique, aside from mandatory reporters and victims mutually willing to engage in a resistant dialogue.

Ellsworth points out maintaining the idealistic rules of “equal opportunity to speak, all members respect other member’s right to speak and feel safe to speak, and all ideas are tolerated and subjected to rational critical assessment against fundamental judgments and moral principles” is problematic and while nearly impossible to achieved, is still imperative to pedagogy (106). Kincheloe embraces listening and learning, but critical pedagogy runs the risk of slipping into the essentialist notions and false consciousness if the conversations lack an acknowledgement of their own limitations (140). A mandatory reporter is guided to listen to the

victim, so while the institution could argue the voice of the victim is being respected; the mandatory reporter is listening more as a stenographer than as a learner.

Fassett and Warren open critical communication pedagogy up to critical pedagogy's limitations, writing, "... anyone may attempt to deny someone else's naming of the world. A dialogue is characterized by open acknowledgement of each person's naming of the world, though that acknowledgement need not imply acceptance" (54). Drawing upon Freire's calls for love and humanity, Fassett and Warren conceptualize generative spaces that allow for communication to "produce, maintain, and interpret our worlds" in ways that we may agree, disagree, question, compromise, hurt, and heal, but strive to find meaning (56).

In this way, the collection of victim reports is close to respecting this component of critical communication pedagogy, but does so only when the goals of the victim align perfectly with the goals of the institution. This potential success is bound to instance where the normalized procedure happens to contextually align with the intent of the victim disclosing and political agenda of the reporter to whom they disclose.

Regardless of what dialogue takes place, as permitted by policy, it is bound to become problematic through slippages of language. Victims will never be entirely supported, and mandatory reporters will always be suspect to meeting neither the needs of victims nor the institution. Only by continually critiquing our current policy and engaging in dialogue may means of mitigating ongoing normalization be identified. The solution, if there is one, is not to resist dialogue, but to foster creating a policy and training materials that perpetually listen to and identify the needs of those involved, reflexively reworking itself.

Ultimately, USF's mandatory reporting policy, procedures, and training practices both comport and conflict with critical communication pedagogy. In reading mandatory reporting, in

light of Fassett and Warren's principals, it is evident that practicing the pedagogy is complicated and limited by the policy and practices prescribed by USF. While individuals can take steps to integrate critical communication pedagogy into mandatory reporting the overall standard of compliance, the distancing from individual bodies in/and context, the rigidity of authority, and political use of language are serious barriers to enacting the policy in line with the ten commitments.

CONCLUSION

While USF policy is taught as a means of addressing some institutional need it does so by creating habitual performances, solidifying decontextualized practices for handling everyday interactions (Nainby 17). In this way, USF policy and training materials are the foundation of a problematic pedagogical practice that both maintains and fails to embrace the commitments of critical communication pedagogy.

In this chapter, I situate mandatory reporting policy and training, generative of USF's normative practices for handling disclosures of Title IX violations, as pedagogical practices. I frame these practices as distinctive acts of disclosure. Given the necessity to teach the policy and mandate to uphold its contents across the institution, a subsequent analysis of the policy and training will reveal how certain values and assumptions are constructed and authorized by the institution. Moreover, the policy is indicative of who and what performances are privileged by such pedagogical practices enabled, endorsed, and enforced by the University.

The relationships of victims and mandatory reporters are tied to that of students and educators, as policy and training frame disclosures along those lines, respectively. This means the pedagogical implications of mandatory reporting policy and training is inextricably linked to the pedagogical practices educators embrace within and beyond the formal boundaries of

classrooms or office hours. This overlap warrants further examination of how policy and training practices confer and contrast with critical communication pedagogy, as it pays specific attention to the way pedagogical practices authorize privilege.

As per USF's communicated commitment to respectful and fair treatment of all involved with the institution and the desire to mitigate Title IX violations, an all too prevalent example of systemic violence in modern American society, I turn to critical communication pedagogy to analyze the mandated everyday practices. In this chapter, I outlined how mandatory reporting policy and training are constitutive of USF's pedagogical preferences as it pertains to disclosure as a pedagogical strategy. I subsequently assessed mandatory reporting policy and training using the ten commitments Fassett and Warren identify as key to critical communication pedagogy.

The goal of this chapter was to unveil the theoretical underpinnings of this research. Subsequent chapters will expand, identifying and analyzing the performative, embodied, and enacted consequences of mandatory reporting policy and training. While policy and training offer guidelines for navigating a disclosure, later chapters will reveal how the myriad dynamics that make up the details of disclosures are disregarded in the existing texts and how such disregard is authorized. The university has institutionalized pedagogical practices with little regard for the individual context of each disclosure of a Title IX violation. As the next chapters will reveal, mandatory reporting policy and training at USF teaches a normalized concept, expected to be performed/implemented in a way that insufficiently engages the theory of critical communication pedagogy.

CHAPTER 3

MANDATORY REPORTING AS REDRESSIVE MEASURE: WHEN PERFORMING POLICY CONFLICTS WITH PEDAGOGY

Judith Hamera reminds that our everyday practices, institutionally mandated performances included, are research, not something to be reduced as merely “a function of a sterile lab or gilded ivory tower” (19). While the performance of mandatory reporter is designed and administered by the University, mandatory reporters perform their role within the cultural context provided by the University. Therefore, it is essential to delineate how the University’s context is produced and consumed, creating a deeper understanding of not just the performance, but of the institutional culture as well. The language of performance studies provides a context for such an analysis.

In this chapter, I examine how the pedagogical practices of USF’s mandatory reporting policy and training are part of a larger effort to mitigate a social drama. USF uses mandatory reporting to absolve the institution of responsibility for Title IX violations, arguing the process is part of an effort to “maintain an environment that is comfortable for all people,” (Hernandez 1).

As it pertains to living in a world full of rituals, scripted performances, and general drama, anthropologist Victor Turner argued that our lives are “meaningful experience and experienced meaning” (“Anthropology” 48). Turner writes of these experiences, often as, what he calls, social dramas, “... units of aharmonic or disharmonic social process, arising in conflict situations” (“Anthropology” 74). He goes on to explain that these performances are “a complex sequence of symbolic acts” (“Anthropology” 75). Mandatory reporting policy and procedures are

a sequenced act used to prevent colleges and universities from losing access to federal funding (DeAmicis). Scholars argue that mandatory reporting policies are often little more than a “symbolic effort” to meet the standards set forth by federal edict, tracking sexual violence on college campuses without mitigating such crimes (Griffin, Pelletier, Griffin, and Sloan 3; Gregory and Janosik 60).

When faced with possible conflict and drama, institutions work to mitigate problems. Using Turner’s language, the process of those mitigating efforts can be examined more closely. Turner expresses four stages of the social drama: breach, crisis, redress, and either reintegration or recognition of irreparable breach (Turner, “Ritual” 69; Turner, “Anthropology” 34-5). I use Turner’s language in this chapter to analyze *USF System Policy # 0-004 Sexual Misconduct/ Sexual Harassment (Including Sexual Violence)*. USF’s authorized mandatory reporting practices, outlined in policy and training, can be further understood, as they constitute ritualized performances.

In this chapter, I use Turner’s social drama as a frame of reference. By applying the social drama to mandatory reporting I can conceptualize how USF enables and constrains the relationships of students and teachers as part of the larger institutional effort to remain legally compliant with Title IX, the Clery Act, and the Violence Against Women Act, I first establish USF as a distinct social group. I apply Turner’s social drama language to *System Policy #0-004*. I then identify an alternative understanding of Turner’s fourth stage. As such, I propose expanding Turner’s framework of the social drama by elucidating what brings about the fourth stage, not as “reversion to crisis,” but as a new crisis (“Ritual” 71). Turner frames the fourth stage of the drama as more open-ended, but in instances where redress needs to appease both internal and external forces there is no clear fourth stage for when internal and external forces are not

mutually satiated. Using mandatory reporting policy and training as the example, I articulate the notion of reflexive negligence as the cause of any failed fourth stage. Turner admits some dramas may not be satiated; reflexive negligence is an explanation to why permanent breach, reversion to crisis, or the budding of a new crisis can occur. This reimagining of Turner's social drama is a means of identifying why redressive measures fail to bring about harmony, prone, instead, to prevaricating the social drama, creating continuing obscured crises. Finally, I articulate how critical communication pedagogy can be used to alleviate reflexive negligence.

Roughly 100 investigations the US Department of Education is conducting into university mishandlings of sexual assault cases, USF among them (Johnston). However, addressing the mandate posed by Title IX, the Clery Act, the Violence Against Women Act, and the Department of Education's clarifying "Dear Colleague Letter" often fails to recognize the reporting of Title IX violations as a generative process. This chapter examines USF's mandatory reporting policy, training, and reporting procedures in the context of social drama.

PERFORMING CULTURAL VALUES

In order to analyze USF's policy and practices, I engage with performance scholars to identify mandatory reporting as a generative process, generating particular cultural and individual performances. Judith Butler's notion of gender as performance offers a parallel example. Butler describes gender as a "stylized repetition of act" (519). The analysis of gender as a stylized act, a performative script, constructed and performed both culturally and individually, mirrors the way institutional protocols operate as stylized performance scripts, ones that individuals are mandated to repeat in order to sustain cultural norms.

Similar to how Butler marks gender as worthy of analysis because of its pervasive and normalizing capacity, I identify mandatory reporting policy and training as generative of a

normative performance of “responsible employee” (Hernandez 12). Just as babies are marked with gender, USF policy marks certain employees as mandatory reporters. The policy notes:

For purposes of this Policy only, individuals who may be victims or may have reporting responsibilities fall into the following general categories and definitions:

The term “**employee**” includes, but is not limited to: academic administrators; all faculty; Administration employees; Staff employees; Temporary employees; or any other employee classifications that may be developed by the Florida Board of Governors or University Board of Trustees. (Hernandez 8)

These definitions, contribute to mandatory reporting pedagogy as they teach individuals involved in reporting violations, students and teachers, what their roles are in the process.

Acknowledging researchers/performers as implicated in the production and consumption of mandatory reporting allows for a replenishment of social, historical, and political context and consequences. Examining how individuals are implicated in policy as it should/could be enacted reveals the underlying values of policy and the surrounding cultural values of an institution. As the policy fails to engage itself in any introspective analysis, I use Turner’s social drama to identify the context and consequences of what the policy and procedures constitute.

I turn to Victor Turner, who suggests the language of social drama creates an evaluative frame useful for assessing the ethical standards and moral order of a culture (“Anthropology” 38). Following an identification of the components of the social drama, I use Turner’s language to uncover prescribed institutional values, constructed by/through the mandatory reporting policy. The policy is a medium for teaching institutional values as it generates the parameters of an ideal performance. The policy stands as a pedagogical representation of USF’s values, teaching how USF defines people and mandates their actions. This analysis invites a discussion

of how mandatory reporting policy (*System Policy #0-004*), training, and procedures maintain the University's values and how those values and practices are incompatible with the enactment of critical communication pedagogy.

Policy as Performance

Performance theory is a means of framing mandatory reporting in that it embraces communication as a process; mandatory reporting is a process by which universities attempt to combat Title IX violations. Dwight Conquergood writes that performance theory “privileges threshold-crossing, shape-shifting, and boundary violating figures... who value the transformative over the normative, the mobile over the monumental” (“Caravans and Carnivals” 138). The University policy designates a normative process for how to handle disclosures of Title IX violations. Performance theory is thus ideal for identifying the boundaries of mandatory reporting and what values those thresholds substantiate. While my focus is on mandatory reporting policy and training, this analysis of the policy is indicative of how, more generally, institutions work to authorize normative practices as a means of establishing culture and combatting legal culpability. This sentiment is indicated immediately following the title page slide from training, which states “***The Title IX Responsible Employee training is provided to all employees identified as Responsible Employees under current policy and per requirements under Federal Statute***” (Coombes 2).

The language of performance theory recognizes mandatory reporting as a performance process. Pelias and VanOosting write:

Performance studies calls into question the privilege of academic authority by including all members of a speech community as potential artists, all utterances as potentially

aesthetic, all events as potentially theatrical, and all audiences as potentially active participants who can authorize artistic experiences. (221)

By using performance theory to contextualize mandatory reporting, specifically through Turner's language of the social drama, I am able to tease out the University's values.

SOCIAL DRAMA

Across his work Turner uses a series of terms to describe what he eventually settles on calling social drama. Turner settled on the term social drama while referencing Kenneth Burke, what Burke identified as "ritual drama" (103). This four-step process includes: breach, crisis, redress, and either reintegration or recognition of irreparable breach (Turner, "Ritual" 69; Turner, "Anthropology" 34-5). In this section, I articulate how a cultural group is formed and how the four stages of the social drama apply to mandatory reporting at USF, before addressing some limitations to using the social drama as an analytical framework.

Due to the physical and cultural boundaries of the University, Turner's language is a useful tool to contextualize mandatory reporting. In other words, the University is a liminal entity, not just by space, but also by published policy and expressed institutional values. Those at the University are authorized as members of the community, by way of ID cards, employee and student numbers, office spaces, classrooms, defined in policy, in pursuit of a degree or tenure, and the strive for knowledge, among other characteristics. These possible traits are all indicative of how people are constituted, by their own or some other accord, in a way that precipitates their membership in the cultural group, and the applicability of Turner's concept, "social dramas occur within groups bounded by shared values and interests of persons and having real or alleged common history" ("Ritual" 69).

Performing Cultural Group

Turner contends we are obliged to remain in cultural groups, to varied degrees, and the most important of these groups we remain in are star groups, “which a person identifies most deeply and... finds fulfillment of his major social and personal strivings and desires” (“Ritual” 69). Identifying with a star group does not ensure any authority within the group, however, members may be inclined to seek leadership and influence in the group under the impression, “they, and they alone, really understand the nature and values of the group and can altruistically advance it interests” (“Ritual” 69). In other words, group leadership and group members, with unbalanced ability to influence the group, may have differing understandings of the group itself.

I use my own position within the University to conceptualize this idea. From my perspective, USF is a star group. This is because my performance of identity is directly tied to the institution. I am a USF Graduate Student (holding both an employee and student ID number), I am a USF PhD candidate (I have business cards stamped with the USF logo), I am pursuing a doctorate at USF (which will be marked by a USF diploma), I teach courses at USF (I am listed in the course catalogue as an instructor of record). As such, I am deeply invested in the University. Even when I question or resist USF’s authorized practices, I still seek “recognition, prestige, office... tangible and intangible benefits and rewards... self-respect and a sense of belonging” (“Ritual” 69). At times, I find myself in conflict with the “star-groupers,” those with the ability/authority to influence the group, to guide and direct group-wide actions (“Ritual” 72). At USF, these are campus administrators responsible for the creation, maintenance, and enforcement of mandatory reporting policy and training.

Membership in a star group is impacted by associations with “reference group[s]” (“Anthropology” 45). Reference groups set standards for how someone measures themselves

within the internal structuring of their star groups. For myself, this means looking at the more specified communal memberships of my academic life. For example, affiliations with the Women's and Gender Studies Department and my membership in a critical-qualitative Department of Communication frame the ways I measure the values of USF as a star group. Both of the aforementioned groups practice and encourage pedagogical practices that embrace or are associative to critical communication pedagogy.

My association with feminism, performance studies, and critical communication pedagogy, further indicates why I am among those most likely to view mandatory reporting as a social drama. This is evident through Turner's argument:

Only those who feel strongly about their membership in such a group are impelled to enter into relationships with others which become fully "meaningful," in the sense that the beliefs, values, norms, and symbols "carried" in the group's culture become so internalized in a member that they constitute a major part of what s/he might regard as his/her identity, what makes that member a specific person. ("Anthropology" 46)

My concern with how the beliefs, values, norms, and symbols of USF influence my identity is meaningful enough that I've embarked on writing a dissertation about the ways I find mandatory reporting policy to be problematic to my identity, and by extension my pedagogy.

For USF the star group is most likely the US Department of Education and any other state or federal agencies that have direct oversight over the institution. Reference groups would entail the local community and media, accreditation agencies, and any other groups that steer the values and practices of USF without directly impact membership in the star group(s). These groups are important as they come to dictate who matters most when a group identifies and

works to mitigate a drama. What other groups are valued or emulated and what group(s) or individual(s) are being appeased is denoted throughout a drama

Identifying the Drama

The social drama contains, as Turner articulates, four stages: breach, crisis, redress, and either reintegration or recognition of irreparable breach (Turner, “Ritual” 69; Turner, “Anthropology” 34-5). Dramas occur as a discrepancy between an actual and ideal manifestation of star group practices (“Anthropology” 46). When some sort of conflict arises between a groups practices and some alternative, ideal, set of practices a drama materializes. The conflict identified by the group's leaders requires redressive measures in order to sustain the group. Turner created the framework as a means of framing larger social dramas, “the social drama is a well-nigh universal processual form, and represents a perpetual challenge to all aspirations to perfection in social and political organizations” (“Ritual” 71). As such, I explain the four steps of the social drama in terms of the *System Policy #0-004*, how USF’s leaders identify and attempt to redress some conflict.

Ultimately, the existence of mandatory reporting policy and training is a function of USF’s need to address the larger social drama of enforcing Title IX and other federal mandates (the Clery Act, the Violence Against Women Act, and the Department of Education’s clarifying “Dear Colleague Letter”). This is framed as an effort to mitigate Title IX violations, sexual violence, and structural gender inequity, as the policy directly notes USF does not discriminate, “Pursuant to Title IX,” and “When appropriate, the University will take steps to prevent the recurrence of harassment, including sexual violence, and to correct any discriminatory effects of harassment on the complainant and others” (Hernandez 2). While USF is framing the policy as an attempt to comply with Title IX and the effort to “prevent the recurrence... and to correct any

discriminatory effects,” as I will articulate through my analysis, the policy, instead, ensures USF avoids punitive action regarding its access to federal funding.

Turner notes, “social dramas may escalate from limited or local crises to a general national crisis” (Turner, “Anthropology” 35). For example: the passing of Title IX was a redressive measure to combat structural gender inequality, which takes place on a national level. A prime example of the national level drama was the inequity across men’s and women’s sports. The federal mandate to enforce Title IX, the Clery Act, and the Violence Against Women Act is a redressive measure to combat persistent Title IX violations on university and college campuses (Cantalupo 219). USF’s further development of policy and training are redressive measure to combat failures to combat publicly recognized and persistent Title IX violations at the institutional level (Johnston). And my dissertation is a redressive measure to combat the problematic policy and training that attempted to continually combat each of the prior crises. While Turner never suggests his language can be used to track a drama at all these levels, I outline his language as a means of framing USF’s social drama: an effort to remain compliant with the federal mandate, mitigate local/community concerns about USF’s compliance, and to avoid losing access to the available federal funding for colleges and universities.

The social drama begins with a breach.

Breach

The primary phase of the social drama is a breach, a disruption of the social order. In this section I explain how Turner conceptualizes a breach and then identify its applicability with regard to USF policy and practices.

Breach can be articulated by an actual breach – Turner cites examples of Watergate and the Boston Tea Party – or by some perceived symbolic breach. Turner writes of breach as, “the infraction of a rule of morality, law, custom or etiquette in some public arena” (“Ritual” 70).

According to Johnson one official breach occurred when it became public knowledge USF was included on a list of more than 100 schools being investigated for Title IX violations marks a public breach for USF (Johnston). Once a critical level of awareness is established, a “turning point... at which seeming peace becomes overt conflict and covert antagonisms become visible,” Turner’s second stage, crisis, would begin (“Ritual” 70). The local newspaper’s coverage of the investigation being conducted by Department of Education’s Office of Civil Rights reveals a breach to the community.

Turner writes the breach is “a symbol of the maintenance of some major relationship between persons, statuses, or subgroups held to be a key link in the integrity of the widest community recognized as a cultural envelope of solidarity sentiments” (“Anthropology” 34). The USF Title IX coordinator’s comments, “No one wants to be on a list that has some negative implications,” suggests USF had no desire to remain on the list of schools under investigation (Johnston). Recognizing the breach leads to the second stage of the social drama, crisis.

Crisis

Turner calls the immediate following stage crisis. Crisis refers to a momentous shift that cannot be revoked, the “turning point in the relations” (“Ritual”70). In this section I further explain Turner’s notion of crisis and outline it’s applicability to mandatory reporting with regard to USF policy and practices.

At the crisis stage there is a delineation of factions within the group, those who favor action and those who value the pre-breach practices. The drama progresses when the cleavage

between those who want to mitigate the drama and those who are accepting of the status quo becomes unavoidable. In USF's case this would be people who are concerned the Department of Education's investigation and public awareness is a legitimate threat and those who believe the status quo policy is sufficient enough to provide "prompt and equitable responses" to reported violations (Johnston). Turner argues otherwise constant and consistent social practices and relations are no longer viable as the breach spreads ("Ritual" 70).

Turner contends a frequent, but not necessary, component of the crisis is violence: "Crisis may or may not involve physical violence. It frequently involves the threat of such violence" ("Anthropology" 34). Violence, or the threat of violence is likely to spur a further division between group members for and against changing the status quo. For USF, this would have been the period in time wherein the institution was under investigation and nothing had been done to account for better managing Title IX violations. The potential of losing federal funding is a threat, and one that, should it have come true, would undermine the operability of the institution.

Again, without access to administrators, the University's general council, members of the Board of Trustees, and other "star-groupers," it is impossible to identify the exact details of the crisis stage from USF's perspective. However, that the drama progresses to the third stage of redressive measure indicates that USF determined the threat of the Department of Education's investigation, which could have led to punitive fines or denied access to federal funding, "induced, seduced, cajoled, nudged, or threatened" USF to choose a side: better comply with Title IX, the Clery Act, and the Violence Against Women Act, or lose access to federal funding (Turner, "Anthropology" 34).

As the crisis worsens, steps must eventually be taken to alleviate the crisis. Attempts at mitigating the spread of crisis are known as redress.

Redress

Mandatory reporting policy and training are part of the larger effort to combat Title IX violations, a redressive measure to systemic sexual misconduct, harassment, and violence. As executive director of the Association of Title IX Administrators (ATIXA), Brett Sokolow warned universities must be cautious with their redressive measures. Advocates are focused on how remediation can be more victim-centric, thereby prohibiting the silencing of crime (Engle 417). In this section I further explain Turner's notion of redressive measure regarding USF policy and practices followed by how I then relate to them.

Regardless of the crisis being addressed, Turner argues mechanisms exist to slow the contagiousness of crisis. He calls these measures "*redressive or remedial procedures*" ("Anthropology" 34). At this stage, representatives of the social order are forced to grapple with the contagiousness of crises. This step should require recognition of the group's values. The redressive stage forces the group to examine what actions led to the crisis so as to identify those responsible. It often includes ceremonial reenactment or recreation of the actions at the crisis stage, the "star-groupers" can then observe and analyze those performances. Turner presents a wide range of actions that might be marked as adjustive measure, including personal advice, informal arbitration, formal judgment, and legal machinery ("Ritual" 70). He continues, some redressive measures may even include sacrifice or victim scapegoating ("Anthropology" 35; "Ritual" 71).

The timeline between the initiation of the investigation and the updates to policy correspond, even though no mention of the Department of Education's investigation is specifically mentioned in the policy or the training materials. In January of 2015 it was publicly reported USF was under investigation, on October 19th, 2015 *USF System Policy #0-004* was

updated, on October 22nd, 2015 GA/TA were updated on mandatory training sessions, and on September 8th and 9th of 2016 USF hosted its second annual Title IX conference (Johnston; Hernandez 1; B. King; Worth). The University appears to be responding to the threat posed by insufficiently mitigated Title IX violations and/or subsequent federal oversight, by updating policy and requiring training within the timeline.

The updates and mandated training are an example of how the “star-groupers” operate (“Ritual” 72). Those with power dictate what redress will look like, Turner argues, they “develop to an art the rhetoric of persuasion and influence, who know how and when to apply pressure and force, and are most sensitive to the factors of legitimacy” (“Ritual” 72). In this case, they are the campus administrators and lawyers who on October 19th, 2015 (re) write policy originally approved on December 22nd, 2011, order attendance at, design the contents of, and administer mandatory reporter training sessions (Hernandez 1). USF has a history of sexual assaults on campus, reported the *Tampa Bay Times*, “In 2015, USF reported three on-campus rapes or attempted rapes, a decrease from six such crimes in 2014 and 2013, and seven in 2012” (McNeill). However, not change was made to policy until a federal investigation was initiated. That the policy specifically references being “Pursuant to Title IX,” and where it fits in the timeline of events indicates the actions are part of a strategy to ensure legal compliance (Hernandez 2).

The University’s e-mail notification of a new mandate to attend a training session, following their institutional update of the policy marks an effort at redress. When the University deliberately sends every Graduate Assistant an e-mail informing them of the revised policy, and associated mandatory training session it was furthering the redressive measure. As the e-mail explains:

If your duties include classroom instruction, supervision of any student at any level (even if only in the absence of the assigned supervisor), or work with any student organization in an advisory capacity AND/OR if you are someone a student could reasonably believe has the authority to act, you are required to attend one of the training sessions. (B. King)

The updated policy is the new symbolic relationship that must be culturally situated across all members of USF, while the e-mail is significant as it marks more than simple redress, it requires attendance at a training session, a demonstration of the University's authority. The e-mail marks the impending symbolic training session where relationships and authority will be culturally reconstituted.

The university took additional steps to come across as assuaging the public concerns following the Department of Education investigation. In addition to revising policy and mandating training, USF hosted its first Title IX Conference in 2015 (O'Brien). A second annual conference was hosted the following year (McNeill).

As Turner cautions, not everyone in a cultural group is going to endorse the redressive machinery or find that such measures mitigate the underlying cause of a crisis. Some of the redressive measures proposed by USF are practices that require individual group members to take action, and some practices will be incompletely thought out. For example, no source at USF indicates that Title IX Mandatory Reporting language should exist in every syllabus, but the office of the Academy for Teaching and Learning Excellence (ATLE) at USF does publish language that can be copied and pasted into a syllabus.

While training materials offer no insight into how faculty members might engage in conversation with students prior to the disclosure of a Title IX violation, mandatory reporters are encouraged to disclose their status as such at the beginning of each semester (Coombes). This is

all part of the University's non-mandated redressive measure, efforts to ensure students are educated about USF's policy without any way to ensure learning happens. The enforcement of policy, as dictated through training and *Incident Report Form*, constitutes the mandated redressive measures. In doing so USF creates a specific standard by which mandatory reporters are forced to handle Title IX disclosures, and as the training materials claim: "***By completing a Title IX Incident Report Form, you – as the RE – have complied with your role at the University***" Coombes 7). While measures like this should bring USF into legal compliance, it does so by (re) writing the relationship between student and teacher – discloser and reporter – in a way that only recognizes the need for compliance. Reporters become an entry point for the University to maintain legal compliance, not an advocate for student victims as collaboratively defined by students and educators.

The reporting process itself does not mitigate Title IX violations, nor does it purport to make such an effort. This means steps that mandate reporter providing disclosing individuals resources, "***It is vital that you know and understand what resources are available and are able to link the disclosing person to any services they choose,***" aid the institution in denying legal culpability and offering students access to information, while doing nothing to mitigate the warrants for Title IX, in the first place (Coombes 8).

As indicated previously, overzealous attempts to combat Title IX violations can mute potential reports or re-victimize disclosers. In instances where victims do not trust the strategy or unwitting victims disclose a violation without knowing the procedures they have triggered victims are still bound by a process they may not support.

USF has mandated the normative performance of reporters as outlined by policy and training. The result of redressive measure is the fourth stage of the social drama.

Reintegration, Schism, or Irreparable Breach

Turner identifies the fourth stage of the drama, ideally, as “*satiated*... the final phase consists of actions restorative of peace.” This ending is referred to as “*reintegration*,” where the disturbed party returns to the group. Or there is a “*recognition and legitimation of irreparable schism*,” where the group amicably and, often ceremonially, splinters (“*Anthropology*” 35).

Turner also acknowledges that if the third step, redressive measure, fails to satiate the drama it is bound to fall back in on itself, reverting back to the crisis.

At this fourth stage the University presumes its procedure satiates the crisis, federal funding is no longer in jeopardy, and as of May 2017 no new Title IX investigations have been publicly identified against USF. From the University’s perspective, the new reporting policy and training sessions have brought USF into compliance with federal standards, sufficient for alleviating the drama as a presumed normalcy has returned; redress has been successful, the drama has been institutionally mitigated.

As someone who identifies with USF’s attempts to find redress, to mitigate Title IX violations, I become part of a faction that Turner suggests seeks to develop a “program of societal change” (“*Anthropology*” 35). As someone tasked with implementing redress, I am found at a turning point in the social drama.

In some cases, the redressive process completely fails, leading to a splintering of the group. This is not the case at USF, but in other instances the redressive measures taken to solve the crisis at the level of the larger social drama cause a new drama within the group. Turner focuses mostly on peaceful reintegration or the recognition and legitimation of irreparable schism, where the incongruities cause the group to splinter and amicably separate.

For those, like myself, caught in opposition to the star-groupers dedication to continuing to endorse and enforce mandatory reporting practice, there is limited option to legitimize a permanent schism and leave to create a new group, as Turner suggests is a possible outcome to social dramas (“Ritual” 71). Given a dedication to certain “star group goals,” goals that can, seemingly, only be accomplished by remaining committed to the star-group, like my pursuit of a doctorate and continued employment at USF until the completion of my degree, Turner’s language offers no personal satiation.

This discrepancy between the crisis identified by a star group member and the crisis “star-groupers” in charge believe they have mitigated is another way of framing the irreparable breach that Turner argues leads to a “reversion to crisis” (“Ritual’ 71). While USF was solving a crisis they identified with the federal government, an alternate drama exists for those like myself who find USF’s redressive measures in one instance indicative of a new crisis. Turner only writes about when redressive measures fail to solve a primary crisis, leading to the reversion to crisis. Irreparable breach, as Turner writes, exists only to the primary crisis; redressive measures can cause subsequent, secondary crises, especially if individuals within the group are unsatisfied with the mechanisms used to satiate the drama.

Limitation of Social Drama as an Analytical Tool

It is at this junction that Turner’s language is no longer applicable as a framework for my analysis. This is not a limitation of Turner’s language so much as it is a consequence of reworking the language into an analytical tool for this project. Turner’s model of social drama is useful when identifying stages of a conflict; it can also be used to measure a single conflict from multiple perspectives, though it will inevitably leave gaps in analysis.

The slippages back to crisis at the fourth stage, or the creation of a new drama is revelatory of a lacking cohesion within the group. USF's policies and practices regarding Title IX violations were recognized as a breach when the federal government began investigating the institution and the public became aware of seemingly insufficient practices. But, those policies and practices were also a breach for those within the institution who identify/ied USF policy and practices as problematic (both before and after USF took redressive measure to the breach they were concerned about). In a situation where the redressive measure of the social drama fails to mitigate the crisis, not as it is perceived by "star-groupers" but as it is recognized within the group's membership, systemic issues within the group are revealed.

The University is working to mitigate the crisis of pervasive gendered violence because of the potential threat posed by federal investigation. Within the institution the imperative to address Title IX violations still exists, and is marked given the mandate USF expresses in the first page of its own redressive policy, "respect and fair treatment... As part of an effort to maintain an environment that is comfortable for all people" (Hernandez 1). USF recognizes the presence of a drama, but only as it comes from authorities above the institution, not from within as an internal drama; USF's actions are meant to address the Title IX, the Clery Act, the Violence Against Women Act, and the Department of Education's clarifying "Dear Colleague Letter," as opposed to satiating the needs of victims, advocates, allies, and educators who identify USF's redressive measures as insufficient, individuals like myself. Evaluating the policy and procedures in relation to the concepts expressed in the previous chapter also offer avenue for why someone might find USF's redressive measures insufficient. And a comparative analysis is presented later in this chapter

Turner remains attuned to the potential for redressive measure to incompletely alleviate or worsen a crisis, which would prohibit a social drama from accomplishing one of his primary proposed outcomes in the fourth and final stage. Across his work, Turner only briefly proposes the concept of reversion to crisis. Some crises may be the result of deeper schism within a group whereby the values are no longer cohesive. Turner writes: “When consensus over key values no longer exists, the redressive machinery premised on such a consensus loses its legitimacy, with the result that there is a reversion to crisis, with less likelihood of crisis #2 being resolved by redressive machinery #1” (“Anthropology” 35). When redressive measure fails to address the cause of a crisis and instead seeks a quick return to the pre-crisis status, the tension and animosity within the community will remain, if not grow worse.

Jill Engle outlines how this type of secondary crisis pans out, specifically with regard to mandatory reporting, using Penn State University as an example. Engle notes that administrators were resistant to faculty across the University including disclaimers in syllabi about any availability to discuss and/or provide notifications regarding a faculty members’ status as mandatory reporters. The idea was brought forth by professors from the Women’s Studies Department, who stressed that while they specifically teach materials that cultivate disclosure of victimization, making students aware of mandatory reporting policy should be of concern for all faculty on any campus, considering dialogue and mentorship are significant for many student-professor relationship (Engle 417).

Resistance from administrators is indicative of, as Engle further explains, “balancing the university’s public perception concerns against the nuts-and-bolts work of meeting its legal obligations and the well-being of its students” (418). For any number of reasons, some faculty may be opposed not just to being mandatory reporters but also to their required participation in

such procedures. The discrepancy between concerns of public perception and university operations, pointed out by Engle, are indicative of how redressive measures might fail to address the crisis Women's Studies professors faced with regard to mandatory reporting policy. This lack of consensus surrounding the crisis and proposed redressive measure triggers a new crisis: the inability to create a primary redressive measure. Without a reflexive examination of the values that are held across the group, redressive measures falter or trigger new dramas.

Therefore, I propose a supplemental conception of the fourth stage of Turner's social drama that reimagines the "reversion to crisis" ("Ritual" 71). I argue reversion is the distinction function of a reflexive failure on the part of "star-groupers," and therefore the cause of an entirely new internal breach, not the reversion to the originating external crisis.

In this section, I articulated how a cultural group is formed and how the four stages of the social drama apply to mandatory reporting at USF. I then addressed a limitation to using the social drama as an analytical tool.

REDRESSIVE FAILURE: REFLEXIVE NEGLIGENCE

Because the social drama is not bound by a linear timeline, each step of the drama may reveal subsequent, related dramas, or, as I argue here, cause new internal dramas. Independent of what measures are used to enact redress, Turner suggests that procedures must invoke reflexivity, "the ways in which a group tries to scrutinize, portray, understand and then act on itself" ("Ritual" 75). In order to satiate a drama and ensure there is consensus over what needs to be solved an institution has to have taken stock of its values and measure the ongoing crisis in light of those values (Turner, "Anthropology" 35). There is room for slippage, wherein the "star-groupers" fail or willfully neglect to accurately account for group values. They thus create redressive measure that symbolically accounts for supposed values but fails to actually uphold

them. I refer to these failures, missing or ignoring a group's assumed values, as *reflexive negligence*. This, I contend, is the cause of the social drama perpetually slipping into new dramas following seemingly satiated or failed redressive measures.

Although USF has addressed the Title IX-based crisis regarding potentially losing access to federal funding, creating policy and practices that account for the drama as individuals within the group search for redress remains insufficient. The crisis of pervasive gender based violence on college campuses is not satiated by USF's redressive measures, even if the federal funding is secured.

All social dramas are subject to being assessed according to the evaluative frames of the ethical standards and moral order of the culture. Reflexive negligence is the result of a social drama being measured, instead, by the measurement of the "star-groupers" ability to sustain the cultural boundaries of the group independent of the collective ethical standards and moral order touted by the "star-groupers" and the perceptions of star group affiliates.

Turner oversimplifies the outcomes of the fourth stage, as the alternatives to a satiated drama or legitimized schism are either an acceptance of irreparable breach or the reversion to the original crisis. By using Turner's notion of reflexivity, I propose reflexive negligence is the explanation for why failed redress does not cause a simple "reversion to crisis" but also triggers a new drama.

Performative Reflexivity

In order to limit the fracturing of the group, practices that perpetually measure the present ideas and values of the group are necessary: reflexive redressive measures. Turner suggests this reflexivity is a performative practice:

Performative reflexivity is a condition in which a sociocultural group, or its most perceptive members acting representatively, turn, bend or reflect back upon themselves, upon the relations, actions, symbols, meanings, codes, roles, statuses, social structures, ethical and legal rules, and other sociocultural components which make up their public “selves.” (“Anthropology” 24)

Essentially, performative reflexivity is a process of redressive measure deliberately and overtly aware of the meaning it seeks to create while transforming the culture. This is the standard by which an institution might best come to find effective redressive measure: by accounting fully for how the cultural group became such a group, what qualities allow it to remain such a group, and how the group is being changed in order to sustain cohesion. This invariably requires the group acknowledge that it will be different than it was. Reflexive redressive measure is not a fixing process; it does not restore the group’s pre-breach status. It reconstituted a reality

USF’s mandatory reporting policy and training does not attempt this reflexivity at any level. With regard to the crisis of federal compliance, the training materials make reference to Title IX, the Violence Against Women Act, and the Clery Act. This is an effort to contextualize the training (See Figure 3.1). The policy also attempts to identify the goals of the University, noting a direct opposition to discrimination, “Pursuant to Title IX,” and the “respect and fair treatment of all people” (Hernandez 2, 1). The input of individuals hoping to hold USF to standards higher than federal compliance appears to be missing.

Additionally, respect and fairness as standards are hard to pin down as measureable qualities. Reflexive redress would require the policy and training is flexible to the shifting needs of the community as those needs became apparent. Turner argues, “Reflexivity must be an arrest of the flow process, a throwing of it back against itself,” essentially suggesting a perpetual need

to recognize the “protocols, scenarios and scripts” as they are being enacted (“Anthropology” 55). Turner is calling for practices that make people aware of the implications of those practices as they are implemented. As I outline in Chapter 4, the institutional standard for mandatory reporting is compliance, not a reflexive arrest of the process.

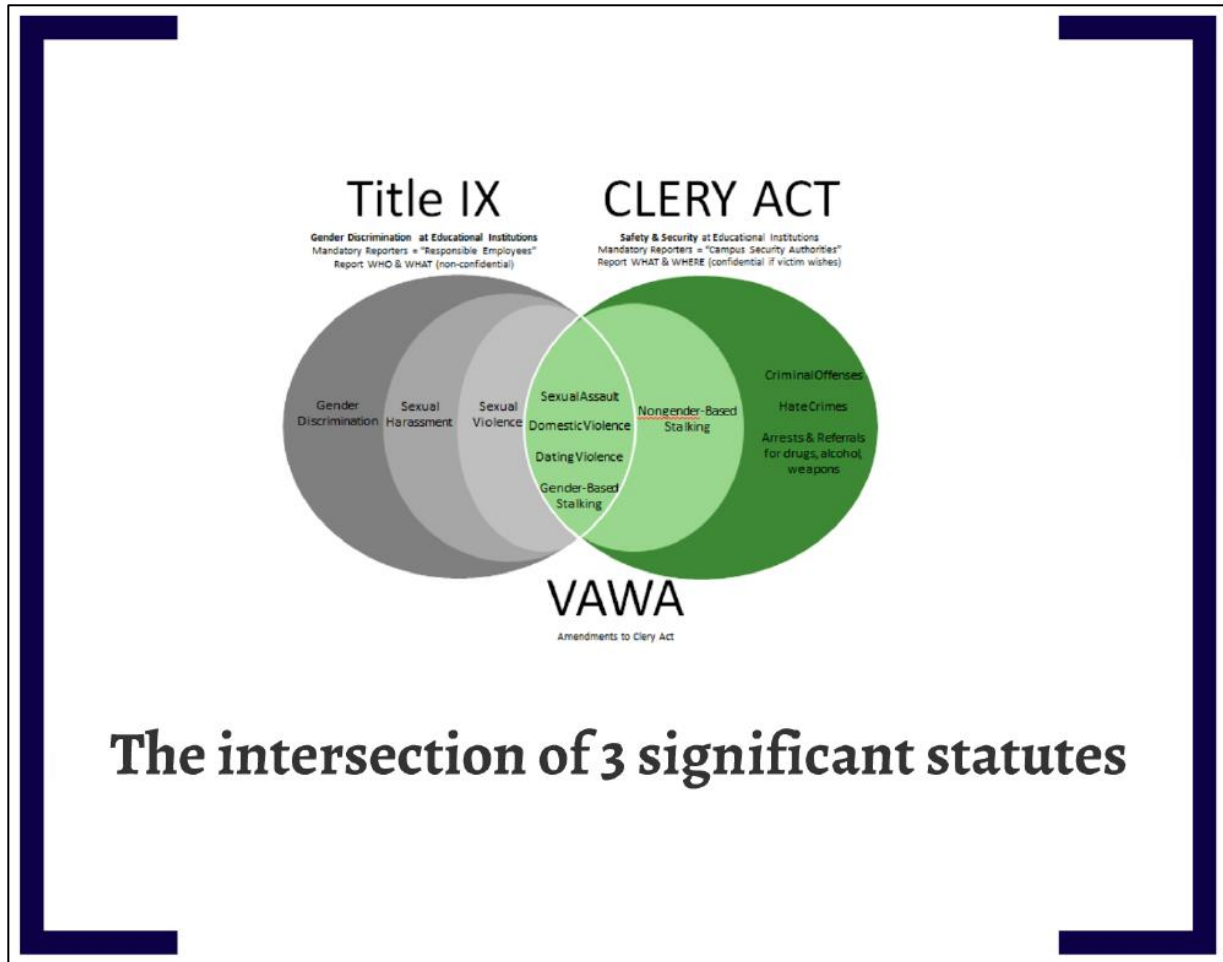


Figure 3.1 -- Training slides explain the overlap between Title IX, VAWA, and the Clery Act.

As such, I see this dissertation as step toward designing a redressive measure to the crisis substantiated by mandatory reporting policy and training that currently succumbs to reflexive negligence. The existence of a social drama is disconcerting to any institutions that survive by

the presumption that it is “untroubled by the shadow of doubt” (Turner, “Anthropology” 103). No non-for-profit university could sustain itself without access to federal funding, so the University has a burden to suppress or limit the contagion of a social drama that jeopardizes its sustainability. While my efforts stand to point out problems within the policy and procedures, as they set out to mitigate the larger crisis of systemic sexual violence on college campuses, I also recognize that policy and training seem to satiate the University’s concern that it avoids legal culpability and public presumptions of negligence.

The social drama “implies conflict of principles, norms, and persons, it equally implies the growth of reflexivity” (Turner, “Anthropology” 103). Factions may attempt to trigger the cultural group into greater reflexivity, into better performing the supposed ethical standards and moral order of a culture. The call to embrace reflexivity is a purpose of this chapter.

To apply this reflexive standard to mandatory reporting would require the University design a policy that, at least, makes note of itself as an objectified and objectifying tool, fair and respectful only when applied in the ideal scenario. As a graduate assistant I am limited in my capacity to do this work, though there are steps I can take to try and mitigate the crisis as I recognize it. I also propose, in a later chapter, performance-based strategies that can be used to formulate reflexive training practices. If the policy and training included an invitation to arrest the flow of mandatory reporting so as to better understand the consequences of a report as it is being filled out, the process of a mandatory report would enable both victims and reporters to address the complications of a report as it unfolds. As it stands, the policy and training are tools to bring the University in compliance with the law. An inability to monitor mandatory reporting as it is being mirrored and twist it to serve the purpose of each unique disclosure of a violation prohibits the practice from being a reflexive mechanism.

CRITICAL COMMUNICATION PEDAGOGY AS SOLVENCY

The mandated enactment of the policy stands in stark contrast to several of the principles outlined in critical communication pedagogy. Fassett and Warren's ten commitments of critical communication pedagogy remain attuned to: identity; power is fluid and complex; culture is central; pedagogical practices as constitutive of larger social structures; pedagogy as contextually meaningful; language is central; reflexivity as essential act; pedagogy and research as praxis; understanding human subjectivity and agency; and dialogue and relationships (39-56). These commitments offer a means of contextualizing mandatory reporting and can also be used to improve policy and training.

One way the policy fails to provide redress extends from Paulo Freire's pedagogy, which succeeds through the concession of authority, where the teacher and student learn from each other, writing:

Through dialogue, the teacher-of-the-students and the students-of-the-teachers cease to exist and a new term emerges: teacher-student with students-teachers. The teacher is no longer merely the-one-who-teaches, but one who is himself taught in dialogue with the students, who in turn while being taught also teach. They become jointly responsible for a process in which all grow. (80)

Mandatory reporting policy operates quite antithetically to Freire's idea, as the mandatory reporter is expressly prohibited from engaging in dialogue, a commitment reiterated by Fassett and Warren. A reporter is not taught by the victim how to define a violation and how best to provide assistance, instead, a reporter must interrogate the victim for the specific details that allow for completing an Incident Report Form, plugging the victim into an existing model, thereby diffusing responsibility up to the next level of authority; simply, filling out the form and

never learning from/with the victim. This conflicts with Freire's assertion of the importance of naming (89). As per current language, mandatory reporting policy limits who is able to authorize the everyday experience of people as they move through the institution, their relationships, and, in the regrettable instances, trauma. The authorizing agents are the reporters themselves.

Reflexive redress might allow for victims who disclose, and reporters assisting them, to engage in a dialogue, relying on the language of the victim, to contextualize the disclosed event within the context of the institution. Training mandatory reporters in a way that better meets the individual needs/desires of victims and the capabilities/preferences of reporters is essential to becoming more in line with critical communication pedagogical practices.

I believe that educators, operating through the lens of critical communication pedagogy, have responsibilities to their students. But not all mandatory reporters will agree with that position, nor is it one that USF could enforce, without contradicting the theory itself. This could be alleviated if USF created a tiered system of mandatory reporters based not on job title, but by educators' desires to facilitate students with reports. Mandatory reporters who wish to embody more victim-centric practices and engage victims in dialogue, a task currently funneled exclusively to the Senior Deputy Title IX Coordinator, could be offered the opportunity for more extensive training. This type of training could be offered in a similar manner to USF's existing "Safe Zone" training, "a three-hour interactive certification on LGBTQ+ identities, inclusive language, and advocacy" (Safe Zone).

Mandatory reporting policy does little, if anything, to respect the subjectivity of its participants and enable a leveling of authority among individuals and between individuals and institutions.

Furthermore, the mandatory reporter authorizes the definitions of a victim and a violation as they conceptualize it through each actual or hypothetical disclosure. Given that mandatory reporters are explicitly restricted in the instructions of a *Title IX Incident Report Form* from engaging in a deeper conversation with a victim, “NO INVESTIGATION SHOULD BE CONDUCTED,” there is no space for dialogue and shared meaning making during a disclosure (2). By training willing mandatory reporters to have a dialogue with disclosures, the gap that currently exists between victims seeking to have a conversation with only the person they report to and that reporter’s mandate to do nothing more than collect basic information and file a report is mitigated to some degree. The current requirement is only for reporters to gain answers to the questions on the form, explain to victims what will happen next, and provide information about subsequent services available on and off campus.

The discrepancies that exist between mandatory reporters and victims are emblematic of similar issues that exist between the reporters and institutions. It is at this nexus my dissertation is located, where the redressive measures adopted by USF are prohibitive of my practices of critical communication pedagogy. My redressive measure, a dissertation using critical communication pedagogy to examine institutional practices, is the consequence of an otherwise seeming irreconcilable difference between USF’s policy and my preferred practices. The University exerts its authority by mandating a specific performance. But the University could exert its authority through practices that better meet its supposed standards of respectfulness and fairness.

As Turner suggests, those who fail to find solace in redressive measures are prone to rebellion, when “the societal value-consensus has broken down” (“Ritual” 71). This dissertation

elucidates the discrepancy between conflicting values that prohibit reflexive redressive measure, cohesive reconciliation, and identifies why those discrepancies exist.

Revolution, then, is the act of reviving reflexivity into the social drama. Augusto Boal proposes this sentiment, arguing the “Joker,” a character representative of Turner’s rebellious faction, is the facilitator of dialogue, one who’s goal is to “prevent mechanistic interpretations which reduce human experience to a mere illustration of compendium” (179). To clarify, the Joker is the character that points out the absence of reflexivity, the individual who makes note of how mandatory reporting policy and training are not generative of the values they purport to be upholding. This dissertation serves the purpose of the Joker, identifying how the policy and training mirror a problematic generative process while failing to monitor the implications of those practices. But, this text is not the only strategy for performing rebelliousness.

When possible, educators who practice critical communication pedagogy or teach topical subjects, can weave mandatory reporting policy into their curriculum, teaching it as an example of otherwise pertinent course material. For example, when I teach Turner’s social drama in my course, I could, use mandatory reporting as the applied example to help students envision the social drama in a specific context. Such efforts would invite communal reflexivity, allowing students and educator to engage in a dialogue about mandatory reporting outside the context of a report, thereby encouraging praxis and dialogue, in a permissible fashion. But, given the traumatic nature of sexual violence, such a discussion would pose significant other consequences that must not be overlooked.

As mentioned in the previous chapter, this type of work is always subject to unintended distressful consequences. Bringing potential traumatic topics to the foreground in class presupposes a willingness for vulnerability some students, and educators, may not be prepared

for, leaving students with the sense they need to “*perform student well*” at the expense of “personal pain and grief” (Alexander 331).

Shifting way from specifically Title IX, educators with such freedom could construct a course specifically designed to engage social injustice within the institution. Foregrounding the class with materials about social justice, engaged pedagogies, and activism, then allow students to determine and embody the institutional injustices they recognize during the later portions of the course. The classroom can be a site for practicing a generative, rebellious pedagogy, even though within the policy, training, and other texts, few means of enacting critical communication pedagogy are permitted.

CONCLUSION

When the University fails to enact the reflexivity Turner outlines in his discussion of redressive measure, attempts to mitigate Title IX based crises will fail to mitigate any subsequently related or caused dramas. Ultimately, any institution’s attempt to combat a structural inequity by exerting its own structurally maintained authority over individuals is bound to fall short of mitigating the inequity. Attempting to ensure institutional stability does not have to be mutually exclusive to combating structural inequity. Mandatory reporting policy may attempt to better provide victims of sexual misconduct, harassment, and violence the ability to initiate investigations, and in doing so reduce discrimination and systemic inequalities that exist across US colleges and universities, but it operates more evidently as the redressive measure to the crisis of institutional non-compliance. But providing victims with more avenues for reporting incidents does not address the underlying cause of those incidents, and forcing people to follow contradictory and ambiguous protocols can create subsequent drama. Failing to recognize the needs and values of those under the purview of mandatory reporting policy and training will

continue to impede the institutions efforts at alleviating the crisis of systemic gendered violence and inequity, even if it mitigates the fear the institution will lose access to federal funding.

The failure to, as Turner writes, “measure what its members or some of its members, have done against its own standards of how they should or ought to have conducted themselves” is the University’s enactment of reflexive negligence (“Anthropology” 104). The University is attempting to concretize the processes that handle violations after they have occurred, without working to prohibiting the violations in the first place. In doing so, mandatory reporting fails to address the deeper causes of Title IX violations, of discriminations on campus, and systemic violence. As such, current permutations of mandatory reporting policy and training will never succeed as redressive measure to the crises of persistent Title IX violations. The policy and training are not based on reflexivity; they are based on institutional compliance. In doing all this, the University complicates the pedagogical practices of its mandatory reporters, not just as they serve their purpose in mandatory reporting, but also as they do their jobs, holistically.

Overall, mandatory reporting policy and training are part of an ongoing social drama regarding systemic Title IX violations. But universities have values that extend beyond their publicized values of prohibiting discrimination and providing both respectful and comfortable “work and study environments for all faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence” (Hernandez 1). The University can better create redressive measure if it unveils the existence of all of its values or attempts to better meet the supposed values the cultural group believes it is upholding.

Victor Turner’s theory of social drama is a useful language for articulating how the University addresses Title IX based breaches and attempts to mitigate the crises that ensue, most notably by way of mandatory reporting policy and training. Inevitably, the redressive measures

an institution authorizes and mandates are destined to continually cause subsequent breaches, not for lack of effort, but for lack of sufficient reflexivity. As the institutions continues to practice reflexive negligence, failing to inhibit the flow of its current practices in favor of deeper introspection and axiological inquiry, they will never mitigate the underlying causes of the dramas they seek to satiate. As such, USF will fail to mitigate sexual misconduct, harassment, and violence, even while it manages to mitigate the threat of federal oversight.

CHAPTER 4

AUTHORIZED/ING THE PERFORMANCE OF MANDATORY REPORTING: AMBIGUITY AND CONTRADICTION

The expected performances of mandatory reporters are prescribed in USF created texts. Responsible employees are expected to perform at the whims of institutional mandates, expressed by texts.

Texts are central to the coordination of meaning making in human communication. In the absence of a human communicator, information is still conveyed by relying on texts to express any idea(s). Since no individual can ensure everyone at USF practices normative performances of mandatory reporting, the texts of policy, training, and the *Incident Report Form* are entities that complement human work. The texts work to bring individuals into compliance. USF contradictory and ambiguous mandatory reporting texts generate a standard of compliance, while limiting the performances of individuals, those disclosing Title IX violations and the mandatory reporters who respond.

In this chapter I explain how the texts of mandatory reporting – policy, training, and reporting forms – do the work of people to communicate the normative standards for performing the role of mandatory reporter. As such, I begin this chapter articulating how institutions (specifically USF), people, and texts communicate to constitute each other. Recognizing that texts associated with mandatory reporting, USF, and individuals generate, teach, and learn acceptable/authorized performances indicates how communication is constructed, practiced, and subsequently influences individual performances.

I further argue in this chapter what the policy, training materials, and *Incident Report Form* constitute as the normative standard for performing mandatory reporting. Building off Dorothy Smith's assertion that "Replicable and replicated texts are essential to the standardizing of work activities across time and translocally," I contend the texts use ambiguous and contradictory directives to constitute abstract/decontextualized normative standards of performance (174). Given the normalizing and generative capacity of institutionally authorized texts, I contend, as individuals learn from texts, texts are not just reflective of human actions but are enabling and limiting human action. By using the *Incident Report Form*, USF is able to entextualize bodies, removing individuals and the context of the disclosure from the reporting process, reducing the events to texts that can be dealt with in the abstract.

In the subsequent section, I build a conception of performativity. Expanding on Judith Butler's definition of the concept and harkening back to Jacques Derrida and J.L. Austin's notions of performativity, I explain how the constitutions of mandatory reporting are performative. This discussion of performativity is necessary to developing a deeper understanding of how pedagogical practices and particular individuals, privileged in text, sustain limiting institutional practices. I further give credence to the idea that texts are performative.

USF is invested in absolving the social dramas identified in the previous chapter. To do so USF needs to substantiate its authority. The policy and procedures outlined in the mandatory reporting texts facilitate the accounting and managing of Title IX violations, in a way that maintains USF's authority without bearing responsibility for instances of non-compliance.

Additionally, I finish this chapter examining ways critical communication pedagogy offers solvency to problems caused by USF's mandated practices. I further explain how my analysis can be used to considered texts as independent performative agents.

Overall, this analysis reveals how USF is able to mandate normative performances, maintain contradictory and ambiguous expectation for what counts as the disclosure and reporting of a Title IX violation, and diffuse responsibility for enforcement to individuals. These practices allow USF to remain legally compliant with Federal and State law while claiming responsibility for only authorized, compliant performances. The constituted normative standards are problematic as they performatively hold mandatory reporters accountable for maintaining legal compliance in ways that absolve USF and privileged employees of responsibility for the policy's existence and any instances of non-compliance.

CONSTITUTED DIFFUSION: THE AGENCY OF INSTITUTION, PEOPLE, AND TEXT

While the University has no digits by which it may type up policy, and no mouth by which it speaks the information parlayed during training sessions, the human agents within the institution and the language of the policy and training substantiate the University's material existence. The University, in this sense, is matter and matters; it has a materiality. While the materiality of people remains unquestioned, texts have materiality in the same way as USF. In this section, I outline how institutions, people, and texts constitute the agency of each other and how that agency constitutes the compliance duties of individual mandatory reporters.

François Cooren contends, "... communication is indeed the way by which things, animals, and people come to express themselves in a variety of embodiments, materialisations, and incarnations. Communication is therefore constitutive of the way any being happens to exist" ("In Medias Res" 308). Human agents typing and speaking are more than metonymic of an institution; people's communication constitutes the institution, and by extension the institution constitutes the people.

USF exists beyond the material borders of streets, bushes, sidewalks, named buildings,

and the authorized areas of the University Police Department's jurisdiction. The institution exists in/through communication. Existence alone, however, is insufficient for most communication scholars to recognize agency. Cooren argues *human communication* is premised on a bifurcated understanding of the world where through communication things are socially co-constructed and on the other side of the world there are material things independent of our dialogues, conversations, and interactions ("In Medias Res" 309). Cooren continues his argument, suggesting this bifurcation is a false narrative. Instead, everything should be recognized in relation to everything else. Communication need not be limited to dialogues between people, but should be alternately conceptualized as relational, between/with living things and inanimate things. An expressions of/about/with anything relationally recognize the existence of that thing.

For example, consider how humans communicate regarding liminal boundaries. The Bridgekeeper, in the "Bridge of Death" scene from *Monty Python and the Holy Grail*, responsible for determining who can or cannot cross the bridge, is akin to devices on USF's campus that require an ID card swipe before granting access through a doorway. The devices require the swiping of the ID card for passage, just as the Bridgekeeper requires the answer to ~~five~~ three questions before allowing the Knights of the Round Table to cross the bridge. The devices and Bridgekeeper similarly engage in relational communication with who, or whatever, wishes to pass.

Essential to the relational constitutions of humans and institutions are texts. Sociologist Dorothy E. Smith argues texts allow for meaning to transfer beyond space and time, "When a text is read, watched or heard it brings consciousness into an active relationship with intentions originating beyond the local" (Smith 164). It is this transferable capacity of text that enables large-scale organizations to bypass the problem of having individuals pass particular meanings

from one person to the next, time and time again. Instead of people's communication constituting the institution and the institution constituting the people, as I expressed earlier, people, texts, and institutions are all mutually communicating the constitution of each other.

For instance, when the language in the USF policy notes, "The USF System *strives*...the USF System *establishes* this policy," or "The USF System strives to *create* and *maintain* a professional, collegial environment for work and study," the references to the University striving, establishing, creating, and maintaining are relationally marking USF as an active agent, doing each of those verbs (Hernandez 1, 5, emphasis added). In this example the language of the text is communicating the constitution of USF. Additionally, by publishing policy, posting it to a website, or handing it out at a training session, USF is constitutively communicating texts. The text establishes USFs materiality, the materiality of the policy, reaffirming the agency of the text, which is itself *reporting* all the things done by USF.

In another example, the e-mail sent to all graduate and teaching assistants, informing them of the impending training sessions, is a text constituting individuals roles as mandatory reporters on behalf of the institution, and more specifically the person within the institution sending the email. As the e-mail expresses:

In order to ensure all GA/TA are fully trained in their responsibilities as mandated reporters of report sexual harassment [sic], including sexual violence, several opportunities to receive training have been arranged between the Office of Graduate Studies and the Title IX Office within the Diversity, Inclusion, and Equal Opportunity Office. If your duties include classroom instruction, supervision of any student at any level (even if only in the absence of the assigned supervisor), or work with any student organization in an advisory capacity AND/OR if you are someone a student could

reasonably believe has the authority to act, you are required to attend one of the training sessions. (B. King)

Each person who opens that e-mail does so in a unique space and time, yet (unless they receive the e-mail by accident) they are immediately informed of their constitution as a mandatory reporter, and are therefore required to attend training, in roughly the same space and at the same time. This first sentence confirms GA/TAs responsibility to be “fully trained... as mandated reporters.” The second sentence then appeals to ambiguity, by creating an unknowable standard for someone yet untrained, “...if you are someone a student could reasonably believe has the authority to act, you are required to attend one of the training sessions.” GA/TAs are given no alternative but to attend training if they meet the qualifications of “classroom instruction, supervision of any student at any level (even if only in the absence of the assigned supervisor), or work with any student organization in an advisory capacity.” Interactions with students by way of instruction or some other advisory role is identifiable; the standard of student reasoning is wholly ambiguous. Mandatory reporters have no way of discerning the abstract reasoning of students.

As texts carry messages through space and time they become the bones of an institutional ontology (Smith 166). Smith, here, is making a similar argument to Cooren, asserting texts enact the agency humans would enact if not for their absence. Arguably, a person could come to each GA/TAs office and alert them to the requirement, but a text does the work of humans, expressing the directive through language.

The same is true with regard to training sessions themselves. Even though the Senior Deputy Title IX Coordinator runs the training session, that person is unable to perpetually remind every mandatory reporter and student of the University’s expectation regarding Title IX.

Therefore, the policy and training slides are made accessible so that an authorized person does not have to remember and repeat the policy in every instance it is triggered. Instead, mandatory reporters can perpetually consult the texts to ascertain how they have been constituted.

Just as the e-mail tells me I need to attend training, the attendance sheet I signed upon entering the lecture hall will tell someone at USF Human Resources that I attended the session. The e-mail teaches me to attend training, the lecture slides teach me the policy, and the attendance sheet teaches someone that I attended the training.

This relational communication, between/with non-humans and humans, is a generative process. François Cooren, Fiona Thompson, Donna Canestraro, and Tamás Bodor confirm the argument, suggesting agency is distinct from some sense of soul or ghostly incarnate inside material objects, rather it is an acknowledgement that objects *do things*, they contribute to organizing and socializing processes (535). In this case, USF texts organize and socialize mandatory reporters as they handle disclosures. Texts communicate in a way that is still constitutive; whatever the texts say makes meaning of something and dictates performances.

Passivity

The consequences of agency are beyond theoretical, the consequences are material. Responses to agency are what Cooren calls “passivity” (“In Medias Res” 309). Cooren explores how it is always possible to question what causes a person or thing to do whatever it is they do. This identification of hypothetical causality is recognition of agentic capacity, the ability to influence some other’s *doing*. For example, when a university has a gym, students who wish to workout can use the gym. The gym will exert agency for the university when someone uses it because the gym is communicating the university’s ability to provide access to exercise equipment. The human action, going to the gym, confirms the university communicated its ability

to provide access to exercise equipment through the gym's existence, thereby corroborating Cooren's assertion, "... other actors, authors, or contributors also speak *through us*" ("In Medias Res" 310). The university speaks *through* the gym and *through* human action.

In the case of mandatory reporting at USF, the human action is to affirm compliance. Should mandatory reporters base their performances off the scripts learned through policy, training, and the *Report Form*, the texts will have exerted agency for USF. In each instance the human actions confirm the institution's ability to exert agency, one regarding legal compliance, the other regarding available university amenities.

However, mandatory reporting texts are unique from the gym because texts operate as performance scripts that enable and constrain the relationships between students and teachers. These texts exist for the purpose of measuring and managing performances that protect the institutions from legal action in addition to maintaining a positive reputation. I contend this is a generative communication, operationally indicated in texts and the performances of mandatory reporters. As Cooren contends, through communication, agents "embody, materialise, channel, and express" other agents into existence ("In Medias Res" 312). The University creates mandatory reporters through its expression of their existence in the e-mail, policy, training, and *Report Form*. For instances, the training slides confirm the identity of a mandatory reporter, beyond the previously mentioned e-mail, when reporters are informed:

The Title IX Responsible Employee training is provided to all employees identified as Responsible Employees under current policy and per requirements under Federal Statute. Thank you in advance for your time and participation (Coombes 2).

This directive points out that USF identifies the people receiving the e-mail and then attending the session a Responsible Employee. By referencing the "Federal Statute," USF is concealing that

individuals write policy and dictate who must abide by it. USF can use the training sessions to hold mandatory reporters accountable for normatively performing the policy as a function of legal compliance, as training was provided. Nonetheless, mandatory reporters are being expressed into existence by the e-mail.

Expressing the presence or action of any noun is to recognize in that noun agency. As the expressed noun is embodied or references, by attending training for instance, mandatory reporters confirm the text's expression of the reporters' existence. When the texts' mandates are fulfilled the University's and texts' agencies are affirmed. Important here is that expressing mandatory reporters into existence also expresses a series of repercussive responsibilities.

Cooren, Thompson, Canestraro, and Bodor articulate, "Non-human agency does not mean that objects become completely autonomous and that humans are reduced to puppets. On the contrary... their mode of action usually requires human participation... It needs our participation/collaboration/consent" (537). Humans design and set up institutions in order for the institution to function on behalf of or in the subsequent absence of human leadership. Having agentic texts is a necessity should the institution continue to operate in the absence of its creators. Mandatory reporting policy and training exist to protect USF when humans are not able to do so themselves. In this instance, the texts serve to organize through a specific set of performances. I identify how this happens in the next section.

NORMATIVE PERFORMANCE: CONTRADICTION AND AMBIGUITY

Recognizing the agency of the University, beyond its representatives, has direct implications for those under the purview of the University mandate. To be clearer, individuals – actively or potentially – embrace or resist the ideas further constituted in texts. Individuals *do things* in relation to USF and its texts agency/materiality. In this section, I articulate how, first,

the training materials and policy, and, second, the *Incident Report Form*, constitute the contradictions and ambiguity of USF's standard of compliance.

USF needs employees to constantly remain compliant with all of its policies. Sustaining the authorized practices through texts allows for the institution to exist beyond the limits of individuals that come and go with time. As such the University offers training sessions each year, as the institution employs new mandatory reporters. By concretizing policy in a referential set of texts, USF can always hold mandatory reporters accountable to those texts. By offering training, which grants mandatory reporters a chance to clarify misconceptions, USF training grants reporters the authority to then implement policy. The University remains compliant, despite contradictory and ambiguous standards, as long as a standard exists and is shared with those responsible for enforcement.

As an institution enacts itself, by text and subsequent enactments, people learn what counts as acceptable performances. I agree with Smith, who argues texts are the teaching tools of institutions, functioning to standardize people's activities (173). Failing to recognize how texts substantiate normative performances veils the way individuals are being constituted.

Training Materials and Policy

The training materials and policy are used to constitute normative mandatory reporting practices.

First, USF's mandatory reporter training PowerPoint slides, across twelve pages, offers only one example of a Title IX violation and two diagrams outlining the reporting process. The 24-page policy dedicates two pages to outlining examples of prohibited actions and includes two pages of definitions of sexual harassment and violence (Hernandez 3-4, 6-7).

The lack of detailed examples creates ambiguity. The only example of a Title IX violation included in training is one where the victim is male, despite one in 5 women compared to one in 16 men being sexually assaulted while in college (National Sexual Violence Resource Center 2). The sole example of a Title IX violation in the training materials is as follows:

When reporting, make sure to describe as best you can from what the person disclosing has told you the situation and any factors they disclose. For example: they disclose that several times they have been asked to get everyone coffee, and as a result have missed vital time in meetings. This seems to be a pattern that started as soon as they began work, classes, etc. They note that no female has been asked to do this task. They state that the department is predominantly female and they are the only male. (Coombes 4)

This sole example in training does not prepare mandatory reporters to recognize a variety of violations.

Offering undefined terms in place of detailed examples leaves reporters with ambiguous direction (See Figure 4.1). The ambiguity enables individuals to disclose but leaves the reporters, authorized to handling the disclosures, without the knowledge of what exactly should be authorized. Training suggests that retaliatory harassment, non-consensual sexual contact, relationship/domestic violence, stalking/cyber stalking, hazing, bullying/cyber bullying, hostile environment, sexual exploitation, and quid pro quo are all forms of gender-based discrimination or sexual harassment. But those terms alone, without accompanying definitions or examples leave reporters with an ambiguous standard to uphold.

Subsequently, slides include two diagrams of how to enact the reporting process. These diagrams contradict each other and, at times, themselves. First, the training materials include a spiral diagram, explaining, “Reporting is a Process” (Coombes 6). The diagram begins with the

concept of “Actual Notice,” an ambiguous term never defined in training or the policy (See Figure 4.2).



Figure 4.1 -- The training slides offers undefined conceptions of sexual harassment.



Figure 4.2 – The training material diagram conveys the “Reporting is a Process” spiral.

The closest content in policy that outlines actual notice is the standard that, “...any supervisory or responsible employee who knows, or in the exercise of reasonable care should have known, about an incident of sexual harassment (including sexual violence) **MUST** report that incident” (Hernandez 10). A similar standard is proffered later in the training materials, described as the “Title IX Response Litmus Test,” which asks, but remains unanswered: “Are the behaviors or actions sufficiently severe, pervasive, objectionably offensive, and persistent?”

Would a reasonable person/ the University know (actual notice) or should have known (observation) about the behaviors/actions?” Actual notice is never defined or articulated through an example. Training mandatory reporters by the use of questions, as opposed to examples and definitions, holds reporters to an ambiguous set of standards.

Following the “Reporting is a Process” spiral, the mandatory reporter works their way through the process from “Acknowledge and Support” to “Linked to Assistance” to “Compliance Data.” In addition to engaging the disclosing individual in a “Basic Inquiry (a conversation),” the reporter is supposed to gather the data that will belong in the *Incident Report Form*. While the details of that conversation remain unidentified and ambiguous there is no contradiction yet present in the materials. This is the case until mandatory reporters move to the immediate subsequent slide, “Your Role As A Responsible Employee,” which offers a seven-step protocol for completing an *Incident Report Form*, subsequent to a disclosure (Coombes 7) (See Figure 4.3).

Ambiguity and conflict with the prior diagram exist at the first step. The protocol diagram begins with clarification about the reporter’s confidentiality status, whereas the spiral diagram offers no mention of a reporter’s status as a non-confidential resource. The protocol diagram also triggers a conflict between the first step and the preface. The first step suggests: “Before an employee/student reveals information, ensure they understand that you ARE NOT a confidential resource.” This poses a concern, as the revelation of information that triggers the protocol in the first place, “actual notice” or “reason to believe” would have to be presented before a clarifying conversation about confidentiality would be warranted. This creates ambiguity and contradiction between what a conversation should entail, one to collect the data that will go into an *Incident Report* or a conversation about confidential resources. The spiral

diagram directs reporters to offer “acknowledgment and support” after actual notice occurs, compared to the step protocol which requires a reporter to inform and ensure the disclosing individual understands confidentiality. The spiral encourages enabling information sharing on the part of the discloser, whereas the step protocol creates an opportunity for the disclosing person to halt the process should they be seeking a confidential resource.



Figure 4.3 – The training material diagram outlines “Your Role As A Responsible Employee.”

Regardless of ambiguity in the document the normative standard still applies, that mandatory reporters must ensure compliance.

This compliance standard is made more evident in the fourth step of the protocol. Mandatory reporters are directed to: “Ensure that the employee/student knows their rights under Clery, VAWA, and Title IX” (Coombes 7). Step four directs the reporter to remind the individual disclosing that USF is compliant with the legal standard, a measure that protects the University but does nothing to advocate for the person who may be identifying as a victim. The goal is to create compliant disclosers and reporters, which would absolve USF of legal culpability should a victim still feel aggrieved and seek to sue the institution.

Aside from the anecdotes mentioned during the live training lecture, the texts of mandatory reporting policy and training fail to include a variety of details examples of disclosures. Training materials offer the two diagrams, “Reporting is a Process,” and “Your Role As A Responsible Employee,” but neither explains what a victim’s disclosure might entail (Coombes 6, 7). While both articulate that an “Actual Notice” initiates a reporting process the concept remains ambiguous. Reporters are directed at each step of the protocol to generate some degree of compliance. What that compliance looks like, as a conversation, is never expressed.

Incident Report Form

The *Title IX Incident Report Form* is two pages long (with an additional cover page that details how to save and forward the document to the Senior Deputy Title IX Coordinator). The form further defines the role of mandatory reporters as reporters are told the purpose of the document in an introductory paragraph (See Figure 4.4). Reporters are tasked with completing the form and to follow the guidance offered within the document.

On the first page of the form, a reporter is directed to fill in contact information about the reporter, the “Complainant... who may identify as the victim,” and the “Respondent... who may be identified as the accused” (2)(See Figured 4.5). This process removes individuals, entextualizing their bodies into the form.

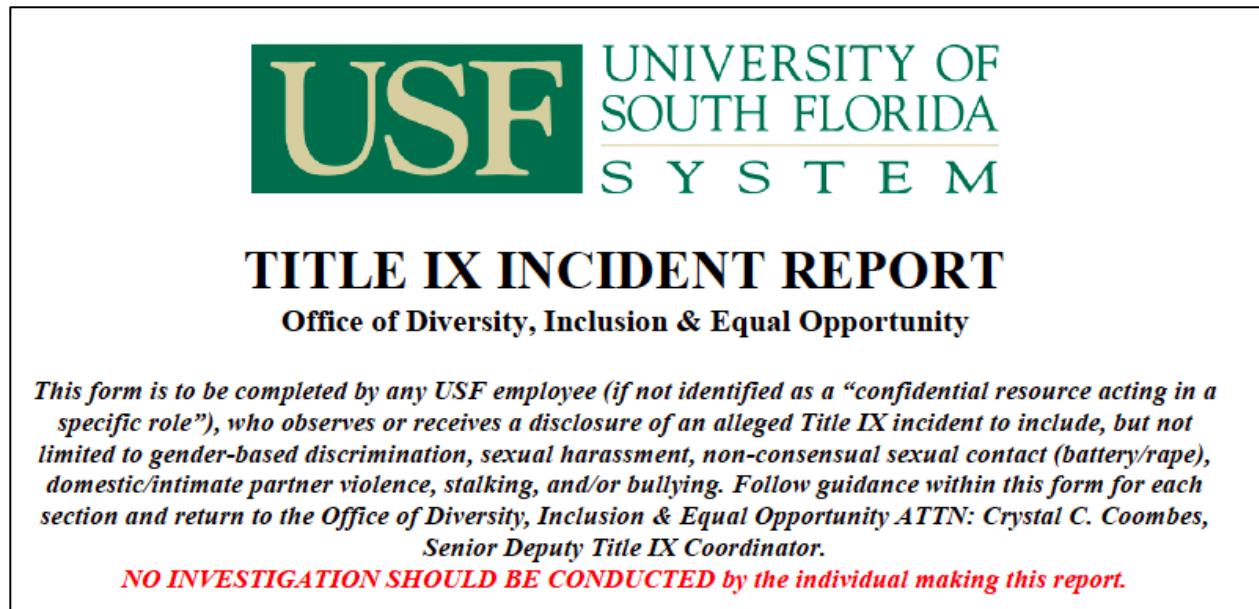
The image shows the header of a Title IX Incident Report Form. At the top left is the USF logo, which consists of the letters 'USF' in white on a green rectangular background. To the right of the logo, the text 'UNIVERSITY OF SOUTH FLORIDA' is stacked above 'SYSTEM' in a green, serif font. Below the logo and university name, the title 'TITLE IX INCIDENT REPORT' is centered in a bold, black, serif font. Underneath the title, the text 'Office of Diversity, Inclusion & Equal Opportunity' is centered in a smaller, black, serif font. A paragraph of italicized text follows, providing instructions on who should complete the form and the types of incidents it covers. At the bottom of this section, a red, bolded line of text states: 'NO INVESTIGATION SHOULD BE CONDUCTED by the individual making this report.'

Figure 4.4 -- The introductory paragraph to the *Title IX Incident Report Form*.

The reporter is subsequently asked, on the second page, to ascertain a “Priority...risk level,” provide a “Detailed Statement of the Incident,” and a “Statement of Action Taken – if any” clarifying what steps the reporter and the complainant have taken prior to and in light of the disclosure (3) (See Figure 4.6). But completely filling in these two pages of data is only possible if the disclosing “Complainant” shares all the information. The form directs mandatory reporter to “Click here to enter text” for every cell and concludes with the mandate: “**Once you have completed ALL sections of this report, your form may be saved and printed**” (3).

The *Incident Report Form* entextualizes the reporting process, disembodiment the individual by reducing them to the words within the report. The text as an artifact becomes the focus of the discourse, instead of the person it describes (Silverstein and Urban 4). The entextualizing of the event enables a meta-discourse of the reporting process, limiting a discourse about the event that caused the disclosure to only the details captured.

Name of Person Reporting:	Click here to enter text.
Phone Number:	Click here to enter text.
USF Email:	Click here to enter text.
Department:	Click here to enter text.

Complainant Information (the individual(s) who may identify as the victim):

Name: Click here to enter text.
Mailing Address: Click here to enter text.
Campus Address: Click here to enter text.
Phone: Enter best number here Cell Work Home
Email: Click here to enter text.

Status:
Student Staff Faculty OPS Graduate Assistant Applicant Visitor Vendor

Respondent Information (the individual(s) who may be identified as the accused):

Name: Click here to enter text.
Mailing Address: Click here to enter text.
Campus Address: Click here to enter text.
Phone: Enter best number here Cell Work Home
Email: Click here to enter text.

Status:
Student Staff Faculty OPS Graduate Assistant Applicant Visitor Vendor

Figure 4.5 – The first page of the *Title IX Incident Report Form* collects contact information.

When comparing the mandate to complete all sections of the report with the mandate not to conduct an investigation, the form is creating a contradictory, and by extension an ambiguous,

normative standard. Reporters are left with no other guidance in any other text about how to handle missing information following a reportable disclosure. Should individuals disclosing not want to continue the conversation upon learning a reporters' status as non-confidential, a reporter could be left with no means of completing ALL sections of the *Report Form*. The University sets out to meet the standard of legal absolution by creating a system whereby reports of Title IX violations may be made, this process shifts the burden of compliance onto mandatory reports.

Even mandatory reporters attempting to meet the standards set forth in the policy, that "All employees and students are strongly encouraged to cooperate fully with any investigation and/or compliance review conducted under this policy," being part of the "certain persons [who] **MUST** file a report," are limited by the information provided to them by individuals disclosing Title IX violations (Hernandez 6, 8).

Unauthorized Constitutions

Mandatory reporters are unable to entirely control whether they remain complaint as they can only complete all sections of the form should the disclosing individual provide all the required information. Reporters who manage a normative enactment of policy are absolved of any further action or responsibility regarding that disclosure of a Title IX violation. But not all disclosures will fit in the structure outline by USF's texts.

Conversely, educators who unintentionally, or because of situational context, fail to uphold the normative performance can be held accountable for non-compliance, considering, "Failure to cooperate may impede or hamper the University's ability to conduct a full and fair investigation" (Hernandez 6). Educators, whose courses actively engage social justice, have a political agenda that supports enfranchising marginalized voices, and embrace disclosure as a

pedagogical strategy, might find the policy limiting in relation to their preferred pedagogical practices.

Priority (Select the risk level you believe most likely represents this incident below):	
<input type="checkbox"/> Emergent/High Risk	<i>(In emergent cases of high risk to USF community, individual, or group, dial UPD immediately)</i>
<input type="checkbox"/> Urgent/Risk	<i>(If a question exist regarding level of risk, consult DIEO, OSRR, or UPD)</i>
<input type="checkbox"/> Controlled/Low Risk	<i>(Incident is passed; some concern remains)</i>
<input type="checkbox"/> General Report/No Current Risk	<i>(Incident is just known, no risk remains; Responsible Employee duty)</i>
<hr/>	
Detailed Statement of Incident:	
<i>Click on the active text link below to begin typing your statement. This box will expand as needed to allow your full statement to be typed and included as a part of this report form.</i>	
Helpful Guidance:	
<ol style="list-style-type: none">1. Include the date, location, individuals involved—if known—and any other clearly factual information reported to you or observed by you;2. Note if you have indicated to the complainant your status as a Responsible Employee AND/OR if you have made a referral to any USF Confidential Resource or Emergent Resource; AND,3. Provide a best time/method to contact you to follow up on your report.	
Click here to enter text.	
<hr/>	
Statement of Action Taken—if any:	
<i>Click on the active text link below to begin typing in paragraph or bullet format any and all actions that have been taken by you or the complainant. For example: “Contacted UPD Officer John Doe for guidance” or “Called USF Counseling Center to make a referral” or “Sought medical treatment at XYZ facility.” This box will expand as needed to allow you to detail all actions taken in this incident and will be included as a part of this report form.</i>	
Helpful Guidance:	
<ol style="list-style-type: none">1. Include the date, time, and individuals that you may have contacted, alerted, or otherwise involved in the incident as you worked to assist the complainant;2. Note if any actions have been taken by those resources on behalf of the complainant (such as police report taken); AND,3. Be clear, brief, but detailed when and where possible.	
Click here to enter text.	

Figure 4.6 - The second page of the *Title IX Incident Report Form* is used to collect event details.

As someone who identifies the policy and practices to be in violation of critical communication pedagogy, I find myself in this conflicted position. Individuals like myself can

find we are subject to possible punitive responses in light of any failure to embody the normative performance of mandatory reporter. This potential for punitive action is problematic in that failure to comply is not automatically indicative of a desire to promulgate Title IX violations, but either an inability to enact the normative practices or a desire to practice something different.

The relational dynamic between the institution and individuals is indicative of how the pedagogical preferences of agents can correspond or conflict with the institution's preferred/authorized practice, and the consequences thereof. In this section, I articulated how, first, the training materials and policy, and, second, the *Incident Report Form*, constitute the contradictions and ambiguity of USF's standard of compliance, before finally explaining the dynamics of possible unauthorized constitutions of mandatory reporting. When the University prescribes normative standards for mandatory reporters and victims their performances are measured by the constitutive texts, but how those texts operate in relation to each other is also meaningful.

INSTITUTIONAL(IZED) AUTHORITY

Smith suggests there is value in identifying the subjective, or agentic, capacity of an institution (160). Doing so reveals how the institution is only authorizing accounts that fit within designed/privileged systems. The University values the validated/authorized handling of Title IX violations and embeds that idea in the abstract performances theorized in policy, training, and the *Report Form*. In this section I identify how USF works to authorize its prescribed practices through punitive action and framed neutrality.

Judith Butler's notion of gender as a performative "stylized repetition of act" operates as a useful comparison (519). For Butler, gendered performances are measured as "punitively regulated cultural fictions" (522). In this sense, gender identity is constituted through the

recognition of performances that violates expectation with potentially damning consequences. For gender, these limitations are based on culture, for mandatory reporters, punitive action is based on policy and training. What counts as unacceptable is easier to perceive than what counts as acceptable performance, given the contradictory and ambiguous expectations laid out in the texts.

Butler's definition frames the normative standard of mandatory reporting, as once someone is expressed as a mandatory reporter, performatively, they are one, and are then held accountable to the punitively regulated ambiguous standard. To extend Butler's assertion of "punitive regulation" one needs look no further than when *USF Policy #0-020 Retaliation, Retribution, or Reprisal Prohibited*, referenced in the Title IX policy, which indicates people who fail to promote good faith practices of University policy "will be subject to disciplinary action up to dismissal from employment" (OSRR 2). While failure to comply with University policy could risk dismissal, *Policy #0-004* softens the rhetoric, "All employees and students are strongly encouraged to cooperate fully with any investigation and/or compliance reviews conducted under the Policy. Failure to cooperate may impede or hamper the University's ability to conduct a full and fair investigation" (Hernandez 6)

The performances of mandatory reporters are then held in perpetual relation to ambiguously constituted performance standards. Mandatory reporters are measured against policy and training just as gender is measured in relation to socially constructed standards set through stylized repetitions. But mandatory reporters are held to two different degrees of standards, as expressed by two different USF policies, creating ambiguity.

As Butler describes, "the body is only known through its gendered appearance," through expression the body is measured and identified, mandatory reporters are being measured by their

ability to perform their reporting responsibility (523). Following the mandate to report Title IX violations without regard to the context of the disclosure further ensures ambiguity, but eases the mandatory reporters ability to follow the policy. By not recognizing the diverse capabilities, intentions, and motivations of those involved in a disclosure and subsequent report the authority of the mandatory reporter is deferred to over the needs of disclosing individuals. Mandatory reporters and the victims who disclose are, therefore, cogs in a data collection process, framed as apolitical and neutral, instead of as individuals negotiating with each other and the institution in a manner that acknowledges subjectivity. Mandatory reporting policy and training only authorizes the agency of those who perfectly uphold the details of the texts. Those who do not value the policy are still limited to the mandate.

The texts dictating how to handle the disclosure of a Title IX violation are problematic when they limit the agency of individuals. Without recognition of the text as agentic the text cannot be held accountable for what it does to those under its purview.

The ambiguity of the texts becomes problematic as the policy serves to, "... based on respect and fair treatment... maintain an environment that is comfortable for all people," and uphold legal compliance, even though the policy does not do the work of explaining interactions with victims (Hernandez 1). In instances where the policy fails to articulate the needs of disclosing victims, and training leaves mandatory reports feeling insufficiently prepared, reporters' compliance becomes near impossible. But, the standard as dictated through policy remains in place. USF is using ambiguity to strategically remain compliant with federal statutes, mandate compliance, and be able to claim it holds mandatory reporters to a standard no greater than data collection.

The limited responsibility of mandatory reporters has value in situations where disclosing individuals embrace the structure and are actively trying to trigger a report. It also has value for reporters with limited knowledge regarding sexual violence on campus who would feel enabled by USF's policy, as it gives them a course of action when handling what they recognize as a disclosure. The normative standard is not, on face value, problematic, but if mandatory reporters cannot ensure the disclosure of a Title IX violation and the process of filling out a report remain normative, it can become problematic.

Reports of Title IX violations are complicated, emotional, and the result of, often, traumatic experience; they are hard to conceptualize in the abstract. Acknowledging all of that would make it more difficult for the University to sustain its assertions of neutrality, as subjective individuals are unable to neatly fit into the presumed neutrality of the abstract. In order to circumvent a responsibility to account for the complicated diversity of contexts that influence any conflict, institutions have an incentive to conceal the politics of policy.

The transposition of agency from organization to text to actor is authorized and repeated by texts. Mandatory reporters are performing their duty to USF (also by way of State and Federal law) to collect data, but creating a definition of mandatory reporting streamlines accountability and in some instances (re) writes student-teacher relationships. The purpose of these texts is to standardize the process of disclosing and reporting a violation, aligning with Smith's assertion "the text maps discrete acts, performed sometimes without direct contact with those involved, into a coordinated sequence" (182). People are forced to account for disclosures, without first-hand experience of the events that lead to disclosures, the policy is supposed to create a sense of neutrality. Policy and training prepare and coordinate people without intimate knowledge of

details into a mode whereby they seem to have enough information to authorize action without bearing serious responsibility.

This sentiment is confirmed in training materials: “By completing a Title IX Incident Report, you – as a [Responsible Employee] – have complied with your role at the University” (Coombes 7). Compliance to the University absolves the mandatory reporter from having any responsibility to the person disclosing a violation. For some mandatory reporters there may be value in this structure. Not every reporter feels qualified, motivated, or duty-bound to advocate on behalf of the individuals triggering reports of Title IX violations.

From an organization’s perspective, authorizing action without individuals bearing personal remorse or responsibility for the outcome of performed proceedings reinforces neutrality. A mandatory reporter can collect necessary data, submit the *Report Form*, and be done with the process. The formulation of a sequenced performance, that can be repeated, authorized, and normalized through texts, is pedagogical practice, and practice that fails to recognize the roles of victims and mandatory reporters as subjective agents.

Smith argues that participants in a process should be included as subjective agents in order for them to recognize performances as “rational and objective” (183). Current policy and training erase any acknowledgment of context and subjectivity from the reporting process when the disclosure is entextualized in the *Incident Report Form*. Abiding by Smith’s assertion would unsettle the normative constructions of victims and reporters as they are currently conceptualized in policy and training as “complainant” and “Person Reporting.” However, it would bring USF’s practices closer to Fassett and Warren’s principle of critical communication pedagogy that the subjectivity of each and every participant in pedagogical practices needs to be recognized by educators. Failing to recognize the subjectivity of individuals simplifies the policy and training

and further serves to legally protect the University. While created texts work to prohibit violating the uniformity, standardization, and normalcy of the organizational script. The ambiguity makes it difficult for reporters to engage in normative performances.

When there are corporeal or fiscal consequences for failing to uphold the normative standard the institution has incentive to recognize the agency of participants, but only so much that it can mark these failures and further privilege normativity. Smith frames her description of this process through the example of a grade appeal procedure:

Interpreting what people do or have done in the terminology of the text accomplishes it as an instance of the process, and hence locates it in the sequence of the text. This discoverable relation between what people actually do and the authorized text construes their actions as organizational, locating them as actors, not as individuals in particularized relationships to one another but in their organizationally defined capacities as ‘student,’ ‘Director,’ ‘instructor,’ and so on. What they do or have done becomes recognizably a moment in a grade appeal. (185)

Essentially, Smith is arguing that in someone’s attempt to embody the text, in her analysis this would be the grade appeal process, the performance is located in relation to the text and to the context of the performance itself. In doing so, Smith asserts, the text warrants the performance be measured based not on its adherence to the situational context, but to the textually authorized norm. This becomes problematic as a performer is burdened to uphold decontextualized standards independent of the contextualized moment of their performance. This problem is evident in the mandatory reporting texts when the training slide’s spiral diagram encourages “a conversation” and the *Incident Report Form* prohibits an “investigation.”

In no identified circumstance would a mandatory reporter be permitted to deviate from the prescribed performance. Policy and training also offer no clarification should the individual disclosing derail the normative process in some way. The texts suggest, through absence, that a disclosing individual will also remain compliant and/or defer to the authority of the mandatory reporter. For example, the University claims to value concepts including respect, fairness, and comfort, for all people:

The University of South Florida System (USF System) community is most successful when it is based on respect and fair treatment of all people. The USF System strives to provide a work and study environment for faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence. As part of the effort to maintain an environment that is comfortable for all people, the USF System establishes this Policy. (Hernandez 1)

The policy goes on to explain that USF does not discriminate, “Pursuant to Title IX,” or on the basis of “race, color, marital status, sex, religion, national origin, disability, age, genetic information, gender identity and expression, sexual orientation, or veteran status” (Hernandez 2). By claiming the policy is pursuant to Title IX and authorized by Federal Statute USF is denying its agency in enacting the policy, deflecting responsibility for their own politics to a different agent.

In some instances this discrimination is beyond the control of a mandatory reporter. Disclosure of a violation and the subsequent reporting process is not guaranteed to follow the details of the diagrams in the training slides. The experience following a disclosure will vary based on the context created by the individuals involved. When policy and training fail to account for disclosures beyond the authorized actions, individuals end up a part of unauthorized

disclosures and are no longer protected by the policy. As the normative performance protects mandatory reporters regarding legal compliance, the limitation created by the normative also opens reporters to punitive actions. Should a disclosure venture into the realm of the unauthorized, beyond the control of the reporter, they become subject to the University's unwillingness to authorize what could still be a legally compliant report, albeit not a normative one. Institutions appear to remain neutral if they are handling issues in the abstract. Smith explains, "The construction of discursive entities in this fashion produces a wholly abstract conceptual space in which they can be related to one another as subjects or objects of action without reference to people" (165). Institutions teach individuals to embody normative practices without taking credit for teaching such practices, because the guidelines are in a text.

To legitimize their own practices as neutral, despite those practices always upholding some value, institutions create this sense of neutrality through what Smith call's "lexical fiat," whereby institutions mask their agency within text, conventionally overlooked as nothing more than object (172). But neutrality is impossible to maintain when a text or institution is still exerting agency. Institutions still write texts as seemingly neutral objects, as opposed to as an agent, which lexically alleviates the accountability agents are expected to uphold. For example, in training materials, USF is treated as a location, not an agent: "you – as the [Responsible Employee] – have complied with your role *at the University*" (Coombes 7, emphasis added). In this example, "you," the reporter, would be the responsible agent, and USF is where you are *at* when performing such duties.

The same lexical strategy exists in the policy. USF is noted as a system and certain actions are prohibited "*within* the USF system" (Hernandez 1, emphasis added). The preposition "within" marks USF as a place. Moreover, while the USF system is credited with establishing

the policy it subsequently designates certain offices, “specifically, the Office of Diversity, Inclusion and Equal Opportunity (DIEO) or the Office of Student Rights and Responsibilities (OSSR),” with managing the policy (Hernandez 2). In this way USF, lexically, shifts responsibility off itself and onto the people/offices it expressly identifies in the policy.

The texts become problematic in instances when they fail to convey to mandatory reporters the institutional mandate, instances where reporters fail to embody the normative standard outlined, and/or when individuals disclosing derail the process outlined in the texts. Either way, the university and/or the reporter are still accountable to a legal standard, if not also pedagogical principles. Failure to enact the normative standard may lead the victim to take action against the institution or the institution to take punitive action against the mandatory reporter, who by institutional standards is held accountable, given the existence of policy and training. In this way, USF constitutes its position of valuing legal standards over the subjectivity of participatory individuals.

Institutionally validated texts create standardized and replicable examples of what counts as acceptable and legitimized action. However, as everyday performances are not bound to following the guidelines of those texts, conflict is inevitable. Standards are produced not just by the institution, but also through texts, making it harder to hold the institution accountable for the texts they have created. To borrow from Smith, “[texts] co-ordinate consciousness at a distance,” while producing what I subsequently argue is performativity (178). For an institution to maintain itself, while disguising its agency and continuing to distance itself from the conflicts its texts fail to mitigate or create, it needs those texts to *do things* on its behalf. Texts must create what they reference in order to sustain the institution expressing, and then hiding behind those same texts.

USF authorizes its policy and procedure as through the threat of punitive action and by framing itself as apolitical.

Performative Texts

To understand how texts operate as reference points for normative performances, and how texts are performative, in this section, I engage with scholars that discuss performativity. I subsequently argue that framing mandatory reporting through performativity can be used to further identify the problematic components of the process as contradictory and ambiguous.

USF utilizes texts just as Dorothy Smith suggests they would, as texts become the reference point for legitimizing institutional practices. Smith writes:

[Texts] are the foundational media co-ordinating people's work activities, including talk... As they recur in different times and in different local settings of people's work [texts] automatically reproduce organizationally or institutionally standardized messages... the text remains as a constant point of reference against which any particular interpretation can be checked. It is the constancy of the text that provides for the standardization effect. (175)

In this way, Smith argues, texts operate as normalizing forces; people uniquely interact with a text but are all responding to the same standardized entity. For example, anyone can look back to the flow charts from the training PowerPoint slides to determine whether or not they successfully performed the University's normative practices. The PowerPoint slides, the e-mail about training sessions, the policy, and other repeatedly accessible University created texts serve as standardized reference points the University uses to normalize human action.

Defining Performativity. This process of checking against a point of reference text is deceptive though. As Smith articulates, texts are reference points only for interpretations. While

the message of the text is objective in the sense that it is replicable, the meaning taken from the text is always still subject to interpretation by individuals.

Butler asserts a performative act is one that upon its expression creates itself (527). Comparable to gender expression, mandatory reporting policy and training do the work of performativity. The mandatory reporters are constituted as such not just by their bodily performance, but as the stylized repetition of their expressed identity in policy, training, and other pertinent communication.

Similarly, Smith asserts texts are reference points; extending the metaphor to gender, texts perform normative standard for mandatory reporting much as binary performances of gender uphold heteronormativity. USF's mandatory reporting texts are reference points for the stylized performances required of mandatory reporters. As the text itself does the expressing of a normative performance it creates the reality responsible employees are mandated to repeat.

Despite texts existing as reference points, they are not able to exercise control over those they conceptually limit. Comparatively, a pair of men's jeans isn't able to exercise control over a woman who wants to wear them, but the conceptual limitation still exists. The performative standard expressed by the text, monitored and mirrored by human agents, only exists because of the mandates in the texts.

As Cooren contends, a performative act serves an institution that seeks to have performances stabilized and repeated over time ("Textual Agency" 374). For instance, as USF determines the best practice for handling disclosure of Title IX violations, it uses training to stabilize and repeat the performance of such practices by entextualizing each disclosure in a standardized form. By mandating reporters to follow specific steps of collecting and passing on information, the policy forces reporters to entextualize the disclosure. This reduces the legal risks

mandatory reporters face, as they cannot be held accountable for ignorance.

Furthermore, Jacques Derrida argues “no language [is] accorded the possibility of the intuition of objects given in person and signified in *truth*,” or, more simply, language allows for a functioning normative standard to be referenced, as objective truth is impossible to identify (11-12). It is this distinction between truth and normativity that undermines the stylized repetition of text, despite institutions’ or cultures’ efforts to normalize performances.

Unsettling the Normative Standard

Established policy, training, and practices are performative of USF’s normative standard of mandatory reporting. The constituted standard is made problematic because of contradictions and ambiguities that complicate and limit compliance, which I henceforth unsettle the expectation of compliance in conversation with Derrida and Austin.

The University’s use of performative texts is indicative of Austin’s articulation of locution, illocution, and perlocution. Identifying the distinctions between the illocutionary and perlocutionary levels reveals the fallibility of the normative performance, and therefore the inevitable pitfall USF constructs through its current practices.

Locution is the act, the saying (or doing) of some thing and the illocutionary force is the “design, intentions, or purpose” of that doing (Austin 101). For instance, the construction and sharing of USF’s mandatory reporting policy and training is a locutionary act, the reasoning that triggers the locution and the desires for what it is to accomplish is the illocutionary force. Austin proposes a third level, the perlocutionary act, what is performed as a function of the locution, “what we bring about or achieve *by* saying something” (109). The distinction is important, contends Austin, because what we intend by saying something is not always what is brought about.

Returning to USF as an example, policy and training direct future performances. For example, the aforementioned seven-step protocol references “*Your Role*,” and later on the same page the responsible employee is reminded, “*You* – as the RE—have complied with *your* role at the University” (Coombes 7, emphasis added). Additionally, the previously mentioned e-mail explicitly stressed, “In order to ensure all GA/TA are fully trained in their responsibilities... you are required to attend one of the training sessions” (B. King). But, there remains no way to ensure the illocutionary force of training and policy matches the perlocutionary performances of mandatory reporters.

It is not illocution (purpose) that establishes agency, rather perlocution (performed/done). That a text is read, authorized, and used to authorize subsequent performance is indicative of agency, but assuming illocution as the result of any and all locutions, instead of perlocution, is problematic. Policy and training generate ambiguous normative standards of mandatory reporting at the perlocutionary level. Yet, mandatory reporters are held to the institution’s illocutionary force, whatever it may be.

Accountability relies on the flawless transfer of meaning between people, institution, and texts. A matching of illocution and perlocution is predicated on an objective text, Smith’s reference point. For example, when the policy dictates “Any student, faculty member or staff member who has direct or indirect knowledge” falls under the “***Should report***” category, the directive is a strong suggestion, reduced from the absolute imperative of “must” (Hernandez 11). Yet one page later in the policy, if someone is explicitly identified as one of the eight detailed positions, which includes almost everyone from the “should” category,” individuals “***MUST***” report “allegations or instances of sexual harassment” (Hernandez 12). An individual could read the first “should” standard, recognize themselves as among that category, and fail to comprehend

the more specific, subsequent section that increased the imperative of their responsibility. Either way, the inconclusive, “should,” creates a window for a report to rationalize any inaction.

Additionally, the training materials offer further elaboration about the should and must distinction, noting: “All employees are mandated reporters of what they know (data) within 24 hours while some Responsible Employees have to share ALL they know (date, date [sic.], facts, names, etc.)” (Coombes 5). This inconsistency within and between the texts creates ambiguity, complicating mandatory reporters’ ability to remain compliant without becoming overzealous and reporting everything that might count as a Title IX violation. Individuals can go back and all read the same words and phrases, but the University’s presumption is that upon completing training all mandatory reporters have a working comprehension of the policy.

Even if held as a reference point, the performative text is subject to interpretation. Despite Derrida’s proposal of what he calls iterability, indicative of the repetitiveness or citable utterance, communication fails to “be repeatable – iterable – in the absolute absence of the receiver or any empirically determined collectivity of receivers” (7). As soon as a text becomes relational, it is subjective, thereby severing the unification of illocution and perlocution. Once mandatory reporters are exposed to a text that delineates them as such, the person and text become relationally entwined. Mandatory reporting texts are performing the reporter’s identity into existence, but do so by providing reporters with ambiguous means of meeting the expectation of compliance. Regardless of directive, USF maintains compliance based on the presumption that reporters understand and can enact the policy.

Compliance works based on the existence of locutions, not the correspondence of illocution and perlocution. Iterability and, the parallel, performativity, are established in much the way Butler articulates gender is constituted, through an objectification not by an innate

objectivity but through concealed objectification of the normative (530). Some standard of the normative performance exists in the abstract, but given that all communication is relational the normative standard is an abstract goal, often misrepresented as an objective truth. It is with this premise that mandatory reporting policy and training create a system of privilege, where those who can ascertain how or will to perform the normative standard of mandatory reporting are absolved of possible punitive action.

This privileging is problematic when the performative capacity of the text invalidates performances that deviate from the norm. The policy and pedagogical practices of training operate as though the gap between illocution and perlocution does not exist, thereby holding mandatory reporters accountable to the illocutionary force. Mandatory reporting policy and training inevitably fails to carry the exact context of its production through space and time and fail to account for all relationships between those disclosing and mandatory reporters. As such, performances that still meet the legal standard of compliance while outside the limits of the policy's standard are enacted without the approval of USF.

The training materials offer a list of five qualifications of responsible employees that encourage engagement with disclosing individuals (See Figure 4.7). Reporters are also taught in the protocol to “Promptly complete the TITLE IX INCIDENT REPORT and turn it in immediately,” and “REMEMBER -- A Responsible Employee must report” (Coombes 7, 9). While mandatory reporters are, conversely, reminded:

A key component to assisting anyone who discloses to you is to remind and encourage them that they are in control of this proces... this information will be used to assist the person who has disclosed, NOT FORCE them to take any action that they do not wish to take. The Discloser has rights. The Title IX officer who contacts them does so to

ensure they know their rights, know what resources are available to them, and to ensure that they understand policy and procedures. (Coombes 7)

If individuals disclosing are “*in control*” they could end a disclosure before a reporters has enough information to complete all of sections of the report, as required by the *Incident Report Form*. This constructs the disclosing individual as free to modify the course of a disclosure, while reporters remain bound to the contradictions laden in the texts.



Figure 4.7 – The training slide lists five qualifications of responsible employees.

Derrida notes that while a text carries with it the ability to be read (repeatedly), it does not carry, through time and space, the context of its initial production, as such the locutionary act can never precisely generate a perlocution that mirrors the illocution (9). Mandatory reporting texts are surely readable, but their ability to generate a perlocution that matches illocution is hindered by more than linguistic fallibility, it is hindered by the internal inconsistency and ambiguity expressed above. As such, the expectation that mandatory reporters uphold the standards created by institutional texts is a problematic goal.

The directive to perform only the normative standard limits mandatory reporters to enact the texts regardless of personal pedagogical preferences, practice that might better address the “respect and fair treatment of all people” (Hernandez 1). The policy, training, and *Incident Report Form* normatively constitute the pedagogical backbone of mandatory reporting and are in direct contradiction with critical communication pedagogy. As Fassett and Warren argue, language is subjective (49). These texts teach what does and does not count as authorized performances during the reporting of a Title IX violation, yet they do so without the language parlaying an expectation of the authorized performance.

Those disclosing a violation and the mandatory reporters who manage the disclosure are always performing in relation to their exposure to and understanding of the normative performance taught in policy and training. Following the language of Austin and Derrida, if the texts of mandatory reporting policy and training are treated as unambiguous (locution) an interpretation or performance of one’s role (perlocution) incapable of upholding the standards (illocution) set by the University are the fault of the individuals who fail to identify the expectations of the text.

Responsibility for a failure to conceptualize and enact a normative performance of the

text is the mandatory reporter's, not USF's. This notion is exemplified in the policy, as USF actively claims absolution, "Pursuant to Title IX, the University does not discriminate, while also claiming to champion against violations, "When appropriate, the University will take steps to prevent the recurrence of harassment, including sexual violence, and to correct any discriminatory effect of harassment on the complainant and others" (Hernandez 2). Should there be discriminatory effects on the complainant, through the non-compliance of a mandatory reporter, the University can take corrective/punitive action.

While the power and authority of the institutions is exerted, not inherently problematic the disregard for the unique needs of victims and mandatory reporters in the process is problematic. In this section, I define performativity before explaining how it is used to further identify the problematic components of a contradictory and ambiguous mandatory reporting process. USF and individuals upholding the performative mandate are privileged and those who fail to enact normative performances face punitive consequences.

CONTEXTUALIZING REPORTING THROUGH CRITICAL COMMUNICATION PEDAGOGY AND PERFORMATIVITY

In this section I articulate how critical communication pedagogy unsettles the supposed neutrality established by USF's texts. The mandatory reporting process and associative texts highlight two of Fassett and Warren's commitments of critical communication pedagogy: culture as central, and practices as constitutive of larger social structures.

The culture of compliance is highlighted by the disregard for context during disclosures of Title IX violations. While some courses, educators, and departmental philosophies might direct students to recognize the role of culture and their own subjectivity in everyday practices, disclosures between those students and educators who promote such recognition face a barrier

with regard to mandatory reporting. In this way, the culture defined by the institution is at odds with the sub-culture the student and teacher are accustomed to prior to the triggering of a mandatory report. Policy and training provide no insight into handling such instances other than to caution “Prohibited content does not include verbal expression, written or other material that is relevant and appropriately related to the subject matter of a USF System course/curriculum or to an employee’s duties” (Hernandez 4).

The ways the University teaches mandatory reporters, and the ways mandatory reporters then teach disclosing victims, are problematized by critical communication pedagogy. Instead of reflexively recognizing the diversity of the identities and agency of those involved in disclosures, the consequence of utilized language, the cultural context being established, and encouraging dialogue among all involved, the goal of mandatory reporting policy, training, and implementation is to, as Smith put it, textually coordinate the work processes of the university that produce only representations of the institution validated by the institution (177).

Measuring a performance of mandatory reporter in relation to only policy and training, and not the context of the event, is indicative of a disregard for the practice as constitutive of a larger social structure. The University claims it is working to enforce federal mandates and provide victims with outlets to report (Coombes 5, 10). Yet designing a structure that limits the control victims have while disclosing to the University is likely to otherwise silence victims and discourage them from coming forward to report Title IX violations (Sokolow). The training materials remind that some victims may seek confidential resources:

Individuals who disclose to you may wish to seek services that are confidential. This is no way a reflection on you, but is a choice of the person disclosing. It is vital that you

know and understand what resources are available and are able to link the disclosing person to any services they choose. (Coombes 8)

At the point in which a disclosing individual is seeking information about confidential resources, a mandatory reporter may have reason to believe they have just received “Actual Notice,” thereby triggering the need to complete an *Incident Report Form*, while at the same time the reporter can provide links to any available services. Ambiguity exists in the texts as to how a mandatory reporter should proceed regarding the *Incident Report Form*, leading to only the partial fulfillment of the normative performance, as a reporter cannot complete the form without completing “ALL sections” (3). Should the disclosing individual not want/allow the reporter to proceed, the institutional practice would result in improving the University’s crime statistics, as less crimes are reported or are forwarded to a third party, even though crime is not necessarily mitigated (See Figure 4.8).

Smith offers further insight explaining, failure to “follow through” with institutional policy might expose the institution to legal action (185). Again, this is similar to Butler’s expression that gender nonconformity is subject to discipline. In this way creating policy and training indicates USF is cognizant of the larger social structure of the American legal system. But what remains unaddressed in Smith’s assessment is that the performer is also subject to institutional discipline should they fail to uphold the authorized, decontextualized standard. This all serves to limit the agency of those involved in a proceeding, all for the sake of maintaining legal compliance.

Smith further asserts, “The authorized text assigns agency to definite organizational categories; it assigns definite types of actions as recognizable forms that agency may take” (186). Organizing texts highlight how power is fluid, as text define and standardize uniform processes

that individuals must perform. Performing the mandates standards set out by the texts protects individuals from legal culpability; a mandatory reporter who follows the text is privileged in that they need not worry about occupational retribution, and the institution that has sufficient mandatory reporting policy and training is not legally culpable for the Title IX violations occurring on campus. The text assigns mandatory reporters with the privilege/responsibility to mark victims' experiences as valid Title IX violations or not. These privileges are all enacted through the limiting of performance scripts to only the authorized process.

Anonymous Reporting:

REMEMBER--A Responsible Employee must report; however, the person who has come to you and who does not wish to disclose confidential information can be linked to confidential assistance and can always be encouraged to report anonymously via:

EthicsPoint

The USF third party hosted hotline

1(866) 974-8411

or

www.ethicspoint.com

Figure 4.8 – Training slides offer an alternative, third party, reporting resource.

Mandatory reporting texts serve to privilege and protect the institution and reporters who successfully identify and report violations in a normative fashion. Reporters who fail to properly

authorize and report an actual violation have not only dangerously exerted power over a victim, but, should the incident become a larger problem for the institution, face punitive action from their employer. The institution limits these legal culpabilities by offering only the normative standard for performing the reporting process.

Intertextuality and Learning Privilege

Using text to create this system of privileges further protects those within the institution: administrators and mandatory reporters, tasked with sustaining the organization and successfully performing its normative practices. Mandatory reporting policy and training are performative in that their execution further creates normative standards that were supposed to be learned and is then indicative of privileges upheld by authorized performance.

Smith contends:

People's activities are co-ordinated through the authorized texts of an organization/ institution with the work of others similarly co-ordinated... This textual web creates the conditions under which the work of teaching and learning can be transformed into an authenticated record of student achievement. (187-8)

Smith is writing here, again, about grade appeals, which culminate in approving an authenticated assessment of student achievement. In corollary fashion, mandatory reporters are assessed as they are called upon to perform their duties as such. Based on whether or not they follow the policy and training, all reporters are given access to the *Incident Report Form*, which explains: "This form is to be completed by any USF employee (if not identified as a 'confidential resource acting in a specific role'), who observes or receive a disclosure of an alleged Title IX incident... Follow guidance within this form for each section and return to the Office of Diversity, Inclusion & Equal Opportunity" (2). Successfully completing the form and submitting it, as noted in the

training materials, fulfills the responsible employees “role at the University” (Coombes 7). This moment of “actual notice” is also exemplary of performativity, in that “actual notice” triggers mandatory reporting duties, initiating someone’s role as a mandatory reporter. To a lesser degree being informed of one’s status as mandatory reporter also, performatively, makes them a mandatory reporter.

Each text that teaches a mandatory reporter how to perform their role substantiates the existence of mandatory reporters’ normative identity. Beyond that, each text that references the University’s role as an authorizing agent substantiates the existence of USF as a normalizing agent. For example, on the second page of training slides mandatory reporters are offered appreciation for their attendance: “Thank you in advance for your time and participation” (Coombes 2).

In a similar manner, mandatory reporting policy and training is more than performative of mandatory reporter; it serves to substantiate the performativity of the University. For instance, phrases such as: “The USF System strives to create and maintain a professional, collegial environment for work and study,” and “The USF System recognizes the consensual amorous or sexual relationships between two people of unequal power... may become exploitative or lead to charges of sexual harassment, including sexual violence,” express the University as performing things into existence. USF noting that it recognizes something actually recognizes that thing.

While agency is expressed within texts, the ambiguous and contradictory nature of those performative standards limits a mandatory reporter’s ability to uphold the normative standard espoused in the first paragraph of the policy, the “... respect and fair treatment... [a]s part of an effort to maintain an environment that is comfortable for all people” (Hernandez 1).

The goal of policy and training is not to meet the aforementioned standard, rather, it is to generate, communicate, and uphold the privileged authority of those who successfully perform the compliant/normative practices outlined by the policy and training. Text, USF discriminates against anyone unable or unwilling to uphold the normative performance of mandatory reporter with the potential for punitive action.

CONCLUSION

Ultimately, I argue in this chapter that texts, in collaboration with institutions and people, constitute the roles of individual while substantiating their own authority and that of the institution. Texts, translocally and through time, allow institutions to enact agency over individuals and mandate enabling and limiting performances. In USF's case, the texts use contradictions and ambiguity to generate normative standards for the performances of mandatory reporters. As Dorothy Smith notes, "texts don't stand by themselves; they are embedded in courses of action the institutional or organization character of which is, however, accomplished textually" (192). Texts have a way of being, an ontology, an agency, which enables them to influence human action and authorize institutional mandates. Examining the ways in which organizations operate, through texts, marks what/who is privileged, and how texts do the work of constituting other entities.

As an authorizing force, the University functions to conceal its influence so as to diminish its own culpability in relation to disclosures of Title IX violations. Entrenching agency within texts, mandatory reporting policy, training, and associated texts creates reference points for normative performances. Human agents who share and uphold mandatory reporting responsibilities become the means of normalizing authorized performances as they

performatively generate the identity of mandatory reporter as expressly reference and/or embodied action.

CHAPTER 5

DIALOGUE AND ENGAGEMENT:

PERFORMING A FUTURE OF MANDATORY REPORTING

Performance, as an embodied research method, allows for the representation of questionable, commendable, and condemnable facets of mandatory reporting policy so as to uncover the implications of the policy and interrogate the enactments thereof. In the previous chapters, I frame and analyze USF's policy and training for mandatory reporting of disclosures of Title IX violations. In this chapter, performance is used as a strategy for reviewing the overlooked aspects of the everyday, proposing how researchers/performers can replenish the social, historical, and political context and consequences of sanitized/concretized University policy. Performance observes, recreates, and questions the institutional texts and allows for the researcher/performer to engage those materials, those responsible for their construction, and the audiences beholden to them, in a dialogue.

Critical communication pedagogy is used to contextualize and analyze the implications of USF's mandatory reporting policy and training as they represent seldom questioned – and difficult to unsettle – institutionalized privileges. Performing allows for hypothesizing something different than the status quo maintained by policy and training. Performing the policy as it should/could be enacted is an opportunity to reveal the individuals and values privileged by/through policy and training, in addition to offering a vision of revised pedagogical practices that remain aware of "...personally political spaces between interruption and perpetuation of pain and injustice" identified in the prior chapters (Spry 98). This effort expands on Judith

Hamera's assertion that performance offers a remedy to everyday ignorance of basic communication and cultural institutions that become the material of our everyday lives, that enable and constrain our communication, and are too easily ignored in everyday practices (12, 14).

The everyday practices authorized by USF's mandatory reporting policy and training are an extension of public policy that address the systemic discrimination resulting from sexual misconduct, harassment, and violence that exists on college campuses across the US. While administrators and willfully compliant mandatory reporters and victims are privileged, individuals who (intentionally or not) fail to uphold the normative performances face potential punitive consequences. Performance offers a means of theorizing pedagogical practices that dismantle, or at least identify, the perpetuated privileges generated by/through existing texts.

In this chapter, I return to my role as an embodied participant and researcher. I present my personal response to USF's *System Policy #0-004 Sexual Misconduct/ Sexual Harassment (Including Sexual Violence)* and associated training sessions in the form of an autoperformance. In order to meet my conceptualization of "responsible employee," as theorized through critical communication pedagogy, I find that I am bound to more than the institutional mandate. I have responsibilities to myself and to the students I engage with; I have responsibilities to my peers, those along side me now, those before me, and those who will follow; I have responsibilities to the theories I embrace when I teach/research. As such, the performance proposed herein harkens to the pedagogical theories of Paulo Freire, advances the subsequent embodiment of those theories outlined by Augusto Boal, and engages Bryant Keith Alexander's call for a critical performative pedagogy that facilitates personal and public reflection of societal values (333).

Finally, I end this chapter by offering a summation of the dissertation as a whole and explain the value of this research beyond USF's policy and training.

PERFORMING AGAINST VIOLENCE

Performance is noted as a proven method for victims of sexual violence working to overcome their trauma (Engle 419). Strategies extending from performance studies are also a valuable tool for encouraging bystander intervention (Ahrens, Rich, and Ullman; Abrams, Shaw-Playter, Lemaster, Willis, Hoffman, Bodden, and Whitney). In addition, performance has been used to study how to prevent sexual violence (Mitchell and Freitag; Rich; Rodriguez, Rich, Hastings, and Page).

While existing research endorses the use of performance as it pertains to sexual violence and mitigation efforts, the research is lacking when it comes to better understanding and engaging institutional responses to disclosures of violence. Research has focused on intervention and prevention strategies, and how victims work to make sense of their experience, but no research uses performance as a method regarding the institutional responses to disclosures of Title IX violations and mandatory reporting. I build on the framework and analysis of prior chapters to theorize a pedagogical performance that brings mandatory reporting policy and training more in line with critical communication pedagogy.

Dustin Goltz contends, "the unique potential of performance... pushes at the margins of discourse, and disrupts the limitations of our theories" (23). With mandatory reporting policy and training standing as the theory of how responsible employees should handle disclosures of sexual assault, aesthetic performance becomes a research tool for engaging the status quo and theorizing change. Using performance as a means of embodying institutional texts engages critical communication pedagogy.

In this chapter I identify why performance is a viable means of envisioning institutional practices that better engage critical communication pedagogy. Institutions are clearly concerned with the risks of noncompliance with Title IX, the Clery Act, and associated federal policy: “the threat of... penalties, the spectre of student litigation, and the potential reputational harm” (Savino 27). But these concerns do not prohibit institutions from considering how their mandated practices, at the very least, might better engage with critical communication pedagogy. Aesthetic performance is a space for theorizing mandatory reporting policy and training as pedagogical practices different than their current permutations. The performance described herein is a way of beginning a dialogue towards reforming the pedagogical practices privileged by the institution. Paulo Freire and Augusto Boal provide a theoretical justification for the performance described in this chapter as an instance of dialogue.

I articulate the details of an autoperformance and how it engages with existing performance scholarship addressing Title IX related issues on US college campuses, and scholarship that endorses performance as a research method. My performance is an additive (or alternative) example of how mandatory reporting policy and training might engage critical communication pedagogy in a way that current USF texts and practices do not. The performance works to trouble the normative performance of mandatory reporter and highlight areas in the policy ripe for change.

Given the work of prior chapters I expand on how performance can be used to reimagine mandatory reporting policy and training with some semblance of reflexivity. Otherwise, policy and training will continue to situate standardized performances and entrench the privileged positionality of those who successfully meet institutional standards without regard to the

systemic inequity being maintained. I discuss my positionality in this process and how I account for critical communication pedagogy in my calls that USF develop a victim-centric policy.

THEORIZING A DIALOGUE FOR THE FUTURE

Augusto Boal argues performance can be seen as “rehearsal for the revolution” (122). Boal is suggesting, through performance, individuals, actors and spectators, might envision and train for something different than the status quo. This proposition is predicated, Boal contends, on turning the theatre over to the people. The University creates policy and use training to teach mandatory reporters, the spectators to that policy and training. The performance of policy and/or training is pedagogical practice; for the performances to embrace critical communication pedagogy principles, as spectators learn performances, there must be alterations the policy and training.

Boal writes, “spectators in the people’s theater (i.e., the people themselves) cannot go on being the passive victims” (155). Conventionally, spectators learn rituals, expected behaviors, and valued performance, from actors presenting privileged normative standards. Mandatory reporters, in this metaphor, are among the individuals objectified by USF’s texts and the spectators learning the normative performances outlined in policy and training. By reclaiming theatre as a means of creating the world as understood by a spectator, not that of the “people who belong directly or indirectly to the ruling class,” those privileged by existing mandatory reporting policy, I use my performance to articulate mandatory reporting policy and training as the problematic status quo theatre of the ruling class (155). This performance is a step toward engaging in dialogue between/with those who create policy and those required to enact it.

The performance I detail later in the chapter is meant to initiate a dialogue regarding the existing structure of USF’s mandatory reporting policy and training, and how it should/could

facilitate an enactment of critical communication pedagogy. USF's policy and training work to normalize disclosures of Title IX violations, limiting dialogue between victims and mandatory reporters, in addition to limiting avenues for mandatory reporters to engage with the institution regarding policy and training.

Defining Dialogue

Hamera suggests that recognition of "bodies in/and dialogue" offers a remedy to everyday ignorance of basic communication and cultural institutions (12). I think about how I keep my office door open whenever I can, I think of the safe-zone sticker and flyer for survivor support meetings on the door, I think of the former students who stop by to say hello or ask for advice. I think about how, by keeping my door open, I am exposed to people walking by, the snippets of their conversations that waft through the doorway, and the odd dances or pantomimed golf swings people perform as they wait for the elevator; this all acts as a reminder of the other bodies that exist and the way those bodies move through their lives. I think about the potential for my role as mandatory reporter to be triggered at any moment.

Hamera cautions us not to forget these bodies and dialogues. While my observations are perhaps personally fulfilling, when I remain confined to sitting in my office I am aware of, but rarely engage with, the outside bodies I do not otherwise know, unless they pop their head into my office to ask for directions or to use a stapler. I wonder how the items posted on my door might be in dialogue with the people who pick their head up to see the sticker or flyer. There is awareness but there is no substantial engagement; as Madison notes, "Dialogue is framed as performance to emphasize the living communion of a felt-sensing, embodied interplay and engagement between human beings," I do not engage with those passing by the doorway (9).

I contend bodies – others and my own – and available texts are constantly in dialogue with each other, but that dialogue is limited, and if expanded that dialogue serves a valuable purpose. Spry argues, “... dialogic performance is the ethical engagement of the other, or persona, for the purpose of an on-going embodied collaboration of learning” (185). The momentary exchanges between others and the texts, sticker and flyer, I have posted or me are not always part of some deeper embodied learning, they are more likely part of our “everyday ignorance,” as Hamera asserts, but they are the seedlings of dialogue. While engagement may not occur in these brief, everyday interactions, aesthetic performance opens a space for the deeper, embodied engagement and learning in Spry’s definition.

Dialogue is a facet of pedagogy. Freire frames dialogue as more than just the praxis of a critical pedagogy but praxis of liberation, arguing, “Those who have been denied their primordial right to speak their word must first reclaim this right and prevent the continuation of this dehumanizing aggression... Dialogue is thus an existential necessity” (88). Dialogue is the beginning of transformative and humanizing work, serving to combat the objectification done by/through mandatory reporting policy and training, or by any objectifying institutionalization. Through dialogue, as opposed to mere compliance, individuals can express their subjectivity, conceptualize the mandated processes in their own terms and, in some way, validate their experience.

Status Quo Policy and Training as Failed Dialogue/Engagement

As it pertained to my experience, USF relied on a two hour, PowerPoint-driven, lecture hall presentation followed by a one hour presentation from someone working in the University’s Victim’s Advocacy Center as its means of educating me and my fellow Graduate, Research, and

Teaching Assistants. Mandatory reporting trainees are guided to sign in, stay in the room, listen, observe the PowerPoint, and depart the auditorium after all the materials have been shared.

Conquergood's notion of dialogic performance is also completely lost in the University's training session. Conquergood writes, dialogic performance "struggles to bring together different voices, world views, value systems, and beliefs so that they can have a conversation with one another... to bring self and other together so that they can question, debate, and challenge one another" ("Performing as" 9). Not only does the policy offer no room for dialogue, but as it stands, USF's training session fails to meet Conquergood's definition. Neither offers elaboration of how to enact the policy in a way that recognizes the distinct values, beliefs, and experiences of those involved in disclosures. The only opportunity for different voices to be made present in training is when individuals interject their own questions into the lecture; otherwise the voice expressed is solely that of the people performing on the University's behalf. This practice is similar to how the policy is only authorizing individuals to speak in accordance with the policy itself.

The policy and training, both, sustain the University's imperative to remain compliant with federal guidelines for reporting crimes, as per the Cleary Act, and combatting sex and gender based discrimination, in accordance with Title IX. The policy puts more pressure on people to come forward if they experience sexual misconduct, harassment, or violence and those to whom they report, as "certain persons MUST file a report" should they know of a Title IX violation (Hernandez 8). Reporters and victims both become the agents of meeting the goals of the university, independent of the impacts and with limited potential for dialogue.

If the goal is to provide safety and security for individuals reporting sexual misconduct, harassment, and violence, and to maintain a respect and fairness to all involved, transforming

everyone into vessels that uphold objectifying policy is not the way to accomplish such goals. As it stands now, the University's means of educating its mandatory reporters (my focus being on graduate, teaching, and research assistants) follows a banking concept of education, "it transforms students into receiving objects" (Freire 77). Borrowing Freire's metaphor, students as vessels sit in an auditorium and are shoveled information and instructions without much opportunity for questioning or compromise. Training mandatory reporters in this manner prohibits individuals from infusing dialogue into the policy prior to their possible enactments, as the policy is not open for discussion or change, only implementation; dialogue is absent from the training and policy. Given the legal ramifications of changing the policy, an intermediary measure would be to, first, alter the training methods. The performance I propose, herein, is my attempt to dialogically engage the policy and training. In this way, it is also part of my efforts to expand my individual training beyond that which I have already experienced.

USF's policy and training are a starting point for visualizing instances of disclosure as constituted by the institution. These texts stand as a baseline for what the University has planned for and determines how mandatory reporters should be prepared to perform during possible disclosures. Policy and training materials highlight the neatness the University wants to portray regarding mandatory reporters as they are expected to enact the existing pedagogical tools. The implied context for disclosures of Title IX violations is that things will go according to plan, but such neatness is not an accurate representation of any and all disclosures.

Amy Kilgard proposes an alternative, reminding there is value in chaos, in unraveling the neatness; she writes, "an orientation to chaos opens us to the fractal and rhizomatic knowledges that are (re) iterated through embodied engagement and not only through linear and hierarchical arguments" (220). Given that disclosures of Title IX violations are not guaranteed to meet the

normative, linear and hierarchical, notions expressed through policy and training, identifying chaos as an alternative to normalcy is a way in which performance helps mandatory reporting policy and training shift toward critical communication pedagogy.

A Necessity of Dialogic Performance

For Boal, aesthetic performance allows for the recreation of the world around us. The setting and interactions of the everyday world are not always conducive to doing the transformative work Freire proposed. Dialogue, then, is easier to foster in the setting provided by the theater. The aesthetic space of theatre brings the characters and spectators into the same space, even allowing spectators to become actors. By doing so, Boal suggests, the theater allows for us to determine what is right not just for some ruling class, but those whose actions are limited by the ruling class (155). The texts promulgated and the privileges generated by institutionally authorizing those texts are indicative of Boal's notions of the ruling class; administrators mandating policy and leading training sessions are reducing mandatory reporters to the status of spectator.

Texts, as expressed in previous chapters, operate to objectify and strip individuals of their agency. As USF's mandatory reporting policy and training treats me as spectator, I utilize aesthetic performance to, as Boal contends, humanize and restore subjectivity to those unwilling to be the passive victims of the ruling class (155). In order to not simply flip the roles of ruling class and spectators, through performance there can be dialogue between the two. By presenting the instances of injustice, those previously marked as spectators can use performance to offer a space for transformation, "Theatre is change and not simple presentation of what exists: it is becoming and not being" (28). Even if the ruling class fails to enter the theater and participate in

the dialogue initiated by the spectator's performance, the space becomes one where spectators can strategize and train for eventually engaging with and resisting the ruling forces.

Jill Dolan argues, "If our politics are truly progressive, we have to speak to what we know or what we think or what we want to know out into the culture" (17). Aesthetic performance is a tool for speaking out into the culture, opening a dialogue. The University's policy and training regarding sexual misconduct, harassment, and violence need to be engaged in/as part of dialogue if Spry's collaborative learning and Boal's revolution are to take place.

In order to build engaged mandatory reporters who can balance the expectations and requirements of the University with the needs of those who come forward with a report requires a transformative pedagogy that "resist the reductive function of entertainment and escapism" and "knowingly invites critique and resists the fixities of proscription" (Alexander, "Critical" 320-1). Essentially, as opposed to training led by a self-proclaimed, former stand-up comedian, the University would be better served by designing training that fosters engaging with policy so the subjectivity of victims and reporters can be theorized and recognized in relation to the diverse needs of all those involved in the reporting process. While designing comprehensive pedagogical practices is beyond the scope of this project, though assuredly the next step, the subsequently describe performance is meant to foster a dialogue that encourages the University to recognize the reductive objectification done by existing policy and training. Critical communication pedagogy is a framework for designing dialogic practices regarding disclosure of Title IX violations that resist such reduction and objectification.

The goal is to disrupt the campus norm, as Kilgard proposes, "in productive ways" (222). Thereby, offering the University's administrators, responsible for mandatory reporting policy, a

spectator's performance, an invitation to further question the quality, consequences, and implications of their pedagogy, and to engage in dialogue.

AN AESTHETIC PERFORMANCE

This project extends out of Alexander's call to conceptualize a critical performative pedagogy as "any strategic performative act that serves as a form of education, enlightenment, and transformation of problematic social and cultural practices, working towards recreating a world anew" (Alexander, "Critical" 335). In this case, Alexander's "world anew" is one where policies are analyzed, and the construction of "responsible employees" happens as a reflexive process. Through the subsequently described performance I engage in an analysis of my role as responsible employee/mandatory reporter, in lieu of the status quo scripts constructed by USF's policy and training. The performance is meant to engage a dialogue.

The premise of the proposed performance is an annotated presentation of an imagined interaction between a student, possibly visiting my office to report a Title IX violation, and myself, the mandatory reporter. The performance begins, "Hey, welcome to my office! You didn't tell me you were coming to office hours, but it's good to see you." A dialogue takes place with an imagined student, and the audience observing the interactions with the student, as the audience is also spoken to directly, throughout. For example, "I'm curious, how many of you have been through some version of Title IX training? How recently? How much of it do you even remember?" Not only do I engage the imagine student in dialogue, but I dialogue with the audience.

In order to better understand how the relationships between victims and those to whom they disclose operate, given the parameters set forth by the University, and how those parameters correspond to critical communication pedagogy, I have designed an aesthetic performance. The

performance works to indicate how policy and training fail to account for the ways USF, as a larger system, objectifies individuals involved in reporting disclosures of Title IX violations and compromises the agency of those individuals, creating systemic drama and tensions for mandatory reporters skeptical of mandated institutional practices.

Process, Engaging with Theory

For Pineau: “Performance methodology explicitly privileges process over product... The public production, therefore, is reframed as the presentation or communication of research ‘findings’ as an act of engaging the public in scholarly dialogue” (“Re-Casting Rehearsal” 49). Pineau is arguing in this instance about preparing to stage a performance, but her standard is no less applicable to researching and writing a performance, prior to staging. I embrace this idea through the construction of the aesthetic performance, written with the intent of examining the instance of a “complainant” potentially disclosing information seemingly pertaining to mandatory reporting policy.

The performance is designed in relation to frameworks set forth by interACT and Students Against a Violent Environment. Grown out of Augusto Boal’s work in *Theatre of the Oppressed*, the two collegiate performance troupes often use the Forum Theatre for Bystanders model to combat violence, including sexual assault, through intervention strategies (Rich; Mitchell and Freitag). Their work preempts my research and designed performance regarding mandatory reporting.

In order to frame the performance I outline the work of performance troupes doing related research, followed by a breakdown of the different components of my proposed performance and the theory that warrant the aesthetic choices.

Model Troupes. The two performance troupes I model much of my performance after are interACT, an undergraduate performance troupe operating out of California State University, Long Beach since 2000, and Students Against a Violent Environment (SAVE) Forum Actors, University of Northern Iowa's undergraduate troupe founded in 2001 (Abrams, Shaw-Playter, Lemaster, Willis, Hoffman, Bodden, and Whitney 321; Mitchell and Freitag 994).

In interACT, Forum Theatre is used to examine various modes of bystander intervention, giving participants a creative freedom to interrogate a situation (Rich 512). Explicitly drawing on Freire's *Pedagogy of the Oppressed* and Boal's *Theatre of the Oppressed*, Rich explains that interACT is inspired by "social justice pedagogy and performance activism," as the troupe enables an examination of gender roles and violence against women in a way that challenges students to take an active stance against rape (512). InterACT has performances, with differing degrees of audience engagement, that address issues pertaining the sexual assault, racism, and homophobia. The different styles (unscripted, semi-scripted, and scripted) lead to different levels of audience engagement, cognitive learning, and willingness to engage beyond the confines of the aesthetic performance; there is an emphasis on the value of unscripted tactics that more closely resemble Boal's Forum Theatre (Ahrens, Rich, and Ullman 771).

Similarly, SAVE is founded on the idea that Forum Theatre techniques can be used to inspire bystander intervention to prevent gender violence. The SAVE Forum Actors pursue a series of goals: decrease victim blaming, build community responsibility, increase awareness, and equip audiences with intervention skills (Mitchelle and Freitag 999). Much of SAVE's goals overlap with my work, as mandatory reporting policy and training materials are structured in a way that victim blame, highlight community responsibility, and poorly equip mandatory reporters with intervention skills. The key difference between SAVE's goals and mine is that

SAVE is targeting an audience without an institutional mandate. While bystanders may feel a moral or ethical imperative to intervene, and Forum Theatre may increase that willingness to intervene, mandatory reporters are required to intervene, and to do so in a scripted manner.

The Script. This reliance on a script is a departure from the Forum Theatre strategies of interACT's sexual violence performance or the work of SAVE, but still serves a unique purpose. The goal behind the Forum Theatre strategy is to foster active engagement on the part of bystanders, by inviting audience members into the scene as actors instead of spectators; such a tactic thrives off the unscripted event an audience member might face outside the aesthetic performance space. Where intervention is an active and encouraged process mandatory reporting is a semi-scripted, obligatory act. As such, my performance will rely on a script that works to interrogate the semi-scripted, obligatory act through a scripted performance. The script points out the problematic components of the existing policy and training, as I see them. I do not necessarily present an interventionist alternative.

Unlike the unscripted performances on sexual assault, interACT's performance about racism is semi-scripted, and the show on homophobia is entirely scripted (Abrams et al. 322). Rich contends that using scripted performance does not disqualify a performance from still meeting the ethic of interactive theatre, as is my goal; by "understanding the process of creating and staging" scenes and character development, among other components of a performance, an interactive ethic is still attainable (Rich 517).

The scripted performance is designed as a "problem posing/solving" script, one that highlights a certain issue and facilitates subsequent discussion (Rodriguez, Rich, Hastings, and Page 232). The script will both identify and exemplify instances wherein the policy and training materials are problematic as they violate or eschew the theoretical commitments of critical

communication pedagogy, the subjectivity of individuals, and structurally risk recreating violence.

Therefore, the performance will most resemble what is known as Trigger Scripting. This method requires texts that are “chosen, scripted, and performed with the audience in mind in order to create a specific change” (Rassulo and Hecht 41). The scripted text portrays a hypothetical conversation between a mandatory reporter and imagined student. It will also repeatedly break the fourth wall and address the audience. For instance, the performance is intentionally riddled with questions, asking the audience to ponder many of the dilemmas that inspire this dissertation as a whole. In the following example the performer is directing lines, first, toward the audience, second, the imagined student, and then back to the audience (lines to the imagined student re italicized):

While we're, supposedly, trained and prepared there's no way to determine whether a conversation will trigger a breach. There's only that moment it actually happens. But how do we know what the victim knows about our role of mandatory reporter?

Would you mind taking a brief questionnaire about Mandatory Reporting, just so that I can ensure you understand that I am NOT a confidential resource? Before I consent to hearing any disclosures I am required to report against your wishes, you know?

Mandatory reporting is also a conversation about consent. How does a mandatory reporter convey consent to someone disclosing an incident of sexual violence? And does a mandatory reporter even have the ability to not consent? How would someone about to disclose seek a non-confidential resource's consent without also triggering a mandatory report?

By allowing audiences to interrogate the staging of a “problematic social and cultural experiences,” I construct a communal dialogue regarding the concrete and inflexible mandatory reporting policy and training (Alexander, “Critical” 325). For example, I attempt to frame the problem of identifying what is the initiation of a disclosure:

After sitting through training I am acutely aware that research indicates there is a one in five chance the student in my office has been the victim of a sexual assault. But, more than 90% of victims of sexual assault on college campus do not report an incident. So there must be some disconnect, something is silencing people from reporting.

The goal with those lines is to mark how complicated it is for mandatory reporters to perpetually be aware that a student may initiate the disclosure of a Title IX violation at any moment, complicating the relational dynamic between student and educator.

The Performer. I center my voice and body in the performance. Performances using a scripted text, as opposed to more impromptu and audience-integrated approaches troupes like interACT use for staging performances about bystander intervention, benefit from a distinct perspective, one that operates through the development of a multidimensional narrator (Abrams et al. 330). This narrator is a character created using the details of personal experience that allows for audiences to engage with a more salient character. The scripted autoperformance allows me to draw from personal insight, practice, and prior analysis of the authorized texts to present such a salient, multidimensional narrator, using myself as a point of reference. For instance, I articulate in the script how I understand my multidimensional perspective and responsibilities:

I signed up for pedagogy not law enforcement. What does this policy make me? Change one letter in the word policy and we’ll find a more suitable job title. What is my job and

what are my responsibilities? How am I supposed to organize and prioritize the students', the University's, and my own needs and values?

Pineau writes, "Performative research whether it takes the form of ethnographic fieldwork or formal productions of aesthetic texts, insist that living, breathing, speaking, and moving bodies are invaluable sites of inquiry and understanding" ("Re-Casting Rehearsal" 46). Having engaged the mandatory reporting policy and training as texts and event, throughout the prior chapters, I mark my experience and understanding as grounded in/through my body.

At the whims of my employer, my perspective is seemingly erased from the policy and diminished given my experience with training. I designed the performance to highlight the perspective, personal conception of, and experience(s) with the policy and training.

Autoperformance also enables the enacting of an embodied engagement with texts (Kirby 2). Writing my perspective, with myself as the intended performer, allows me to then interrogate my perspective throughout the process of performance. Langellier writes, "Personal narrative is a performance strategy with particular significance for socially marginal, disparaged, or ignored groups" (134). I present my perspective as one manipulated by and at the whims of my employer. John Warren further argues autoperformance can trigger us to examine the everyday by constructing events that change our perceptions and sense of normalcy (Warren, "Performing Trauma" 184).

Setting/staging. The audience will be arranged facing the stage, and while they have no specific lines, the audience should be treated as an active and present participant in the performance. Set up stage center-right will be the workings of an office, most notably with a desk angled and open to the audience. The performer sits (closer to center stage) at the desk chair also angled open to the audience as though both the performer and the desk invite the audience

into the space, as opposed to the performer and audience being on opposite sides of the desk. One of the bottom desk drawers will be pulled out to replicate my frequent use of an open bottom desk drawer as a footrest. The stage/space is designed to resemble the small office of an educator; the desk is cramped with books and paper work. Somewhere in a top drawer is a copy of the policy and training materials. The PowerPoint slides are primed and a projector screen hangs back over the performer's shoulder, center stage, it shows the title of the performance. The performer is free to move about the space, but will never go behind the desk. The closer proximity the performer remains to the desk the better, as it will keep the space appearing tight and confined.

Engaging while Staging. The staging of the script integrates a series of conventional performance tropes meant to engage the audience. Along the lines of a SAVE performance, the scripted performance will include "PowerPoint slides, humor, and high-energy" (Mitchell and Freitag 1000). Woven throughout the performance are slides that operate as both a backdrop to the performance and a supplemental voice to the main character. Including quotations from the university policy and training materials, contents from news media, and materials from the Association of Title IX Administrators (ATIXA), the slides are actively referenced through the performance. The slides operate as supplemental to the embodied evidence of the performer, facilitating the development of arguments embedded within the performance.

While not guaranteed to come across in any performance, the humor and high-energy aspects, encouraged by Karen Mitchell and Jennifer Freitag, are indicative of my perspective and intent in writing the script, at times sarcasm and irony are meant to be conveyed. For example, renaming flowcharts included in training materials "Confusion Spiral of Disempowerment" and "Seven Step Protocol of Contradiction" is meant to humorously mock the texts.

Another illustration of this humor/mockery is a discussion regarding how to conceptualize the previously mentioned flowcharts. Both charts attempt to articulate the initiation of a disclosure and the assumption that victims disclosing are fully aware of the reporting process they are about to initiate. I articulate this process in the script (italicized text is direct to the imagined student):

I've tried to pinpoint how to preempt the unaware disclosure, but I'm entirely unsure it's respectfully possible. I'm beginning to think I should post a sign on my forehead that says: "Before you go any further, I need to stress that as a USF employee, I am required to report incidents of gender-based violence to the USF Title IX Coordinator."

Oh, this sign on my forehead, yea, I know it's distracting when I'm lecturing or just walking through the hallway, but I have a commitment to the safety and well-being of students and I want to ensure everyone knows I am NOT a confidential resource. I'm just being as responsible as I can.

In a final act of humor/mockery, each member of the audience should receive a "Certificate of Completion," following the performance and any possible talkbacks that are welcome and encouraged following a staging of the performance.

The performance is meant as a starting point for audiences to visualize a disclosure as theoretically expressed in existing training materials and to continue a dialogue. Breaking the fourth wall and directly interacting with the audience is an effort to bring them into the scene, or at least feel present in the moments the narrator interacts with the imagined student. This choice tacitly asks the audience to consider if there even is a baseline the University can plan for and determine mandatory reporters should be prepared to handle. Audience members witnessing and

making sense of (the limitations of) the existing policy and training material happens with the performer.

The performance also asks the audience to question, with me, the institutional motivations behind the policy:

Am I mandated to comply in a way that violates my principles and beliefs? How can I comply with both? The University uses the language of responsibility to disguise its authoritative exertion of power. It's no secret that Title IX lawsuits are expensive for universities... Universities might be trying to uphold the law, save money, or protect students, but this policy risks taking control away from victims and those to whom they disclose.

Along with the above lines a PowerPoint slide appears behind the performer, listing off recent financial burdens several universities have taken on, in light of court cases resulting from mishandling the disclosures of Title IX violations.

Like Conquergood attempted when working with Hmong refugees, I hope to “break the pattern of importing knowledge from ‘experts’ and distributing it... *dialogical* exchanges between two cultures, the two worldviews and sensibilities, was possible” (“Hmong Health” 182, original emphasis). Using my own voice in an effort to interrogate the policy and training invites the audience to join my skepticism with the policy and training, and by extensions, the “experts,” University lawyers and administrators responsible for creating and disseminating the policy.

Individuals who disclose and those to whom they disclose are at the behest of the institution, and by telling one of those stories through performance I present another understanding of the implications of mandatory reporting policy. This work is meant to give mandatory reporting policy and training greater context by “[giving] shape to the social relations

of identity and experience” (Langellier 129). A public performance of my aesthetic text supports Joni Jones’s notion of “moving the performance into the space of collaboration” (61). Jones argues that engaging an audience facilitates learning. This learning is part of a dialogue.

The development of the performance allows for further critique of mandatory reporting policy and training as problematic pedagogical practices, so as to open the door for building practices that better respect the humanity of those involved in disclosing Title IX violations.

(RESPONSIBLE) PERFORMANCE

The performance, theorized and designed with myself as the performer, is a melding of autoperformance, trigger scripting, and Boal’s follow up to Forum Theatre, *theatre as discourse* (126). Arguably, the nuance of autoperformance would be diminished if someone else was to perform the text, but the questioning of everyday normalcy would remain. This performance is not meant or sufficient to replace the existing training, but offers an examination of how the policy and performing the policy creates myriad potential contradictions for mandatory reporters with regard to their principles and pedagogical practices. This interrogation takes place using a medium, aesthetic performance, that would itself be possible tool for supplanting or supplementing existing training mechanisms. At the very least, such methods could be used to further study and reconceptualized policy to better account for the subjectivity of those who will enact it.

The proposed performance stands as an opening act to a larger pedagogy worth designing, though beyond the scope of this current project. Missing from this performance is a concrete invitation for the audience to engage as co-producers, whereby the audience and performer are both “...contributing to the artistic event... the audience is invited to create within an established framework” (Pelias and VanOosting 227). In my designed performance, the

audience is not invited to enter the stage as the performance unfurls in a way that more resembles a public interrogation of the policy. While I imagine a student in the scene, potentially initiating the disclosure of a Title IX violation, an alternative version that invites audience members to intervene as either a disclosing student or the mandatory reporter would better engage Boal's concept of Forum Theatre. Boal writes of his strategy, the third part of a four stage process for transformational theatre: "here the participant has to intervene decisively in the dramatic action and change it... participants who chose to intervene must continue the physical actions of the replaced actors" (Boal 139).

In designing future performances, similar to the work of interACT and SAVE, previously mentioned, integrating Forum Theatre more concretely into the performance would be useful, as others have found, helping participants identify the problems they witness with the policy. As it stands now, the performance focuses on solely my perspective, influenced by research and theory, as I recognize problematic components. It is worth noting that Boal's concept does not address the issues of participants who feel silenced or disenfranchised by active and embodied performance methodologies, a legitimate concern given that victims of Title IX violations face serious disenfranchisement, as expressed earlier (Belknap and Erez 200-1).

Performance Reflexivity

My performance shifts beyond Boal's third stage, which includes Forum Theatre, into the fourth, "*theatre as discourse*" (126). At the fourth stage spectator-actors stage performance corresponding to problems identified or redressive action needed. From my perspective as subordinate to institutional policy, my designed performance identifies as a "... more 'finished' form of theatre" (Boal 142). I use this strategy as a function of my own skill and training, in addition to political positioning.

Given my training as an aesthetic performer, through more than a decade of working in the forensics (speech and debate) community I believe that I can best do justice to performance by engaging in performance methods where I possess experience and ability. Pineau writes, “Having a body does not make one a performer: becoming skilled with using one’s body as a part of discovery and the medium of expression is what sets one apart as a performance methodologist” (“Re-Casting Rehearsal” 46). In order to systematically engage with mandatory reporting policy and training I have designed a performance using the strategies I can best practice while merging those tactics with theory that best match the goals of my research.

As someone who is not a victim of Title IX violation, and without the resources to engage in ethnographic work with victims of such violations I use my personal perspective as an ally and advocate to perform a complementary perspective. Centering victims in this research is essential, but doing justice to victims is also imperative. As such, I make an overt effort not to speak for or about victims, but to speak of my knowledge and experience. This position inevitably leaves my analysis lacking the nuance that would come from victims’ experiences. As such, I take a potentially paternalistic approach in suggesting the policy is problematic when I mark it as overzealous. Alternatively, prior to the policy there was limited access for victims to even report, and to critique the attempt to mitigate the limited access to reporting does risk undermining the reporting process. My position also presumes that educators should take active roles as victims’ allies and value the practicing of critical communication pedagogy. By situating my arguments in critical communication pedagogy I inherently privilege/value the commitments of such practices, in addition to the knowledge and skills that go into practicing such a pedagogy.

Conquergood warns, in his delineation of performance as a moral act, that dialogical performance is about conversing with other people and cultures, “instead of speaking about

them, one speaks to and with them” (“Performing as” 10). My goal is not to speak about or for victims, but to speak with them and to the institution. I am positioned as the designated intermediary when victims are speaking to the institution about a Title IX violation, and am therefore uniquely positioned to speak to the University as I recognize my designated speaking role as problematic. My performance is then grounded in a way that seeks to structurally prohibit misrepresenting or appropriating the narratives and experiences of others. I speak for myself and must be cautious not to speak on behalf of other mandatory reporters who do not see themselves as limited or problematically objectified by the policy.

While addressing his role in teaching, Goltz contends:

... I work to be conscious of how my own body and bodily performances inform, shape, facilitate, and inhibit these classroom patterns, alongside numerous other performative patterns I carry out in the space (performances of politically correct dismissal, tokenism, ambivalence, etc.). (29)

In this manner, my proposed aesthetic performance is an effort to both responsibly participate in the (re) making of institution policy, and publicly hold the institution responsible for its privileged policy and practices, without coopting the experiences of victims of Title IX violations. My embodied performance of mandatory reporter is where I began this dissertation; a proposed embodiment of the future is how I am closing it. Regardless, my arguments do privilege victims who disclose over those who chose not to speak out, and pressures educators who do not wish to become intimately involved in disclosures of Title IX violations; I only speak in accordance with those who are willing to become actively involved.

Ultimately, I envision this performance, and dissertation as a whole, being the start of a deeper dialogue between/with the victims of Title IX violations, mandatory reporters,

administrators, and the texts of USF's mandatory reporting policy and training. My proposed performance, and the opportunity for talkbacks, is the willful creation of a space to negotiate, beyond the confines of the written dissertation, the distinct values, beliefs, and experiences of those involved in mandatory reporting, victims, reporters, University administrators, and anyone willing to publicly engage in this discussion.

Boal writes of an Aristotelian conception of theatre:

...*empathy* is the emotional relationship which is established between characters and spectators and which provokes, fundamentally, a delegation of power on the part of the spectator, who becomes an object in relation to the character: whatever happens to the latter, happens vicariously to the spectator. (102)

Here, Boal is setting up the argument that a theatre not cognizant of the subjectivity of the spectator is bound to objectify them, burdening them with taking on the needs of the character, not themselves. Much like the current status of USF's mandatory reporting policy and training, spectators to the policy are bound to empathize with the institution's need to meet federal regulations. But there exist no conversation between the spectators, those the policy is supposedly serving and the responsible employees practicing it, and the administrators designing and threatening punitive actions against those who fail to uphold the policy.

A revolutionary theatre of the spectator is an effort to resist the passivity mandatory reporters are encouraged to perform should they wish to maintain their status as "responsible" and support the institutions call for the "respect and fair treatment of all people" (Hernandez 1).

(REFLEXIVE) CONCLUSION

I am identified as a "responsible employee," as such this dissertation is an ongoing negotiation of myriad relational dynamics that I recognize as significant: my relationships to

students, peers, faculty, other advocates, the institution, and others. Individuals are always forced to navigate the policies, practices, and privileges that influence their lives, and do so in accordance to their own principles and beliefs. For me this means navigating USF's mandatory reporting policy and training in relation to critical communication pedagogy. In concluding this dissertation, I identify the purpose and value of this research, articulate the ultimate relationships between theory and analysis, and summarize what revolution should be rehearsed. While USF's mandatory reporting policy is merely one institutional mandate, the practices expressed and outlined in this research are indicative of the practices of institutions more broadly. Understanding those practices is essential to recognizing the ways institutional and individual actors relate and interact.

This dissertation examines how institutions generate, teach, and authorize normative performances through texts and/as pedagogical practices. Using the language and methodology of performance studies and the contextualizing framework of critical communication pedagogy I contend, institutions construct and privilege certain values, performances, and individuals as a means of retaining pedagogical practices that generate the legal compliance of the institution independent of how such compliance enables and limits the relationship between students and teachers.

By outlining a standard of evaluating pedagogical practices, critical communication pedagogy, I set forth a more concrete conception of the values USF claims to espouse in its mandatory reporting policy and training, that of the "respect and fair treatment of all people" (Hernandez 1). Following the delimitation of an evaluative standard, using Victor Turner's language of social drama, I identified the dramas USF is attempting to mitigate (and subsequently creates) through mandatory reporting policy and training. Finally, I analyze the

communicative, generative, and performative implications of the policy and training as it pertains to the University's texts and pedagogical practices, which serve to substantiate, authorize, and perform the materialization of certain privileges that enable and limit the relationship between students and teachers as a means of absolving the University's legal culpability.

Ultimately, institutions have an interest in enacting pedagogical practices that enable the sustenance of the institution beyond the scope and ability of the individuals privileged by the institution. The lenses of pedagogy and performance studies are uniquely suited to uncover these patterned practices. Boal writes about the role of performance in relation to Plato's assertion that art imitates nature and to theatrical practices across history, articulating:

The aims of feudal art were the same as those of clergy and nobility: to immobilize society by perpetuating the existing system. Its characteristic was depersonalization, de-individualization, abstraction. The function of art was authoritarian, coercive, inculcating in the people a solemn attitude of religious respect for the status quo. (55)

Boal is asserting that performance has been used to teach audiences to remain docile and respectful to existing institutions and power structures, be it clergy, nobility, or, as I argue now, college administrators. Mandatory reporting policy and training are akin to the art Boal is writing about, crafted texts and scripts that serve to generate, teach, and authorize privileged performances.

The performance I propose in this final chapter is an example to Boal's "Joker," a form of dramaturgy and staging that infiltrates and intervenes so as to convert the theatre into a courtroom of sorts (Boal, 172, 176). Boal writes, "Each scene must be conceived, aesthetically [sic.], according to the problems it presents... We are speaking here of writing plays that are

fundamentally judgments, trials... without damage to the particular form of the trial” (176). In this way the “Joker” is a part of the scene that uses Boal’s previously mentioned strategies to unsettle the presuppositions of the theatre without disrupting the performance itself.

Acknowledging that structures, institutions, and status quos are hard to change, troubling them from within reveals the Joker’s role, “trying to resolve the options between character-object and character-subject” (Boal 178). My role then, is to use the rules of the game, mandatory reporting policy and training, any institutionally generated texts and privileged practices, and undermine them. Not only is this achieved through performance, but to write a dissertation that critiques the institution award a doctorate, from within, is another degree of enacting Boal’s Joker concept. As such, this whole dissertation is, in a way, a performance of the Joker principle.

As institutions perform their own existence and authority in a way that disguises that agentic capacity, I propose aesthetic performance is an operable tool for revealing the way USF policy constrains and constructs student-teacher relationships. My performance brings the dramas and structures outlined in Chapter 3 and Chapter 4 to the foreground as I articulate the struggle of subjectively engaging with a subjective set of texts that specifically treat themselves and mandatory reporters as means to the end of legal compliance.

My performance is the first step to building a pedagogy that better accounts for the subjectivity of individuals not previously recognized by/through current institutional practices. These ideas are not isolated to mandatory reporting or colleges and universities as large-scale institutions. The performed, enacted, and mandated pedagogical values and practices of any institutions are indicative of what that institution and its star-groupers seek to sustain, normalize, and privilege, regardless of what is otherwise expressed by texts or institutional agents.

This dissertation is an outline for identifying preferential values, ongoing dramas, the implications of institutional practices used to mitigate those dramas, and how performance can be used to “prevent the mechanistic interpretations which reduce human experience to a mere illustration of compendiums” (Boal 179). Individuals must not be treated as objects; critical, qualitative research recognizes the subjectivity of individuals and the situated contexts that influence our everyday lives. Culminating in the proposed performance, the goal of my dissertation is to identify the social, historical, and political realities of everyday life, and use this specific inquiry, regarding USF’s mandatory reporting policy and training, to envision the everyday anew.

If the goal of university policy is to provide safety and security, “based on the respect and fair treatment ... that is free of discrimination... part of the effort to maintain an environment that is comfortable for all people,” regarding the reporting of sexual misconduct, harassment, and violence, there needs to be a way to measure how well that standard is met (Hernandez 1). I contend that critical communication pedagogy, as outlined through Fassett and Warren’s ten commitments, presented in Chapter 2, provides an operable context for assessing USF’s policy, or any policy that expresses similar goals regarding safety, security, respect, and fairness. USF’s policy and training for the mandatory reporting of disclosure of Title IX violations does not meet the standards expressed by Fassett and Warren, and the performance proposed herein works to trouble those shortcomings from my perspective as the researcher/participant/mandatory reporter.

Whenever institutions express normative performances and procedures there are political consequences for the individuals expect to uphold those standards. These institutional expressions are easily taken-for-granted and overlooked, but they are sites of understanding how

institution's performatively enact and privilege normative standards. As such, I specifically examined the "paradigms, value structures, epistemological, and political orientations" situated in mandatory reporting policy and training at USF (Kincheloe 112).

By interrogating the institutional texts that serve to influence performances, maintain the legal absolution of the University, and entextualize individuals, performance is a means of recognizing the bodies of individuals and the context of their respective everyday dramas. Individuals are often spectators to the actions of the institutions they find themselves in, Boal contends, "...the spectator has the great advantage of having erred only vicariously: he does not really pay for it" (37). But when individuals enact the scripts they learn as spectators they have become actors, and are no longer vicarious witness to objectifying practices. By reclaiming the role of actor, individuals can work to obscure the everyday taken-for-granted assumptions, values and beliefs, and recognize the structurally substantiated systems of objectification. In acknowledging the status quo values and privileges of an institutions as not sacred or above criticism, and not necessarily worthy of sustenance, the struggles of individuals may be recognized in a way that allows for revolution and reflexive redress. Given the presence of reflexive negligence on the part of an institution and its leadership, individuals make take it upon themselves to resist, research, and restore, not the pre-crisis status of an institution, but the subjectivity of individual members in a way that recognizes the flexibility of values and intuitions.

Returning to Boal, "the intent is to restore the full freedom of the character-subject" (178-9). Individual members of an institution, star-group, or any collective are bound to each other by shared values, interests, and supposed history ("Ritual" 69). But those values, interests, and histories are forever political, forever destined for critique, and forever subject to change. In

instances where those traits become problematic, settled, and disenfranchising, the time has come to interrogate, unsettle, and revolutionize them.

This dissertation serves as a reminder that everyone is directly implicated in their actions, the actions taken on their behalf, and the actions of others that influence their lives. Individuals are perpetually performing and analyzing performances, and there are dehumanizing consequences to maintaining performances in ways that fail to embrace a mirroring reflexivity. I am a mandatory reporter, I am a resistor, I am a student, I am a researcher, I am a pedagogue, I am a performer. I am *responsible*.

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APPENDIX A:

SCRIPT OF “BREACH*: *ACTUAL NOTICE?”

Breach*

*Actual Notice?

[Each audience member should receive a hand out about the policy, along with an artist statement, that “teaches” the policy. And they all leave with a certificate.]

[Scene: The audience is arranged in short rows opposite the performer. The audience has no specific lines, but is treated as an active participant in the performance. Set up stage center-right are the workings of an office, most notably there is a desk angled and open to the audience. The performer sits (closer to center stage) at the desk chair also angled open to the audience as though both the performer and the desk invite the audience into the space, as opposed to the performer and audience being on opposite sides of the desk. One of the bottom desk drawers may be pulled out and used as a footrest. The space is designed to resemble the small office of an educator, cramped with books A PowerPoint slide is primed and a projector screen hangs back over the performers shoulder, center stage, it shows the title of the performance. The performer is free to move about the space, but never goes behind the desk. The closer proximity the performer remains the to the desk the better as it keeps the space tight and confined. Any indented text is directed at an imagined student visiting during office hours.]

(PPT: Only the word “Breach” is left on a black side in white font.)

Hey, welcome to my office! You didn’t tell me you were coming to office hours, but it’s good to see you.

Students rarely show up to office hours, they are even less likely to show up unannounced. Anyways, I’ve brought us to my office because that’s where my training suggested this event is most likely to happen.

So, what’s up?

I like to speak informally with my students. I’m no more special or valuable, no more important than they are. In almost every sense of the word I find them to be my equal. Sure, I have certain knowledge of course material they don’t, I have authority over grades, and contractually our relationship is founded on the cultural imbalances of the classroom. But, I’d like to think the student is my equal.

I noticed you weren't in class today.

I never know exactly what a student, or anyone for that matter, is going to say when they walk into my office, the classroom, the hallway between the two, or even in an email. We never know what someone is going to say until they say it. But missing class might suggest something is up.

(PPT: A question mark is added to the already present slide, "Breach?")

My general assumption is when a student misses class just wants a copy of my chicken scratch notes and to be caught up on the material they missed.

Do you need notes, questions about the next assignment? What can I help you with?

Come to think of it, all communication works this way, we never completely know what another person has said or might say, we're always building off clues: nonverbals, past experience, shared interaction, we're always building semi-accurate assumptions of perpetual perceptions and predictions of shared meaning. And sometimes certain messages carry extra baggage. For those of us who have sat through a Title IX training session you might say we're primed to look for hidden weight.

(PPT: "Best Practices- All employees are mandated reporters of what they know (data) within 24 hours while some Responsible Employees have to share ALL they know (date, date [sic.], time, facts, names, etc.)¹)

The dialogue that is about to ensure defines who we are, I enter my office or the classroom as some form of teacher and student, my contract with the University and my appointment letter define my identity in these spaces. But that's not my only definition in these halls.

[The ding of a new email distracts the performer, who turns to the laptop on the desk to read the email.]

(PPT:

"Good Afternoon, All:

USF policy (Sexual Misconduct/Sexual Harassment) regarding "Responsible Employees" under Title IX has recently been updated. In order to ensure all GA/TA are fully trained in their responsibilities as mandated reporters of report sexual harassment, including sexual violence, several opportunities to receive training have been arranged between the Office of Graduate Studies and the Title IX Office within the Diversity, Inclusion, and Equal Opportunity Office. If your duties include classroom instruction, supervision of any student at any level (even if only in the absence of the assigned supervisor), or work with any student organization in an advisory

¹ Coombes, Crystal C. *USF System DIEO/Title IX Responsible Employee Training Ver. 7*. Oct. 2015. Training slides. University of South Florida, Tampa, FL., pg. 5

capacity AND/OR if you are someone a student could reasonably believe has the authority to act, you are required to attend one of the training sessions.²”)

I’m curious, how many of you have been through some version of Title IX training? How recently? How much of it do you even remember? How much did you have to prove you learned?

(PPT: “The USF system strives to provide a work and study environment for faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence...”³)

The teachers became student as we learned how to “provide a work and study environment for faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence.”

When a student walks into office hours and says, “Hey, I’ve got a question,” or “Hey, can we talk” I’d prefer to think a conversation about a grade or missed assignment is about to ensue, something I feel prepared to handle. Just imagine being prompted by every student who walks into your office to deliver some prepped speech, reminding students that you don’t feel right consenting to hearing a disclosure:

Actually, I should give you a heads up, before you saying anything beyond “hey.” I know this is awkward, but statistic suggest there’s a 20% chance you’ve been the victim of sexual violence and even though there’s over a 90% chance you wouldn’t tell me if you were one of those 20% I should give you a heads up that I’m not a allowed to keep anything you say confidential, whether you want me to or not.

(PPT: “Breach?” slide reappears)

After sitting through training I am acutely aware that research indicates there is a one in five chance the student in my office has been the victim of a sexual assault.⁴ But, more than 90% of victims of sexual assault on college campus do not report an incident.⁵ So there must be some disconnect, something is silencing people from reporting.

² King, Brandon. "FROM ASSISTANT GRADUATE DEAN RUTH BAHR: Notice of Required Title IX and VAWA Training for All GA/TAs." Message to the author. 22 Oct. 2015. E-mail.

³ Hernandez, Jose, and University of South Florida Office of Diversity, Inclusion, and Equal Opportunity. *Sexual Misconduct/Sexual Harassment (Including Sexual Violence)*. 19 Oct. 2015. University Policy. University of South Florida, Tampa, FL. (pg. 1)

⁴ Krebs, Christopher P., Christine H. Lindquist, Tara D. Warner, Bonnie S. Fisher, and Sandra L. Martin. "College Women's Experiences with Physically Forced, Alcohol- or Other Drug-Enabled, and Drug-Facilitated Sexual Assault Before and Since Entering College." *Journal of American College Health* 57.6 (2009): 639-49.

⁵ http://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-packet_statistics-about-sexual-violence_0.pdf

I'm not sure that I can consent to hearing what you have to tell me if it's not about the class material you missed.

(PPT: Before an employee/student reveals information, ensure they understand that you ARE NOT a confidential resource.⁶)

There's a tension now, no one wants to sit in their office and count every fifth person as a potential victim of violence or assume there's a 10% chance any student will strike up a conversation about rape, nor is it a good idea to have your head cocked to the side like a inquisitive puppy assuming all is well with the world.

Unless, of course, you know the University's Mandatory Reporting policy as well as I do, then please, share away!

While we're, supposedly, trained and prepared there's no way to determine whether a conversation will trigger a breach. There's only that moment it actually happens. But how do we know what the victim knows about our role of a mandatory reporter?

Would you mind taking a brief questionnaire about Mandatory Reporting, just so that I can ensure you understand that I am NOT a confidential resource? Before I consent to hearing any disclosures I will have to report against your wishes, you know?

Mandatory reporting is also a conversation about consent. How does a mandatory reporter convey consent to someone disclosing an incident of sexual violence? And does a mandatory reporter even have the ability to not consent? How would someone about to disclose seek a non-confidential resource's consent without also triggering a mandatory report?

My syllabus has language in it about mandatory reporting, and I discuss it the first day of class, I even go into enough detail to tell students this is a topic I study, but that discussion will only work in favor student who know, remember, and understand the policy, a policy that is not part of the curriculum, it is not part of learning objectives, it's not part of the pedagogical goals of the class. What responsibility do I have in the classroom to ensure students have learned a policy supposedly included in the syllabus of every course on campus? There is a burden of responsibility to be safe placed on the student, the burden to ensure that safety is extended to the educator, the responsible employee, but what burden does the university have? What burden are they shifting to students and educators?

(PPT: Definition of Responsible Employee⁷)

Again, imagine, as a responsible employee, explaining your duties to report to every student.

Sure, I'll gladly give you the notes from yesterday's lecture, and here's a handout about my role as a responsible employee, in case you forget. You know, I've got your back.

⁶ Coombes, pg. 7

⁷ Coombes, pg. 5

My concerns are getting ahead of the scene we're in. I'm sorry for that. This student hasn't given me any reason to believe they are about to report an incident. Training has made me extremely cautious. I'm trying to figure out what the dynamic is between the students and me. I have a duty to follow the guidelines the university offers about my relationship to students and to balance that with all kinds of theory about pedagogy along with all kinds of cultural assumptions and experiences.

(PPT: USF has a commitment to the safety and well-being of our students.⁸)

Well perhaps I wasn't getting ahead of myself. The whole point of this performance is to show you what happens when I have to apply University policy, when I have to perform "Responsible Employee," "Mandatory Reporter," when I must uphold the University's commitment to the safety and well-being of students. I must be prepared for when I do receive "actual notice?"

(PPT: Side by side of pg. 6 spiral chart and pg. 7 vertical chart)

Which looks better to you? Do you prefer the Confusion Spiral of Disempowerment or the Seven Step Protocol of Contradiction? Either way, they begin with the same dilemma: what is "actual notice" or "reason to believe," and how is that breach, that specific moment in time where as an educator I am mandated to enter the process of reporting a disclosure, not itself the same trigger that might prompt me to say:

(PPT: "Before you go any further, I need to stress that as a USF employee, I am required to report incidents of gender-based violence to the USF Title IX Coordinator."⁹)

I've tried to pinpoint how to preempt the unaware disclosure, but I'm entirely unsure it's respectfully possible. I'm beginning to think I should post a sign on my forehead that says: "Before you go any further, I need to stress that as a USF employee, I am required to report incidents of gender-based violence to the USF Title IX Coordinator."

Oh, this sign on my forehead, yea, I know it's distracting when I'm lecturing or just walking through the hallway, but I have a commitment to the safety and well-being of students and I want to ensure everyone knows I am NOT a confidential resource. I'm just being as responsible as I can.

It's in the moment that I sense I've received "actual notice" or "reason to believe" wherein which I am trapped by policy and have no choice but to exert authority. Forehead sign or not, the University imbues me with the authority to determine actual notice, to recognize the breach, and requires me to act accordingly, but offers no guidelines for supporting a victim who does not want me to follow policy. This power imbalanced is unavoidable, even if in some instances it doesn't prove problematic, where a victim themselves knows and is trying to initiate a

⁸ <http://www.usf.edu/undergrad/faculty/curriculum-process/syllabus-guidelines.aspx>

⁹ "Disclosures: Sample Privacy/Confidentiality Language." Title IX Training, Take-Home Packet. pg.7.

mandatory report. Only when a person disclosing is clearly aware of the mandatory reporting protocol and my role as mandatory reporter am I acting responsibly on their behalf. In any other instance I am responsible to enforce the authority invested in me by the University, the responsibility to fill out a Title IX Report.

(PPT: USF System employees in the above identified Responsible Employee positions who know or reasonably should know of sexual harassment (including sexual violence) must report it to the Title IX Coordinator or the Title IX Senior Deputy Coordinator and must inform the Complainant of the following:

- 1) The reporting obligations of responsible employees;
 - 2) Complainant's option to request confidentiality and available confidential advocacy, counseling, or other support services;
- AND
- 3) Complainant's right to file a Title IX complaint with the university and to report a crime to campus or local law enforcement.)¹⁰

Let's assume the victim does not want to continue their conversation if I follow the suggested language. In order to even read the previous statement I must have been "one who observes [or] receives a disclosure of an alleged Title IX incident,¹¹" someone "who knows or reasonably should know." "Actual notice" becomes a legal demarcation of my responsibility to help the University keep track of crime on campus, to help the University abide by federal statute, to help absolve the University of liability. But what if actual notice was something later in the process, something determined by a victim actively seeking the filing of a Title IX Incident Report? Imagine if a victim and a mandatory reporter could mutually consent to the filing of a report.

(PPT:

The USF system strives to provide a work and study environment for faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence.

...

As part of the effort to maintain an environment that is comfortable for all people...¹²)

I signed up for pedagogy not law enforcement. What does this policy make me? Change one letter in the word policy and we'll find a more suitable job title. What is my job and what are my responsibilities? How am I supposed to organize and prioritize the student's, the University's, and my own needs and values? As someone actively seeking to uphold a pedagogy that disrupts the power imbalance between student and educator this policy makes my goal infinitely harder to attain.

If a student or anyone discloses to me, I have a responsibility to help them as I can and as they request, not as an educator but as a human. Yet my mandated course of action is to comply.

¹⁰ Hernandez, pg.13

¹¹ University of South Florida Office of Diversity, Inclusion, and Equal Opportunity. *Title IX Incident Report Form*. June 2015. Form. Tampa, FL., pg. 2

¹² Hernandez, pg. 1

(PPT: “By completing a Title IX Incident Report, you – as the RE – have complied with your role at the University...”¹³)

But have I complied with my role as a responsible human being?

Have I helped, as your instructor or as human?

Am I mandated to comply in a way that violates my principles and beliefs? How can I comply with both? The University uses the language of responsibility to disguise its authoritative exertion of power. It’s no secret that Title IX lawsuits are expensive for universities.

(PPT:

University of Tennessee- Knoxville – \$2.48 million¹⁴

University of Colorado- Boulder – \$825, 000¹⁵

Florida State University – \$950,000¹⁶

University of North Florida – \$1.25 million¹⁷

There’s also now a growing list of accused student suing Universities.¹⁸

Baylor University –Football coach (\$\$\$?)”

Universities might be trying to uphold the law, save money, or protect students, but this policy risks taking control away from victims and those to whom they disclose. This policy unsettles the trust and respect victims and educators might have for each other by mandating context-defying disclosures.

The USF training materials attempt to gloss over such dilemmas, but they still exist.

(PPT: Read aloud

“A key component to assisting anyone who discloses to you is to remind and encourage them that they are in control of this process... information will be used to assist the person who has disclosed, NOT FORCE them to take any action that they do not wish to take. The Discloser has rights. The Title IX officer who contacts them does so to ensure they know their rights, know what resources are available to them, and to ensure that they understand policy and procedures.”¹⁹)

¹³ Coombes, pg. 7

¹⁴ <http://www.tennessean.com/story/news/crime/2016/07/05/tennessee-settles-sexual-assault-suit-248-million/86708442/>

¹⁵ <http://chronicle.com/blogs/ticker/u-of-colorado-moves-to-fire-professor-accused-of-retaliation-in-sex-assault-case/83643>

¹⁶ <http://www.usatoday.com/story/sports/ncaaf/2016/01/25/florida-state-settles-title-ix-lawsuit-erica-kinsman-jameis-winston/79299304/>

¹⁷ <http://www.lawinsport.com/features/item/a-year-in-review-us-sports-law-title-ix-gender-equality-civil-rights-part-4>

¹⁸ <https://www.insidehighered.com/news/2015/05/01/students-accused-sexual-assault-struggle-win-gender-bias-lawsuits>

¹⁹ Coombes, pg. 7

Remind and encourage victims they are in control, there will be no forcing them into any action. Seriously? An interesting play on words, sharing with someone their rights only after they've disclosed their story, thus conceding control. These are the victims of being out of control, the victims of force, and their story is liable to being temporarily forced from their hands and given off to a stranger in the Title IX Office, all for the sake of compliance. The person forced to take such action is the Responsible Employee, the person just following orders.

(PPT:

Title IX Response Litmus Test:

Are the behaviors or actions sufficiently severe, pervasive, objectionably offensive, and persistent?

Would a reasonable person / the University know (actual notice) or should have known (observation) about the behaviors/actions?²⁰⁾

A reasonable person would know to listen to a victim. A reasonable person might observe the behaviors/actions and requests of a victim and proceed accordingly.

(PPT: Read aloud

“Individuals who disclose to you may wish to seek services that are confidential. This is no way a reflection on you, but is a choice of the person disclosing. It is vital that you know and understand what resources are available and are able to link the disclosing person to any services they choose.”²¹⁾

And there lies a solution. Let the victim chose if they wish to proceed with a confidential resource or the non-confidential Responsible Employee. Give the victim the actual control to determine when and who within the University is offered “actual notice.” Train Responsible Employees to (re) educate students on resources before mandating the bureaucratic collection of violent crime data that is open to secondary victims. Victims' should have the authority to mandate the flow of the process.

While an institution's ability to “remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation...²²⁾ The University currently mandates Responsible Employees say “no” to victims who rather not file an official report over an incident when that same victim already had their right to say “no” violated. In these cases victims are not “*in control*,²³⁾” as the University's training materials suggest, they are, yet again, victims. And by extension, Responsible Employees are victims to a process that makes them an enforcer. As it currently exists, there is just such limited potential for mutual and affirmative consent in the reporting process.

²⁰ Coombes, pg. 9

²¹ Coombes, pg. 8

²² *Mandatory Reporters: A Policy for Faculty, Trustees and Professional Staff*. Sample Policy. Association of Title IX Administrators, 4 Dec. 2015. Web. <https://atixa.org/wordpress/wp-content/uploads/2012/01/Mandatory-Reporters-Policy-Template_1215.pdf>.

²³ Coombes, pg. 7

The Association of Title IX Administrators' sample guidelines offer a somewhat more lenient and collaborative policy:

(PPT: Read aloud

“When an employee thinks that a student may be about to report an act of sexual harassment, discrimination or assault, the employee should, if at all possible, tell the student that the College will maintain the privacy of the information, but the employee cannot maintain complete confidentiality and, is required to report the act and may be required to reveal the names of the parties involved.”²⁴)

While also not perfect, the sample guideline does allow a Responsible Employee to align their responsibility with the victim, rather than with mandatory protocol. There must be some way to further settle this imbalance of authority and priority.

I don't know if I have, but I hope I've been able to help you. Thanks for stopping by the office. Be good, and I'll see you in class next week.

²⁴ *Mandatory Reporters: A Policy for Faculty, Trustees and Professional Staff.*

APPENDIX B:

POWERPOINT SLIDE FOR “BREACH*: *ACTUAL NOTICE?”



Slide 1

Breach?

Slide 2

“Best Practices- All employees are mandated reporters of what they know (data) within 24 hours while some Responsible Employees have to share ALL they know (date, date [sic.], time, facts, names, etc.)”ⁱ

Slide 3

“Good Afternoon, All:

USF policy (Sexual Misconduct/Sexual Harassment) regarding ‘Responsible Employees’ under Title IX has recently been updated. In order to ensure all GA/TA are fully trained in their responsibilities as mandated reporters of report sexual harassment, including sexual violence, several opportunities to receive training have been arranged between the Office of Graduate Studies and the Title IX Office within the Diversity, Inclusion, and Equal Opportunity Office. If your duties include classroom instruction, supervision of any student at any level (even if only in the absence of the assigned supervisor), or work with any student organization in an advisory capacity AND/OR if you are someone a student could reasonably believe has the authority to act, you are required to attend one of the training sessions.”ⁱⁱ

Slide 4

“The USF system strives to provide a work and study environment for faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence...”ⁱⁱⁱ

Slide 5

Breach?

Slide 6

“Before an employee/student reveals information, ensure they understand that you ARE NOT a confidential resource.”^{vi}

Slide 7

“RESPONSIBLE EMPLOYEE:

-Some employees who must share ALL THEY KNOW.

- Has authority to take action to redress sexual violence
- Has a duty to report per USF policy
- Is someone a student or employee could reasonably believe has authority or responsibility/duty
- Has been trained on Title IX and University policy
- Supervises other employees or students”^{vii}

Slide 8

“USF has a commitment to the safety and well-being of our students.”^{viii}

Slide 9

Confusion Spiral of Disempowerment



Seven Step Protocol of Contradiction

Your Role As A Responsible Employee:

If you receive "Actual Notice" or you have "reason to believe" there has been a circumstance that falls under Title IX FOLLOW THIS SEVEN STEP PROTOCOL.

Before an employee/student reveals information, ensure they understand that you **ARE NOT** a confidential resource.

2. Inform employee/student that you must report names, dates, and relevant facts.

3. Inform employee/student of non-confidential and confidential resources on and off campus (Give USF Flyer)

4. Ensure that the employee/student knows their rights under Clery, VAWA, and Title IX.

5. Promptly complete the **TITLE IX INCIDENT REPORT** and turn it in immediately.

6. Advise your immediate supervisor that you complied with your role as RE (provide no other information).

7. Ensure that the employee/student is connected to some type of assistance unless the employee/student otherwise refuses.

Slide10

“Before you go any further, I need to stress that as a USF employee, I am required to report incidents of gender-based violence to the USF Title IX Coordinator.” ix

Slide11

“USF System employees in the above identified Responsible Employee positions who know or reasonably should know of sexual harassment (including sexual violence) must report it to the Title IX Coordinator or the Title IX Senior Deputy Coordinator and must inform the Complainant of the following:

- 1) The reporting obligations of responsible employees;
- 2) Complainant’s option to request confidentiality and available confidential advocacy, counseling, or other support services;

AND

- 3) Complainant’s right to file a Title IX complaint with the university and to report a crime to campus or local law enforcement.”^x

Slide 12

“The USF system strives to provide a work and study environment for faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence. As part of the effort to maintain an environment that is comfortable for all people...”^{xii}

Slide 13

“By completing a Title IX Incident Report, you – as the RE – have complied with your role at the University...”^{xiii}

Slide 14

- University of Tennessee- Knoxville – \$2.48 million^{xiv}
- University of Colorado- Boulder – \$825,000^{xv}
- Florida State University – \$950,000^{xvi}
- University of North Florida – \$1.25 million^{xvii}
- There’s also now a growing list of accused student suing Universities.^{xviii}

Slide15

“A key component to assisting anyone who discloses to you is to remind and encourage them that they are in control of this process... information will be used to assist the person who has disclosed, NOT FORCE them to take any action that they do not wish to take. The Discloser has rights. The Title IX officer who contacts them does so to ensure they know their rights, know what resources are available to them, and to ensure that they understand policy and procedures.” ^{xix}

Slide 16

“Title IX Response Litmus Test:

- Are the behaviors or actions sufficiently severe, pervasive, objectionably offensive, and persistent?
- Would a reasonable person / the University know (actual notice) or should have known (observation) about the behaviors/actions?” ^{xx}

Slide 17

“Individuals who disclose to you may wish to seek services that are confidential. This is no way a reflection on you, but is a choice of the person disclosing. It is vital that you know and understand what resources are available and are able to link the disclosing person to any services they choose.”^{xxi}

Slide 18

“When an employee thinks that a student may be about to report an act of sexual harassment, discrimination or assault, the employee should, if at all possible, tell the student that the College will maintain the privacy of the information, but the employee cannot maintain complete confidentiality and, is required to report the act and may be required to reveal the names of the parties involved.”^{xxiv}

Slide 19

- ⁱ Coombes, Crystal C. *USF System DCEO/Title IX Responsible Employee Training Ver. 7*. Oct. 2015. Training Materials. University of South Florida, Tampa, FL., pg. 5
- ⁱⁱ King, Brandon. "FROM ASSISTANT GRADUATE DEAN RUTH BAHR: Notice of Required Title IX and VAWA Training for All GA/TAs." Message to the author. 22 Oct. 2015. E-mail.
- ⁱⁱⁱ Hernandez, Jose, and University of South Florida Office of Diversity, Inclusion, and Equal Opportunity. *Sexual Misconduct/Sexual Harassment (Including Sexual Violence)*. 19 Oct. 2015. University Policy. University of South Florida, Tampa, FL. (pg. 1)
- ^{iv} Krebs, Christopher P., Christine H. Lindquist, Tara D. Warner, Bonnie S. Fisher, and Sandra L. Martin. "College Women's Experiences with Physically Forced, Alcohol- or Other Drug-Enabled, and Drug-Facilitated Sexual Assault Before and Since Entering College." *Journal of American College Health* 57.6 (2009): 639-49.
- ^v http://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-packet_statistics-about-sexual-violence_0.pdf
- ^{vi} Coombes , pg. 7
- ^{vii} Coombes , pg. 5
- ^{viii} <http://www.usf.edu/undergrad/faculty/curriculum-process/syllabus-guidelines.aspx>
- ^{ix} "Disclosures: Sample Privacy/Confidentiality Language." Title IX Training, Take-Home Packet. pg.7
- ^x Hernandez, pg.13
- ^{xi} University of South Florida Office of Diversity, Inclusion, and Equal Opportunity. *Title IX Incident Report Form*. June 2015. Form. Tampa, FL., pg.2
- ^{xii} Hernandez, pg. 1
- ^{xiii} Coombes , pg. 7
- ^{xiv} <http://www.tennessean.com/story/news/crime/2016/07/05/tennessee-settles-sexual-assault-suit-248-million/86708442/>
- ^{xv} <http://chronicle.com/blogs/ticker/u-of-colorado-moves-to-fire-professor-accused-of-retaliation-in-sex-assault-case/83643>
- ^{xvi} <http://www.usatoday.com/story/sports/ncaaf/2016/01/25/florida-state-settles-title-ix-lawsuit-erica-kinsman-jameis-winston/79299304/>
- ^{xvii} <http://www.lawinsport.com/features/item/a-year-in-review-us-sports-law-title-ix-gender-equality-civil-rights-part-4>
- ^{xviii} <https://www.insidehighered.com/news/2015/05/01/students-accused-sexual-assault-struggle-win-gender-bias-lawsuits>
- ^{xix} Coombes , pg. 7
- ^{xx} Coombes , pg. 9
- ^{xxi} Coombes , pg. 8
- ^{xxii} *Mandatory Reporters: A Policy for Faculty, Trustees and Professional Staff*. Sample Policy. Association of Title IX Administrators, 4 Dec. 2015. Web. <https://atixa.org/wordpress/wp-content/uploads/2012/01/Mandatory-Reporters-Policy-Template_1215.pdf>.
- ^{xxiii} Coombes , pg. 7 (original emphasis)
- ^{xxiv} *Mandatory Reporters: A Policy for Faculty, Trustees and Professional Staff*.

Slide 20

APPENDIX C:

ARTIST STATEMENT FOR “BREACH*: *ACTUAL NOTICE?”

This performance is an extension of the artist’s dissertation examining how institutions generate, teach, and authorize normative performances through texts and/as pedagogical practices. In order to interrogate how the University of South Florida policy on the mandatory reporting of Title IX violations might be understood and enacted, this performance hypothesizes a scenario embodying the possible disclosure of a Title IX violation, conceived in light of the policy and associative training.

Given the trio of federal statutes utilized to combat violence and gender-based discrimination on college campuses in the United States, Title IX, the Clery Act, and the Violence Against Women Act, institutions across the country are required to create internal policies that bring them in accordance with the laws, or these institutions risk losing their access to federal funding. In an attempt to clarify and coordinate the laws, the Department of Education’s Office for Civil Rights published a 2011 “Dear Colleague Letter” explaining that institutions not pursuing sexual-harassment and sexual assault allegations would be in violation of Title IX and subject to losing correlative federal funding (Sokolow). Because of the federal mandate to enforce these laws, my university, the University of South Florida (USF), has identified me as a “mandatory reporter.”

College campuses across the United States are faced with the significant problem that between a quarter and a fifth of women are targeted or the victims of a sexual assault (Griffin, Pelletier, Griffin, and Sloan 2; Hartmann 287-8; Sinozich and Langton; Amar, Strout, Simpson,

Cardiello, and Beckford 579; & Fisher, Cullen, and Turner). These staggering statistics are merely one reason on a still growing list of justifications for colleges and universities, receiving federal funding, across the US to take steps seen as mitigating or preventing sexual assaults. Yet legislation and universities' policies are little more than a "symbolic effort," attempts that appear to combat Title IX violation with knowingly ineffectual or ill-targeted approaches; such symbolism still influences everyday practices, whether individuals know it or not (Griffin, Pelletier, Griffin, and Sloan 3; Gregory and Janosik 60). The performance presented uncovers the problematic nature of these symbolic practices.

While the efforts taken are designed to appear substantive at reducing sexual assault, they also implicate mandatory reporters into the enforcement of reporting policy, without seeming regard for the consequences the policy has for pedagogical practices. As grounded by the theoretical commitments of critical communication pedagogy set forth by John Fassett and Deanna Warren, this performance troubles how the policy operates in relations to dynamic student-teacher relationships (39-56).

This performance is a step toward a deeper conversation about altering mandatory reporting policy and training so that it may better meet the previously mentioned commitments of critical communication pedagogy. While the larger dissertation serves to interrogate the underlying values, assumptions, and politics of, specifically USF's, mandatory reporting policy and training, this performance interrogates the policy as embodied/practical enactment. Elyse Lamm Pineau explains the body is a strategic means of actively and critically participating in and beyond the pedagogical space of the classroom, this entails the "rigorous, systematic exploration-through-enactment of real and imagined experiences in which learning occurs" (Pineau, "Critical Performative Pedagogy" 50). Policy and training are the script that mandatory reporters are

required to perform, and by using the details of the script to create this performance, some of the problematic components of the mandate performance are made visible through the performers body.

At the whims of my employer, my perspective is seemingly erased from the policy and diminished given my experience with training and reading of the policy. I designed the performance to highlight the perspective, personal conception of, and experience(s) with the policy and training. Inspired by Augusto Boal's *theatre as discourse*, this performance is an embodied critique of mandatory reporting policy and training, so as to open the door for building practices that better respect the humanity of those involved in disclosing Title IX violations (126). This performance is not meant or sufficient to replace the existing training, but offers an examination of how the policy and performing the policy creates myriad potential contradictions for mandatory reporters with regard to their principles and pedagogical practices. This interrogation takes place using a medium, aesthetic performance, that would itself be a possible tool for supplanting or supplementing existing training mechanisms.


It is important to note, this work joins other doing similar projects; two performance troupes I model much of my performance after are interACT, an undergraduate performance troupe operating out of California State University, Long Beach since 2000, and Students Against a Violent Environment (SAVE) Forum Actors, University of Northern Iowa's undergraduate troupe founded in 2001 (Abrams, Shaw-Playter, Lemaster, Willis, Hoffman, Bodden, and Whitney 321; Mitchell and Freitag 994). Grown out of Augusto Boal's work in *Theatre of the Oppressed*, the two collegiate performance troupes often use the Forum Theatre for Bystanders model to combat violence, including sexual assault, through intervention strategies (Rich; Mitchell and Freitag). Their work preempts my performance.

While training materials offer no insight into how faculty members might engage in conversation with students prior to the disclosure of a Title IX violation, this performance offers some clarification and theorizing of what such an experience might entail. As policy and training work to satiate the University's concern that it avoiding legal culpability and public presumptions of negligence, this performance reminds that the University needs to also account for the individuals invested in the institution, who operate in relation to any regulating policy and privileged performances.

APPENDIX D:

TITLE IX RESPONSIBLE EMPLOYEE TRAINING POWERPOINT SLIDES

Title IX



Together we can make a difference.

**Title IX
Responsible Employee
Training**

USF System DIEO/Title IX Responsible Employee Training Ver. 7- October 2015 Handout: Page 1 of 12

TITLE IX AT USF

RESPONSIBLE EMPLOYEE TRAINING



Facilitator: Crystal C. Coombes, M.Ed., LPC
Senior Deputy Title IX Coordinator
USF Tampa Campus, Allen 172
813-974-5392
cccoombes@usf.edu

Version 7: October 2015

The Title IX Responsible Employee training is provided to all employees identified as Responsible Employee under current policy and per requirements under Federal Statute. Thank you in advance for your time and participation.

This training will cover:

1. The core concepts of Title IX
2. Statutes that relate to Title IX
3. Relevant USF Policy
4. Affirmative Consent and other key terms
5. The reporting process
6. The complaint process
7. "Responsible Employee" status and role
8. The Link-Refer-Support-Report model and Title IX resources at USF
9. Diverse populations and Title IX
10. Title IX Coordinator- role and responsibilities

Title IX—The Statute:

“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 under any educational program or activity receiving federal financial assistance.”



20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)

So what does that mean?

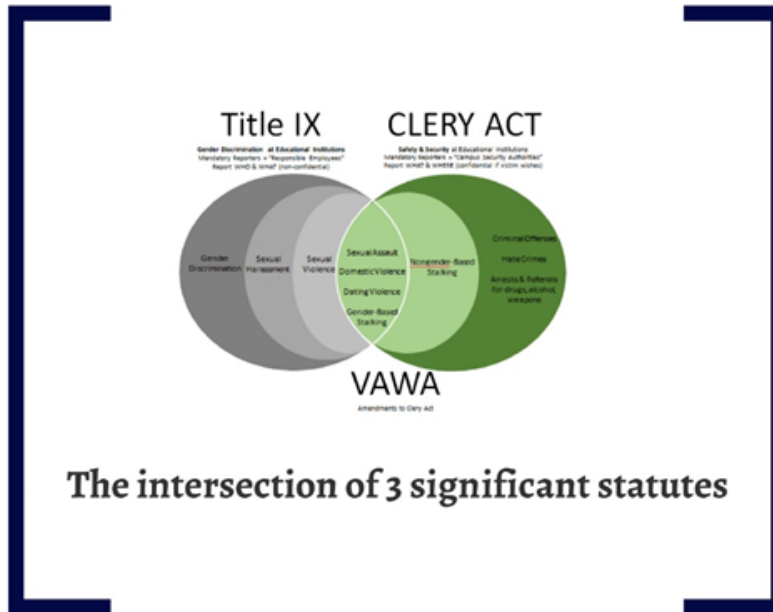
In plain language, think of Title IX as a broad umbrella that prohibits sex/gender-based discrimination (and now includes sexual harassment, violence, and assault.

Forms of Gender-Based Discrimination

Sexual Harassment



Any one or any combination of the forms of sexual harassment may be noted. When reporting, make sure to describe as best you can from what the person disclosing has told you the situation and any factors they disclose. For example: they disclose that several times they have been asked to get everyone coffee, and as a result have missed vital time in meetings. This seems to be a pattern that started as soon as they began work, classes, etc. They note that no female has been asked to do this task. They state that the department is predominantly female and they are the only male.



Responsible Employee

RESPONSIBLE EMPLOYEE:

- Some employees who must share **ALL THEY KNOW**.
- Has authority to take action to redress sexual violence
- Has a duty to report per USF policy
- Is someone a student or employee could reasonably believe has authority or responsibility/duty
- Has been trained on Title IX and University policy
- Supervises other employees or students

Best Practice

All employees are mandated reporters of what they know (data) within 24 hours while some Responsible Employees have to share ALL they know (date, date, time, facts, names, etc.)

CAMPUS SECURITY AUTHORITY:

- Some employees who must share **DATA** (place/crime) about what they know.
- An official who has significant responsibility for student and campus activities (has authority and duty to take action on behalf of USF)

Reporting is a Process



Your Role As A Responsible Employee:

If you receive "Actual Notice" or you have "reason to believe" there has been a circumstance that falls under Title IX FOLLOW THIS SEVEN STEP PROTOCOL:



1. Before an employee/student reveals information, ensure they understand that you **ARE NOT** a confidential resource.

2. Inform employee/student that you must report names, dates, and relevant facts.

3. Inform employee/student of non-confidential and confidential resources on and off campus (Give USF Flyer)



4. Ensure that the employee/student knows their rights under Clery, VAWA, and Title IX.

5. Promptly complete the **TITLE IX INCIDENT REPORT** and turn it in immediately.



6. Advise your immediate supervisor that you complied with your role as RE (provide no other information).

7. Ensure that the employee/student is connected to some type of assistance unless the employee/student otherwise refuses.

*A key component to assisting anyone who discloses to you is to remind and encourage them that **they are in control** of this process. By completing a Title IX Incident Report, you—as the RE—have complied with your role at the University—this information will be used to assist the person who has disclosed, **NOT FORCE** them to take any action that they do not wish to take. The Discloser has rights. The Title IX officer who contacts them does so to ensure they know their rights, know what resources are available to them, and to ensure that they understand policy and procedures.*

Confidential Resources

Center for Victim Advocacy

Counseling Center

USF Employee Assistance Program

Health Center

Ombuds Office

Similar Off-campus Resources or Agencies

Non-Confidential Resources

Office of Student Rights and Responsibilities

Diversity, Inclusion and Equal Opportunity Office

USF Police Department Clergy Coordinator

USF System Title IX Coordinator and Senior Deputy Coordinator



Individuals who disclose to you may wish to seek services that are confidential. This is no way a reflection on you, but is a choice of the person disclosing. It is vital that you know and understand what resources are available and are able to link the disclosing person to any services they choose.

Anonymous Reporting:

REMEMBER--A Responsible Employee must report; however, the person who has come to you and who does not wish to disclose confidential information can be linked to confidential assistance and can always be encouraged to report anonymously via:

EthicsPoint
The USF third party hosted hotline
1(866) 974-8411
or
www.ethicspoint.com

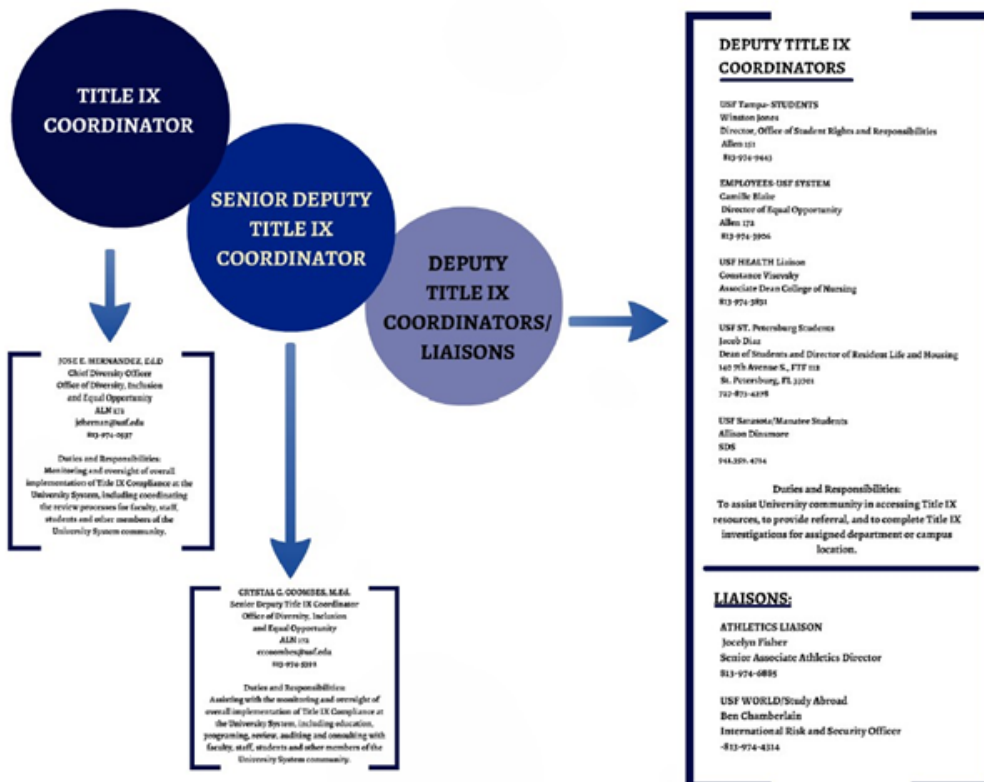
Title IX Response Litmus Test:

Are the behaviors or actions sufficiently severe, pervasive, objectionably offensive, and persistent?

Would a reasonable person / the University know (actual notice) or should have known (observation) about the behaviors/actions?

How to File a Title IX Complaint ...

- Any person may initiate a Title IX complaint process by filing a written complaint with any of USF's identified Deputy Title IX Coordinators.
- Any person may file an anonymous complaint via EthicsPoint
- An employee or student may request an advocate from the USF Center for Victim Advocacy & Violence Prevention to assist you in filing a complaint



RESOURCES:

USF System Resources

USF TAMPA

University Police Department; UPB002; 813- 974-2362
Victim Advocacy and Violence Prevention; SVC 0067; 813-974-5756
Student Health Center; 813-974-2331
Counseling Center; SVC 2124; 813-974-2831
Local Rape Crisis Center 813-964-1964
Employee Assistance Program ; 800-327-8705
<http://www.magellanhealth.com/member>;

USF ST Petersburg

Counseling Center 727-873-4422 Police non-emergency; 727- 873-4140
Victim Advocate; 727-612-2861 Local Rape Crisis Center 727-531-0482

USF Sarasota Manatee

Counseling Center 941-487-4254 Police non-emergency; 941-487-4210
Victim Advocate; 941-252-5156 Local Rape Crisis Center, Manatee:
941-755-6805
Local Rape Crisis Center Sarasota ; 941-365-1976

USF System Clery Coordinators

USF Tampa Sergeant Todd Gregory
USF Tampa Police Department
4202 E Fowler Ave, UPB002 Tampa, FL 33620-8750
(813) 974-2362 | Fax: (813) 974-5616
tgregory@usf.edu | usfpd.usf.edu

USF St. Petersburg Chief David Hendry
USF-SP University Police Services
140 Seventh Avenue South, FPF 105 St. Petersburg, FL
33701
(727) 873-4267 | Fax: (727) 873-4122
davidhendry@usf.edu www1.usfsp.edu/police

USF Sarasota-Manatee Chief Michael A. Kessie
Campus Police Department
5800 Bay Shore Road, CPD Sarasota, FL 34243
(941) 487-4210 | Fax: (941) 487-4799
mkessie@ncf.edu www.usfsm.edu/campuspolice

Web-based Resources

White House

<https://www.notalone.gov/>

Department of Education

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>

Department of Justice, Office of Violence Against Women

<http://www.ovw.usdoj.gov/sexassault.htm>

Student initiatives

<http://knowyourix.org/> Know your IX Student Initiative

<http://safercampus.org/> Students Active for Ending Rape

Screening and Counseling for women with disabilities

<http://www.womenshealth.gov/violence-against-women/types-of-violence/violence-against-women-with-disabilities.html>

National Organization of Sisters of Color Ending Sexual Assault

<http://sisterslead.org/>


Immigrant and International Resources

<http://www.casadeesperanza.org/> Casa de Esperanza-Latina women

<http://www.apiidv.org/> Asian Pacific Islander Institute on Domestic Violence

APPENDIX E:

USF SYSTEM POLICY #0-004: SEXUAL MISCONDUCT/ SEXUAL HARASSMENT
(INCLUDING SEXUAL VIOLENCE)

	UNIVERSITY OF SOUTH FLORIDA SYSTEM	POLICY
<input checked="" type="checkbox"/> USFSystem <input type="checkbox"/> USF <input type="checkbox"/> USFSP <input type="checkbox"/> USFSM		
Number:	0-004	
Subject:	Sexual Misconduct/Sexual Harassment (Including Sexual Violence)	
Responsible Offices:	Diversity, Inclusion, & Equal Opportunity (DIEO)	
<small>Date of Origin:</small> 12-22-11	<small>Date Last Amended:</small> 10-19-15 (technical)	<small>Date Last Reviewed:</small> 10-19-15

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Chapter (V) Records and Statistical Reporting.....	18
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I. PURPOSE, INTENT AND TITLE IX COORDINATORS

The University of South Florida System (USF System) community is most successful when it is based on respect and fair treatment of all people. The USF System strives to provide a work and study environment for faculty, staff and students that is free of discrimination and sexual harassment, including sexual violence. As part of the effort to maintain an environment that is comfortable for all people, the USF System establishes this Policy.

Sexual harassment, including sexual violence, is prohibited within the USF System, and complaints of such conduct are to be filed with one of two designated offices within the USF

1

System: specifically, the Office of Diversity, Inclusion and Equal Opportunity (DIEO) or the Office of Student Rights and Responsibilities (OSRR). The designated office will review such complaints and provide appropriate response including counseling, mediation (in limited circumstances), and/or referral for disciplinary action, up to and including termination from employment and/or expulsion from the USF System. .

Pursuant to Title IX, the University does not discriminate on the basis of sex in educational programs or activities that it operates. Such protection extends to both employees and students. Any questions or inquiries concerning to the application of Title IX may be referred to the Title IX Coordinator, the Title IX Senior Deputy Coordinator, or to any of the University's Title IX Deputy Coordinators. The most up-to-date information on the University's Title IX Coordinator and Deputy Coordinators can be found in the webpage for the Office of Diversity, Inclusion and Equal Opportunity, located at <http://www.usf.edu/diversity/>. The Title IX Coordinator is:

Dr. Jose Hernandez, Chief Diversity Officer

4202 E. Fowler Avenue, ALN 172, Tampa, Florida 33620

(813) 974-0537; jeheman@usf.edu

Discrimination and harassment on the basis of race, color, marital status, sex, religion, national origin, disability, age, genetic information, gender identity and expression, sexual orientation, or veteran status are also prohibited. (Please see [USF System Policy Number 0-007, Diversity & Equal Opportunity: Discrimination & Harassment](#)).

When appropriate, the University will take steps to prevent the recurrence of harassment, including sexual violence, and to correct any discriminatory effects of harassment on the complainant and others.

II. STATEMENT OF POLICY

A. The following actions are prohibited:

1. Sexual harassment, including sexual violence, by or between any faculty member, staff, or student, including individuals of the same sex, in all academic, educational, extracurricular, athletic, and other programs of the University, whether those programs take place in University facilities, at a class or training program sponsored by the University at another location, or elsewhere.
2. Sexual harassment, including sexual violence, by any faculty member, staff or student while assigned to duties or academic programs within the USF System (regardless of their work location) against any individual who is not a faculty member, staff or student, including USF System program invitee(s).
3. Sexual harassment, including sexual violence, by any vendor or individual external to the USF System against any faculty member, staff, student, or USF System program invitee during the transaction of business with the USF System, during any program or activity coordinated through the USF System, and/or while on USF System premises.
4. Retaliation by any faculty member, staff or student against any individual who, in good faith, has made any allegation of sexual harassment (including sexual violence) or who has testified, assisted, or participated in any way in any investigation, proceeding, or hearing conducted under this Policy or any federal or state law. For a more detailed discussion of the University's anti-retaliation provisions, please refer to [Policy # 0-020, Retaliation, Retribution, Or Reprisals Prohibited](#).
5. Knowingly making false accusations or allegations of sexual harassment (including sexual violence), or knowingly making false statements regarding alleged sexual harassment (including sexual violence) in any investigation, proceeding, or hearing conducted under this Policy or any federal or state law.

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

B. Examples of prohibited conduct include, but are not limited to:

1. Requesting or coercing sexual intercourse or sexual favors, or attempting to or actually engaging in a sexual assault or sexual battery.
2. Inappropriate and unwelcome sexual attention or touching, including-but not limited to-leering, patting, fondling, pinching, and attempted or actual kissing.
3. Making actual or implied threats to impede or interfere with employment or educational opportunities or benefits for failing to agree to or engage in sexual activity.
4. Making actual or implied promises of an employment or educational opportunity or benefit in exchange for sexual activity.
5. Inferring or displaying favoritism that benefits or adversely affects another based on sexual involvement or a sexual relationship.
6. Making sexually explicit or suggestive gestures or sounds.

Prohibited conduct does not include verbal expression, written or other material that is relevant and appropriately related to the subject matter of a USF System course/curriculum or to an employee's duties.

C. Examples of potential participants in a Sexual Harassment situation (including sexual violence) include, but are not limited to:

Faculty – Faculty	Administrator – Faculty Member
Faculty – Student	Administrator – Staff Member
Faculty – Staff	Staff Member/Administrator – Student
Teaching Assistant – Student	Staff Member – Staff Member
Supervisor – Employee	USF System Program Invitee – Employee
Student – Student	USF System Program Invitee – Student

D. Consensual amorous or sexual relationships

The USF System strives to create and maintain a professional, collegial environment for work and study. Professional and collegial relationships are based on mutual respect and trust. When persons in positions of unequal power engage in amorous or sexual relationships, they should be aware that they may be at risk of being accused of sexual harassment (including sexual violence), either during the relationship or after the relationship ends, or being accused of having a conflict of interest. For additional information concerning conflicts of interest, please refer to [Chapter 112, Part III, Florida Statutes](#), the applicable collective bargaining agreement, Board of Governors Rules/Regulations and USF System Regulations.

The USF System recognizes that consensual amorous or sexual relationships between two people of unequal position or power (e.g. between a supervisor and an employee, faculty member and student, or staff member and student) may become exploitative or lead to charges of sexual harassment, including sexual violence. Accordingly, the USF System has adopted a Policy governing consensual relationships (Please see [USF System Policy 1-022-Consensual Relationships](#)).

E. Cooperation

All employees and students are strongly encouraged to cooperate fully with any investigation and/or compliance review conducted under this Policy. Failure to cooperate may impede or hamper the University's ability to conduct a full and fair investigation.

III. DEFINITION OF TERMS

A. Sexual Harassment (which includes sexual violence) is any of the conduct below:

1. Sexual violence, including rape, sexual assault, sexual battery and sexual coercion, means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.¹ A summary of general information regarding the terms and the conduct that constitute Sexual Battery/Rape may be accessed on the DIEO website at (<http://www.usf.edu/diversity/>)-and is included beginning on page 14 below for reference.
2. Unwelcome sexual advances, requests for sexual favors and other verbal, non-verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or educational experience;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting that individual; or

¹ For additional information and State of Florida definitions, refer to Florida Statutes Chapter 794, which includes the definition of sexual battery as the "oral, anal or vaginal penetration by, or union with the sexual organ of another or the anal or vaginal penetration of another by any other object" without the person's consent.

- c. Such conduct is sufficiently severe² or pervasive so as to alter the conditions of, or have the purpose or effect of substantially interfering with, an individual's work or academic performance by creating an intimidating, hostile, or offensive working or educational environment. This may include off-campus acts of sexual harassment, including sexual violence, that have effects on campus which may contribute to a sexually hostile environment.
3. Specific Acts of Violence defined by the Violence Against Women Act including:
 - a. 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.
 - b. Dating Violence - means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
 - c. Stalking - To follow another person or repeatedly interact with a person so as to harass that person, or a course of conduct at a specific person that would cause a reasonable person to fear for her, his or others safety or to suffer substantial emotional stress.
4. This Policy is not intended to abridge academic freedom or the USF System's educational mission. Furthermore, this Policy is not violated by actions that amount to expression that is protected by state or federal constitutions.

² In Title IX cases involving students the standard is whether the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the University's program.

- c. Such conduct is sufficiently severe² or pervasive so as to alter the conditions of, or have the purpose or effect of substantially interfering with, an individual's work or academic performance by creating an intimidating, hostile, or offensive working or educational environment. This may include off-campus acts of sexual harassment, including sexual violence, that have effects on campus which may contribute to a sexually hostile environment.
3. Specific Acts of Violence defined by the Violence Against Women Act including:
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 - b. Dating Violence - means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
 - c. Stalking - To follow another person or repeatedly interact with a person so as to harass that person, or a course of conduct at a specific person that would cause a reasonable person to fear for her, his or others safety or to suffer substantial emotional stress.
4. This Policy is not intended to abridge academic freedom or the USF System's educational mission. Furthermore, this Policy is not violated by actions that amount to expression that is protected by state or federal constitutions.

² In Title IX cases involving students the standard is whether the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the University's program.

B. For purposes of this Policy only, individuals who may be victims or may have reporting responsibilities fall into the following general categories and definitions:

1. The term “**employee**” includes, but is not limited to: academic administrators; all faculty; Administration employees; Staff employees; Temporary employees; or any other employee classifications that may be developed by the Florida Board of Governors or University Board of Trustees.
2. The term “**student**” includes, but is not limited to, any individual who is enrolled in any program of study, or enrolled in any course offered or sponsored by the USF System, whether for credit or not, or engaged in any USF System student activity.
3. The term “**USF System program invitee**” includes, but is not limited to, applicants for admission, applicants for employment, event attendees, and recipients of USF System services.

IV. FILING COMPLAINTS OR REPORTS

Depending on the circumstances, the filing of a complaint or report of sexual harassment, including sexual violence, may be voluntary or compulsory. Any person **MAY** file (1) an internal USF complaint or report to the designated USF offices (DIEO or OSRR); (2) a complaint or report with the appropriate internal law enforcement office (determined by the campus/institution, such as the USF Tampa Police Department or USF St Petersburg Police Department) hereafter, “UPD”; (3) a complaint or report with an external law enforcement office with jurisdiction; and/or (4) an external complaint with an agency listed in section [IV.C.] below. In addition, certain persons **MUST** file a report as provided below.

A. Internal USF complaints or reports to designated USF System offices

1. **Persons who may file.** Any student or employee or USF System program invitee may file a claim or complaint regarding sexual harassment (including

sexual violence) or retaliation. Details regarding the responsibility to report are detailed in subsection [3.] below.

2. **Entry point for filing.** A person may file external reports at any time. The university has internal offices designated as points of entry for filing. **Where a complaint or report may/must/should be filed depends upon whether the alleged harasser is an employee, student, or USF System program invitee. If the status of the alleged harasser is unclear, an individual may file a complaint or report in either of the two designated internal university offices (Diversity Inclusion & Equal Opportunity Office or Office of Students Rights & Responsibilities, see contact information below) and the University will assist in identifying the best avenue of review.** The following two offices are established as points of entry for the filing of complaints and reports at the internal university level:

- a. **Complaints and reports against EMPLOYEES or other USF System program invitees.**

The complaint/allegations must be submitted to the Office of Diversity, Inclusion and Equal Opportunity. DIEO is responsible for investigating sexual harassment (including sexual violence) complaints/allegations against employees or other members of the USF Community based on this Policy. A full copy of the procedures used to conduct any investigation is available in DIEO, 4202 E. Fowler Ave., ALN 172, Tampa, FL 33620; 813-974-4373; or on the DIEO website at: <http://www.usf.edu/diversity/>. (These procedures may be changed without affecting any term of this Policy).

- b. **Complaints and reports against STUDENTS.**

The complaint/allegation must be submitted to the Office of Student Rights and Responsibilities or the appropriate Student Affairs office at the campus or institution where the harassment occurred, for investigation of

sexual harassment (including sexual violence) complaints/allegations against students. Students who are referred to the OSRR under the Policy will be subject to review and may be subject to sanctions as provided by the [USF Student Conduct Code, USF Regulation 6.0021](#). A full copy of the student conduct code including the process for referrals, review, investigation and sanctions are available on the USF Tampa OSRR website at: <http://www.sa.usf.edu/srr/page.asp?id=69>; or at the OSRR office at 4202 E. Fowler Ave, ALN 109, Tampa, FL 33620-7700; phone contact 813-974-9443; or the Student Affairs office at the System member's campus.

- c. **PLEASE NOTE: Under Title IX, notice to a “supervisory employee” or “responsible employee” (as defined in this Policy, below) regarding an incident of sexual harassment (including sexual violence) constitutes notice to the University.** Therefore, any supervisory or responsible employee who knows, or in the exercise of reasonable care should have known, about an incident of sexual harassment (including sexual violence) **MUST** report that incident to the DIEO office, to OSRR, or to the Title IX Coordinator, the Title IX Senior Deputy Coordinator or a Title IX Deputy Coordinator.

3. Responsibility to Report

a. **Who *Should* report to DIEO or OSRR under the USF System's Policy:**

- (1) The person who believes he/she has been a victim of sexual harassment, including sexual violence (although there is no absolute duty to report and any victim may seek any additional or optional support services including advocacy or counseling outside of the DIEO or OSRR process); or

(2) Any student, faculty member, or staff member who has direct or indirect knowledge of the alleged sexual harassment, including sexual violence, with the exception of those persons or offices who offer confidential counseling or victim assistance if the complainant requests confidentiality, such as Victim's Advocacy. Confidential resources are: (a) USF Center for Victim Advocacy & Prevention, SVC 0067, (813) 974-5757 (available 24/7); (b) USF Counseling Center, (813) 974-2831; (c) USF Student Health Services, (813) 974-2331; or (d) Crisis Center of Tampa Bay, (813) 234-1234;

b. Who *MUST* report to DIEO or OSRR under the USF System's Policy:

(1) *Supervisory employees* (with the exception of those persons or offices who offer confidential counseling or victim assistance if the complainant requests confidentiality, such as Victim's Advocacy) are required to promptly report (either verbally or through written communications) allegations, reports, or instances of sexual harassment (including sexual violence) by or against any USF System employee(s), student(s), or group(s). Failure to do so may result in disciplinary action, up to and including termination of employment. Supervisory employees include any administrative personnel, or any employees who (i) supervise one or more individual employees and may include, but is not limited to: Deans, Directors, Department Chairs, Coordinators, Unit Heads, Managers, and Principal Investigators or (ii) supervise or oversee students, including but not limited to, all members of the faculty, coaches, athletic directors and athletic trainers; graduate students with instructional responsibilities when they are supervising or teaching the student(s) who is (are) complaining about possible sexual harassment (including sexual

violence); academic advisors; residential assistants; faculty advisors; program advisors and student activity coordinators.

(2) "Responsible Employees" under Title IX are required to promptly report allegations or instances of sexual harassment (including sexual violence) by or against any USF System employee(s), student(s), or group(s). For purposes of Title IX, the term "Responsible Employee" as determined by the USF System, includes individuals employed in the following positions*:

- All Faculty (including Adjunct Faculty) if the report is from a student or if the incident involves a student
- All Administration, Staff, and Temporary employees who regularly supervise one or more employees or students
- All employees in the following departments or organizational units:
 - Campus Police Departments
 - Office of Diversity, Inclusion, and Equal Opportunity, (including Equal Opportunity Liaisons
 - Office of the General Counsel
 - University Audit & Compliance
 - Office for Student Rights and Responsibilities
- USF System Title IX Coordinator; Senior Deputy Title IX Coordinator, Deputy Title IX Coordinators & Liaisons and Title IX Investigators
- All Athletic Directors, Athletic Coaches, Athletic trainers, and employees in Athletics Compliance
- Residential Life Resident Assistants and Residential Life Coordinators
- Graduate Assistants, Teaching Assistants, and Research Assistants when they are supervising or teaching the Complainant.
- Employees who are advisors to officially-recognized student organizations

* Questions about whether a particular individual or specific position qualifies as a “Responsible Employee” should be directed to the Title IX Coordinator or Title IX Senior Deputy Coordinator.

USF System employees in the above-identified Responsible Employee positions who know or reasonably should know of sexual harassment (including sexual violence) must report it to the Title IX Coordinator or the Title IX Senior Deputy Coordinator and must inform the Complainant of the following:

- 1) The reporting obligations of responsible employees;
- 2) Complainant’s option to request confidentiality and available confidential advocacy, counseling, or other support services;
AND
- 3) Complainant’s right to file a Title IX complaint with the university and to report a crime to campus or local law enforcement.

The DIEO web site (<http://www.usf.edu/diversity/>) houses a one-page, two-sided Supporting Crime Victims flyer which contains the most up-to-date Title IX Coordinator information and resources for supporting crime victims, both confidential and non-confidential. This flyer contains institution-specific contacts and resources for reporting employees and complainants. USF System employees who are Responsible Employees must provide the flyer or the information contained on the flyer to the Complainant. Click the following link to access these institution-specific flyers:

<http://www.usf.edu/diversity/title-ix/>

NOTE REGARDING USF SYSTEM RESEARCH PROJECTS: If an individual who is participating as a subject in an Institutional Review Board–approved human subject research protocol (a “USF System Research Project”) discloses, as part of that research project, an incident of alleged Sexual Misconduct/Sexual Harassment, such disclosure will not be considered notice to the University of Sexual Misconduct/Sexual Harassment for purposes of triggering its obligation to investigate the incident at issue. This means that a Responsible Employee whose knowledge of a known or suspected incident of Sexual Misconduct/Sexual Harassment is *gained as a result of conducting an Approved Research Protocol* is not required to report the incident to the Title IX Coordinator. In appropriate cases researchers may be required to provide information to all subjects of a research project about Title IX rights and about available University and community resources and support services with regard to Sexual Misconduct/Sexual Harassment. Researchers who are unsure whether this provision applies to their USF System Research Project should contact Research Integrity and Compliance.

NOTE REGARDING EMPLOYEES WHO OFFER COUNSELING, VICTIM ASSISTANCE OR OTHER SUPPORT SERVICES TO VICTIMS: Employees whose regular duties include offering counseling or victim assistance and “other support services” are exempt from these “Responsible Employee” responsibilities under the USF System’s definition when acting in their primary role, including all employees in the following organizational units:

- Center for Victim Advocacy and Violence Prevention, including USFSP and USF-SM victim advocates
- Counseling Center for USF Tampa
- Student Health Services
- USFSP Wellness Center

- USF-SM Counseling & Wellness Center
- Financial Aid employees
- Office of the Registrar employees
- Students with Disabilities Services employees
- Workers' Compensation Administrator in Human Resources
- FMLA benefits representative in Human Resources
- Ombudsman

(3) *The University Police Department (UPD)* is required to promptly report back to DIEO or OSRR, as appropriate, a complaint of sexual harassment, including sexual violence, at the time a person directly files a complaint with the UPD and at the conclusion of any UPD process.

c. General Information

(1) **Time for filing complaints.** A person who believes that he/she has been sexually harassed should report the incident as soon as possible. For those complaints directed to DIEO, a formal complaint must be filed within one hundred twenty (120) days of the incident(s), or as otherwise provided by law. For those complaints directed to OSRR, the complaints must be filed as set forth in the Student Conduct Code unless otherwise specified.

(2) **Appeals from decisions.** The decisions of the designated offices are final, except the Complainant or Respondent may file an appeal from a decision rendered by DIEO or OSRR. The appeal shall be filed in accordance with the designated offices' procedures.

(3) **Confidentiality.** The confidentiality and privacy of all parties involved during the investigative process will be maintained to the fullest extent possible. Details regarding privileged and confidential

communications may be found on the DIEO website at (<http://www.usf.edu/diversity/>). University offices that may offer confidential counseling include the Center for Victim's Advocacy (<http://www.sa.usf.edu/advocacy/page.asp?id=72>) or Student Health Services <http://www.usf.edu/student-affairs/student-health-services/services/flushots.aspx>. Information will be shared with only those who have a legitimate need to know. Allegations may be filed anonymously through EthicsPoint, the USF System's website/hotline, to confidentially report activities that may involve certain improper conduct or violations of USF System policies.

<https://secure.ethicspoint.com/domain/media/en/gui/14773/index.html>

The Title IX Coordinator or designee will be responsible for evaluating a complainant's request for confidentiality in the context of the University's responsibility to provide a safe and nondiscriminatory environment for all members of the University community. Factors that may be considered in analyzing such request for confidentiality may include, but are not be limited to, the seriousness of the alleged harassment, whether there have been other complaints or reports of harassment involving the same alleged harasser, whether the reporting individual is a minor, and whether the incident represents an escalation of behavior.

B. Complaints or Reports to Law Enforcement Offices

1. If an individual believes that he/she has been a victim of a crime, such as sexual battery, the individual may file a complaint for possible criminal charges with an appropriate law enforcement office. This report may be to the UPD AND/OR to an external law enforcement office with jurisdiction over the crime. Individuals have a right to simultaneously pursue both a criminal complaint and a complaint with the University.

2. All persons must comply with mandatory reporting laws established by state, federal or local laws.
3. In addition, any individual **MAY** report any criminal activity to UPD or external law enforcement at any time.
4. If a campus has a University Police Department (UPD), the University Police are law enforcement officers of the State of Florida with authority to enforce criminal laws when violations thereof occur on any property or facilities that are under the guidance, supervision, regulation, or control of USF or a Direct Support Organization of USF. The UPD provide immediate assistance to the victim and initiate investigative processes to apprehend the perpetrator of the crime. The UPD promptly inform the appropriate State Attorney's Office of sexual battery complaints and may consult with the State Attorney during the investigation of the complaint.

C. Additional External Complaints

Filing an internal charge of sexual harassment (including sexual violence) with a USF System office, UPD or external Law Enforcement office does not preclude filing complaints with external agencies and does not affect any deadlines that may be imposed by any agency external to the USF System.

The following agencies are available to take such complaints:

1. [U.S. Equal Employment Opportunity Commission](#), Tampa, Florida
(813) 228-2310, TTY (813) 228-2003.
2. U.S. Department of Education, **Office for Civil Rights**, Atlanta, Georgia
(404) 562-6358, TDY (404) 562-6454.
3. U.S. Department of Labor, [Office of Federal Contract Compliance Programs](#), Orlando, Florida (407) 648-6181.

4. [Florida Commission on Human Relations](#), Tallahassee, Florida
1-800-342-8170, TDD ASCII 1-800-955-1339; TDD BAUDOT 1-800-955-8771.

V. RECORDS AND STATISTICAL REPORTING

- A. OSRR will report to DIEO (as the office of the Title IX coordinator) the final results of all Sexual Harassment (including sexual violence) complaints to enable accurate statistical reporting; review of the information to identify and address any patterns or systemic problems; and the development of ongoing training, educational and preventative programming.
- B. All offices will report final outcomes and complaints to the UPD as required by federal law; specifically, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”). The UPD are required to annually report to the public statistics concerning crimes which are reported to have occurred on campus, or in Clery-designated geographic locations associated with the University or its activities. There are three general categories of crime statistics that must be reported:
 - 1.Criminal Offenses, which includes murder, or non-negligent manslaughter, negligent manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
 - 2.Hate Crimes, which includes any of the above-listed crimes, as well as larceny-theft, simple assault, intimidation, and destruction or damage or vandalism of property, when such crime is motivated, in whole or in part, by bias based on race, gender, religion, disability, ethnicity, national origin, sexual orientation, and gender identity.
 - 3.Arrests and Referrals for Discipline for violation of weapons, drug, and liquor laws.

In addition, the University will comply with the new reporting obligations under the Violence Against Women Act of 2013 (VAWA) which require the university to compile additional statistics regarding domestic violence, dating violence, and stalking in annual security reports. The information may be used to make timely warnings to the community of the occurrence of the above crimes. Further information about University procedures for reporting crimes and incidents under the Clery Act may be found on the following website: <http://www.usf.edu/administrative-services/university-police/your-safety/campus-security-authority.aspx>

- C. It is USF's Policy to provide to the public, upon request, the number of sexual battery cases that have been reported to UPD within a specified time period. Crime statistics are reported to Tallahassee in accordance with State law. Information concerning the incidence of crime is reported to the University community in a regular and timely manner through local and on-campus media. This information is also forwarded to the Federal Bureau of Investigation and included in the national crime report published by the United States Department of Justice

VI. VICTIM AND PREVENTION SERVICES

Each campus of the USF System provides victim and prevention services. Detailed information about these services is available on the USF System's website at:

USF Tampa	http://www.sa.usf.edu/advocacy/page.asp?id=88
USF St. Petersburg	http://www.usfsp.edu/wellness/crisis-services/
USF Sarasota-Manatee	http://www.ncf.edu/crisis-services

Contact information for the appropriate campus law enforcement agency for reporting sexual battery and available assistance for victims of campus-related sexual batteries within the USF System are as follows:

USF Tampa

Emergency	9-1-1
Police, Non-Emergency	813-974-2628
Local Rape Crisis Center	813-964-1964
Counseling Center	813-974-2831
Victim Advocate	813-974-5757

USF St. Petersburg

Emergency	9-1-1
Police, Non-Emergency	727-873-4140
Local Rape Crisis Center	727-531-0482
Counseling Center	727-873-4422
Victim Advocate	727-612-2861

USF Sarasota-Manatee

Emergency	9-1-1
Police, Non-Emergency	941-487-4210
Local Rape Crisis Center – Manatee County	941-755-6805
Local Rape Crisis Center - Sarasota County	941-365-1976
Counseling Center	941-487-4254
Victim Advocate	941-252-5156

***Current Responsible Office: Diversity, Inclusion, & Equal Opportunity (DIEO)**

***Refer to the appropriate Responsible Office website for a current name of the Vice President or other Responsible Officer.**

SEXUAL BATTERY/RAPE LAWS
(In Florida, “rape” is called “sexual battery”)

ACCORDING TO FLORIDA LAW:

- Sexual Battery/Rape is the: “Oral, anal or vaginal penetration by, or union with a sexual organ of another or anal/vaginal penetration of another by any other object.”
- The sexual act(s) is/are performed without the victim’s consent.
- An individual who is mentally incapacitated, asleep, physically helpless or unconscious due to alcohol or other drug consumption is considered unable to give consent.
- The same definition applies regardless of whether the assailant is a stranger or a non-stranger.
- The type of force employed may involve physical violence, coercion or threat of harm to the victim. The victim is not required to physically fight back.

Florida Sexual Battery Statutes:

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0794/0794ContentsIndex.html (Chapter 794).

DEFINITIONS

- "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission or submission out of fear. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.
- "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance

- "Physically helpless" means unconscious, asleep, or for any other reason physically unable to communicate consent or lack of consent.
- "Physically incapacitated" means bodily impaired or handicapped and substantially limited in ability to resist or flee.

CONSENT, COERCION AND INCAPACITATION UNDER UNIVERSITY POLICY:

- (1) "Consent" means an informed, knowing, and voluntary agreement to engage in sexual activity. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence or an absence of resistance alone, without actions evidencing permission, does not imply consent.
- (a) To give consent, a person must be of legal age.
 - (b) Someone who is incapacitated cannot consent.
 - (c) Assent does not constitute consent if obtained through coercion or from an individual whom the alleged offender knows or reasonably should know is incapacitated.
 - (d) The responsibility of obtaining consent rests with the person initiating sexual activity.
 - (e) Use of alcohol or drugs does not diminish one's responsibility to obtain consent.
 - (f) Consent to engage in sexual activity may be withdrawn at any time. Once withdrawal of consent has been expressed, the sexual activity must cease.
 - (g) Consent is automatically withdrawn by a person who is no longer capable of giving consent.
 - (h) A current or previous consensual dating or sexual relationship between the parties does not, in and of itself, imply consent or preclude a finding of responsibility.

- (i) Past consent to sexual activity does not imply ongoing future consent to sexual activity with that person.
 - (j) Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person.
 - (k) There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used.
- (2) Coercion. Coercion is the use of express or implied threats, intimidation, physical force, or duress which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.
- (3) Incapacitation. An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Someone who has consumed alcohol or intoxicants is not necessarily incapacitated. For instance, individuals who are asleep or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

APPENDIX F:
TITLE IX INCIDENT REPORT FORM



TITLE IX INCIDENT REPORT FORM

Directions for use:

The Title IX Incident Report form is to be used by any employee who is witness to or who has had reported to them an incident that may be deemed to be Sexual Harassment falling within Title IX guidelines.

Please follow these steps:

1. **Save this form to your computer BEFORE completing it.**
2. Once saved to your computer, fill in the form as thoroughly as you are able given the information that you know. The cells will expand as needed.
3. Save your completed form, sign it, and attach it in an email to cccoombes@usf.edu.
4. Contact from the Senior Deputy Title IX Coordinator will follow to confirm receipt of the report form and to clarify any items.

Thank you for your time and assistance.

If you have questions, please contact DIEO Title IX at 813-974-5392



TITLE IX INCIDENT REPORT

Office of Diversity, Inclusion & Equal Opportunity

This form is to be completed by any USF employee (if not identified as a “confidential resource acting in a specific role”), who observes or receives a disclosure of an alleged Title IX incident to include, but not limited to gender-based discrimination, sexual harassment, non-consensual sexual contact (battery/rape), domestic/intimate partner violence, stalking, and/or bullying. Follow guidance within this form for each section and return to the Office of Diversity, Inclusion & Equal Opportunity. ATTN: Crystal C. Coombes, Senior Deputy Title IX Coordinator.

NO INVESTIGATION SHOULD BE CONDUCTED by the individual making this report.

Name of Person Reporting: [Click here to enter text.](#)

Phone Number: [Click here to enter text.](#)

USF Email: [Click here to enter text.](#)

Department: [Click here to enter text.](#)

Complainant Information (the individual(s) who may identify as the victim):

Name: [Click here to enter text.](#)

Mailing Address: [Click here to enter text.](#)

Campus Address: [Click here to enter text.](#)

Phone: Enter best number here Cell Work Home

Email: [Click here to enter text.](#)

Status:

Student Staff Faculty OPS Graduate Assistant Applicant Visitor Vendor

Respondent Information (the individual(s) who may be identified as the accused):

Name: [Click here to enter text.](#)

Mailing Address: [Click here to enter text.](#)

Campus Address: [Click here to enter text.](#)

Phone: Enter best number here Cell Work Home

Email: [Click here to enter text.](#)

Status:

Student Staff Faculty OPS Graduate Assistant Applicant Visitor Vendor

TITLE IX INCIDENT REPORT FORM

Priority (Select the risk level you believe most likely represents this incident below):

- Emergent/High Risk** *(In emergent cases of high risk to USF community, individual, or group, dial UPD immediately)*
- Urgent/Risk** *(If a question exist regarding level of risk, consult DIEO, OSRR, or UPD)*
- Controlled/Low Risk** *(Incident is passed; some concern remains)*
- General Report/No Current Risk** *(Incident is just known, no risk remains; Responsible Employee duty)*

Detailed Statement of Incident:

Click on the active text link below to begin typing your statement. This box will expand as needed to allow your full statement to be typed and included as a part of this report form.

Helpful Guidance:

1. Include the date, location, individuals involved—if known—and any other clearly factual information reported to you or observed by you;
2. Note if you have indicated to the complainant your status as a Responsible Employee AND/OR if you have made a referral to any USF Confidential Resource or Emergent Resource; AND,
3. Provide a best time/method to contact you to follow up on your report.

[Click here to enter text.](#)

Statement of Action Taken—if any:

Click on the active text link below to begin typing in paragraph or bullet format any and all actions that have been taken by you or the complainant. For example: "Contacted UPD Officer John Doe for guidance" or "Called USF Counseling Center to make a referral" or "Sought medical treatment at XYZ facility." This box will expand as needed to allow you to detail all actions taken in this incident and will be included as a part of this report form.

Helpful Guidance:

1. Include the date, time, and individuals that you may have contacted, alerted, or otherwise involved in the incident as you worked to assist the complainant;
2. Note if any actions have been taken by those resources on behalf of the complainant (such as police report taken); AND,
3. Be clear, brief, but detailed when and where possible.

[Click here to enter text.](#)

Once you have completed ALL sections of this report, your form may be saved and printed. Next, please complete the following actions:

1. Sign and date the form where indicated;
2. Send to DIEO, Attn: Crystal C. Coombes, Senior Deputy Title IX Coordinator via closed envelope (ALN 172), as an attachment to email (cccumbes@usf.edu), or as a facsimile (813-974-4375).

Print Name: [Click here to enter text.](#) **Signature:** _____ **Date:** [Click here to enter a date.](#)

Office of Diversity, Inclusion, and Equal Opportunity Form: Version 3.0 June 2015