

# UNIVERSIDAD SAN FRANCISCO DE QUITO

## USFQ



## SEXUAL MISCONDUCT POLICY & PROTOCOLS

(Protocolo de actuación para casos de hostigamiento y discriminación de cualquier índole en la USFQ, en el marco de lo previsto en el Código de Honor y Convivencia de la USFQ actualmente)

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# USFQ SEXUAL MISCONDUCT POLICY

Universidad San Francisco de Quito USFQ strives to create and maintain an atmosphere of respect in which all community members are free to work and learn. As such, it has strict guidelines regarding sexual misconduct. All forms of sexual misconduct, including but not limited to, sexual harassment, sexual assault, rape, sexual exploitation, sexual coercion, stalking, and intimate partner sexual violence, are incompatible with USFQ's mission of forming ethical individuals and are prohibited by university policies and regulations.

The University aims to raise awareness and eliminate sexual misconduct on campus through educational programming. Sexual violence prevention strategies and awareness campaigns are organized by the Dean of Students' Office, UniDiversidad, the University's Counseling Services, the School of Psychology, and the Student Government, among others. During Incoming Student Orientation, the Office of International Programs contextualizes cultural differences between students' home countries and Ecuador and explains how to report incidents of sexual misconduct.

Should an incident occur, USFQ seeks to provide both an immediate response to emergencies and ongoing academic and psychological support measures. In every case of sexual misconduct, the victim maintains the right to decide whether or not to formally report the incident to the Dean of Students or Ombudsman. Formally reported incidents will be investigated and may result in sanctions and restitution measures for the alleged assailant and victim, respectively. The University's Honor Code (*Código de Honor y Convivencia*) guarantees due process protections and includes necessary measures to guard potential victims from further harm. If a victim decides not to submit a formal report of the alleged incident, they will still be provided with supportive measures to ensure their physical and psychological well-being.

This document defines sexual misconduct and other prohibited behaviors for the USFQ community. Supportive and reporting resources available to community members are also included. Reporting and Investigation protocols explain who may report alleged incidents of sexual misconduct and how to do so. Investigation protocols have been established in the event that a victim chooses to file a formal complainant against an alleged assailant and are outlined in detail in this document. All timeframes which indicate the University's allotted response time and investigation protocol deadlines will be postponed during the academic breaks listed in the University Academic Calendar.

## GENERAL DEFINITIONS

The University defines the following terms:

- a. **Consent:** demonstrated by a clear affirmative act or statement by each participant to engage in each sexual act in a sexual interaction. Consent must be:
  - a. *Informed and reciprocal:* All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way. Consent cannot be informed when one is unaware that the act is being committed.
  - b. *Freely and actively given:* An individual cannot consent who is incapacitated by any drug or intoxicant; or who has been compelled by force, threat, or deception; or whose ability to consent is compromised because of a mental or physical condition; or who is directly or indirectly coerced by grading, supervisory, or disciplinary authority. According to Ecuadorian law, individuals under the age of 18 are unable to give consent to sexual interactions (Article 175, *Código Orgánico Integral Penal*).
  - c. *Mutually understandable:* Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. In the absence of clear communication or outward demonstration, **there is no consent**. Consent cannot be inferred from silence, passivity, lack of resistance, or lack of active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying solely upon non-verbal communication can lead to false conclusions as to whether consent was sought or given.
  - d. *Present and ongoing:* Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all states of sexual activity. Withdrawal of consent can be expressed orally or can be based on an outward demonstration that conveys an individual is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately, and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.
- b. **Complainant:** victim or survivor of an alleged incident of sexual misconduct.
- c. **First Responders:** Designated employees such as deans, program coordinators, academic coordinators, select professors, and supervisors who receive annual training to better support students and faculty in reporting incidents of sexual harassment. First responders are not mandated to report sexual harassment to the Dean of Students or Ombudsman but are available to walk the complainant through the next steps and contact the Dean of Students or Ombudsman with permission of the complainant. They may also aid the complainant in filling out the appropriate report or complaint, can take notes of the incident with permission of the complainant, and may provide a list of immediate and long-term support services such as how to report a sex crime to Ecuadorian authorities, where to go for a medical exam, or how to solicit housing accommodations. USFQ obtains “actual knowledge” of an incident of sexual misconduct only when a victim or third party reports the alleged incident to the Dean of Students or Ombudsman.

- d. **Incapacitation:** a state in which an individual cannot make an informed and rational decision to engage in a sexual activity because the individual lacks conscious knowledge of the nature of the act (i.e. to understand the 'who, what, when, where, why, or how' of their sexual interaction) and/or is physically helpless.
- e. **Power dynamics:** hierarchical relationships which inherently exist between employees and students and between a supervisor and subordinate within the University's community. Either intentional or unintentional misuse of that professional power differential may lead to incidents of sexual misconduct.
- f. **Respondent:** person alleged to have perpetrated an act of sexual misconduct.
- g. **Restitution measures:** In accordance with the *USFQ Código de Honor y Convivencia*, forms of restitution include counseling or other academic, physical, or psychological support measures that permit the complainant to overcome the injury caused by an incident of sexual misconduct. This does not include financial restitution.
- h. **Sanctions:** may include community service hours, suspension, or expulsion, among others. Decision-making bodies charged with sanctioning the involved parties take into account the gravity of the policy infraction, the damage caused to others within the USFQ community, and the repercussions inside and outside of the community. Delivered sanctions correspond to the previously established sanctions listed in Article 207 of the *Ley Orgánica de Educación Superior (LOES)*. A full list of sanctions for USFQ community members can be found in the *USFQ Código de Honor y Convivencia*.
- i. **Third-party reporter:** any individual other than the complainant who reports an incident of sexual misconduct.
- j. **USFQ Community:** professors, authorities, administrative personnel, service workers, students, and other participants in University academic programs or third parties that are not employees of the University.

## SEXUAL MISCONDUCT DEFINITIONS

USFQ defines the following prohibited behaviors of sexual misconduct below. Certain behaviors constitute criminal acts and therefore are based in the legal definitions outlined in the Ecuadorian Penal Code (*Código Orgánico Integral Penal*). Full legal definitions of different types of sex crimes can be found [here](#).

The University defines certain prohibited behaviors such as sexual harassment more broadly than the Ecuadorian Penal Code (*Código Orgánico Integral Penal*). Therefore, in some cases only administrative action may be pursued. Conversely, some incidents of sexual misconduct that are considered criminal acts such as non-consensual sexual contact/sexual assault or non-consensual sexual intercourse/rape are outside of the University's legal authority, and the University is unable to initiate administrative investigation protocols. Complainants are encouraged to report all incidents of sexual misconduct to the Dean of Students or Ombudsman, but such sex crimes may only be investigated and sanctioned through Ecuadorian legal avenues after a complainant reports the incident to the Prosecutor's Office. Reporting parties must consider the differences in the administrative and legal definitions should they wish to report a crime to the Ecuadorian police or Prosecutor's Office.

- a. **Sexual Misconduct:** broad term encompassing any unwelcome conduct of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation. The misconduct may be subtle and indirect or blatant and overt. Such harassment can also occur in person or via electronic, print or other media. It may consist of repeated actions or may arise from a single incident if sufficiently severe. The complainant as well as the respondent may be male or female, and the complainant does not have to be of the opposite sex of the respondent.

Sexual misconduct includes but is not limited to conduct such as sexual harassment, sexual assault, rape, sexual coercion, sexual exploitation, stalking, and intimate partner violence.

All members of USFQ, regardless of their age, sex, role or academic standing, that commit the aforementioned prohibited conduct, may be subject to a formal internal investigation and potential disciplinary actions in accordance with the norms established in the University's Sexual Misconduct Reporting and Investigation Protocols.

- b. **Sexual Harassment:** any unwelcome physical or verbal conduct of a sexual nature that is so severe, pervasive, and objectively offensive that it effectively denies or limits a person's equal access to participate in or benefit from the University's education program or activity. It may occur in hierarchical relationships, in relationships between peers, and between people of either the same or different sexes.

Sexual harassment consists of sexual innuendos that cause discomfort, requests for sexual favors, and other verbal or physical insinuations. Conduct of a sexual nature becomes a violation of this policy when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status;
- Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting such individual;
- Such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or educational environment

Some forms of Sexual Harassment include:

- Verbal harassment of a sexual nature, including repeated unwelcome flirtations
- Verbal conduct that includes using derogatory comments, epithets, and/or slurs
- Requests for sexual favors
- Unwelcome sexual advances, whether or not they involve physical touching
- Unwanted touching or physical contact
- Physical acts of sexual assault such as fondling or groping
- Feeling pressured to engage with someone sexually
- Indecent exposure, including exposing oneself, performing sexual acts on oneself, or sharing unwanted sexually explicit photos, emails, or text messages
- Non-consensual recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts of another

Other forms of harassment or discrimination, for example those based on stereotypes about gender, sex, sexual orientation, race, religion or political inclination, are also prohibited.

- c. **Non-Consensual Sexual Contact/Sexual Assault:** a form of sexual harassment that refers to sexual contact or behavior, however slight, that occurs without the explicit consent of the

victim. This includes non-consensual touching, kissing, or fondling of another person in a sexual way, whether the person is clothed or unclothed; or forcing someone to touch oneself or another in a sexual way that does not involve penetration. Some forms of sexual assault include:

- Attempted rape
  - Fondling or unwanted sexual touching
- d. **Non-Consensual Sexual Intercourse/Rape:** penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- e. **Sexual Exploitation:** occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own benefit or advantage, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include:
- Invasion of sexual privacy
  - Prostitution
  - Non-consensual video or audio-taping of sexual activity
  - Going beyond the boundaries of conscience, such as letting your friends hide in a closet to watch consensual intercourse
  - Knowingly transmitting an STI or HIV to another individual
- f. **Sexual Coercion:** to use pressure through intimidation, alcohol, drugs, force, or explicit or implicit threats of physical or emotional harm that would reasonably place an individual in fear of immediate or future harm and that is used to persuade or compel someone to engage in sexual contact against his or her will. This includes persistent attempts to have sexual contact with someone who has already refused a type of sexual contact.
- g. **Stalking:** the pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking behavior can take many forms including:
- Making threats against someone or that person's family or friends
  - Non-consensual communication, such as repeated phone calls, emails, text messages, and unwanted gifts
  - Repeated physical or visual closeness, like waiting for someone to arrive at certain locations, following someone, or watching someone from a distance
  - Any other behavior used to contact, harass, track or threaten someone
- h. **Intimate Partner Sexual Violence:** physical, emotional, or psychological violence that threatens, creates fear, or causes intimidation to another person within the context of an intimate (meaning sexual or romantic) or formerly intimate relationship. This may include dating violence, domestic violence, or domestic abuse.

## ADDITIONAL INFORMATION

The Dean of Students or Ombudsman will assess reported incidents of alleged sexual misconduct violations on a case-by-case basis. The following information will be considered in each reported incident:

### Statute of Limitations

Incidents of sexual misconduct must be reported to the Dean of Students or Ombudsman either during the semester in which the incident occurred or the semester immediately following the alleged

incident. The University has “actual knowledge” of the incident only when the Dean of Students or Ombudsman receives a sexual misconduct incident report. Prior interactions between the complainant and USFQ employees or students are not considered “actual knowledge,” and USFQ is not required to respond. The University encourages all USFQ community members to report alleged incidents of sexual misconduct as soon as possible in order for the University to investigate the incident most effectively.

#### Jurisdictional Criteria

Only academic programs and activities are considered within USFQ’s administrative jurisdiction. The activity may be on or off campus if it is owned, sponsored by, funded, promoted, or endorsed by the school within an academic context. Incidents of sexual misconduct that occur outside of USFQ jurisdiction may still be reported to the Dean of Students or Ombudsman, but the selected course of action may not include an investigation or sanctions. Members of the USFQ community who are victims of sexual misconduct outside of USFQ jurisdiction will still be offered supportive measures.

#### Supportive Measures

Once the Dean of Students or Ombudsman receives a sexual misconduct incident report, the complainant will be offered supportive measures and will continue to be offered such measures throughout the duration of an investigation and decision-making process. Complainants maintain autonomy throughout the reporting process and therefore maintain the right to decide whether or not to formally report the alleged incident and initiate the administrative investigation protocols. If a complainant decides not to formally report the incident, only the complainant will be offered supportive measures as the respondent of the alleged incident will not be informed automatically, investigated, or sanctioned. If a complainant initiates the formal administrative investigation protocols, both the complainant and respondent will be offered supportive measures throughout the duration of the administrative process.

Supportive measures include but are not limited to: access to campus counseling services, academic support, modifications to class or work schedules, security measures such as campus escort services, mutual restrictions on contact between parties, changes in work or housing locations, increased security or monitoring in certain areas of the campus, and reference to legal resources.

#### Confidentiality

Once a report has been submitted to the Dean of Students or Ombudsman, some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible. No promise of anonymity can be made once a sexual misconduct incident report has been submitted. The University has an administrative responsibility to conduct an investigation if the complainant files a formal report. Information will be released on a need-to-know basis. Within these constraints, all parties involved are requested to maintain confidentiality. Publicly available records will be kept without including identifying information about the complainant or respondent (i.e. USFQ statistics database).

In accordance with Ecuadorian law, victims of sexual misconduct have the right to decide how to report an incident either to USFQ administration or the Ecuadorian police. USFQ authorities will not initiate an administrative process against the respondent without the victim’s explicit request.

Students may speak confidentially to licensed mental health counselors in the Dean of Students Office. These employees have a confidentiality privilege to protect the personal identification of the reporting party and can fulfill their reporting requirements by making general reports for statistical purposes and pattern tracking, but do not divulge personally identifiable information. Please note that if a USFQ

community member reports to a confidential employee and requests confidentiality, the information will not be shared with the Dean of Students or Ombudsman and an investigation will not be initiated.

**Dean of Students Office Counseling Services**

Estefanía Sevilla

[aesevilla@usfq.edu.ec](mailto:aesevilla@usfq.edu.ec)

Maria Belén Vasconez Cruz

[bvasconez@usfq.edu.ec](mailto:bvasconez@usfq.edu.ec)

Make an appointment with either counselor [here](#).

Malicious and False Reporting

Sexual harassment often involves interactions between people that are not witnessed by others. As such, a lack of evidence is not an obstacle to making a complaint. However, individuals that make false or malicious reports will be subject to disciplinary action, in accordance with the *USFQ Código de Honor y Convivencia*.

Retaliation

All forms of retaliation against a reporting party are strictly prohibited, in accordance with the *USFQ Código de Honor y Convivencia*. This includes threats, intimidation, blackmail or any other adverse action that could affect one's academic, labor, or investigative position.

# UNIVERSITY SUPPORT SERVICES

Whenever a student at USFQ has been the victim of sexual misconduct, the University aspires to support the student with academic, psychological, and legal counseling, as well as investigate and resolve disciplinary infractions. Should a member of the University community experience sexual misconduct, inquiries and complaints may be directed to:

**Ombudsman:** The Ombudsman's Office receives and resolves complaints about sexual misconduct when the offensive attitude or behavior is enacted by any non-student member of the University community. For example, professors, administrative personnel, service workers, USFQ providers, etc.

Michelle Anderson  
Ombudsman  
Newton 316  
+593 2 297 1700, ext. 1733  
[ombudsman@usfq.edu.ec](mailto:ombudsman@usfq.edu.ec)

**Dean of Students:** The Dean of Students Office receives and resolves complaints about sexual misconduct or any violation of the Honor Code when the offensive attitude or behavior is enacted by a student member of the University community.

Nathan Digby  
Dean of Students  
Hayek 100K  
+593 2 297 1700, ext. 1087  
[ndigby@usfq.edu.ec](mailto:ndigby@usfq.edu.ec)

**Office of International Programs (OIP):** International students studying at USFQ as part of an international exchange program can report incidents or complaints to their program coordinators, the International Programs Director, or any other member of the International Programs Office who will ensure that appropriate university support services personnel are notified.

Christina Karambelas  
Student Wellness Advisor  
Casa Corona 202  
+593 2 297 1799, ext. 2169  
[ckarambelas@usfq.edu.ec](mailto:ckarambelas@usfq.edu.ec)

Priscila Baez  
Galápagos Semester Coordinator  
Casa Corona 202  
+593 2 297 1700, ext. 1434  
[pbaezb@usfq.edu.ec](mailto:pbaezb@usfq.edu.ec)

Carla Tapia  
Customized Programs Coordinator  
Casa Corona 202  
+593 2 297 1700, ext. 1249  
[ctapiac@usfq.edu.ec](mailto:ctapiac@usfq.edu.ec)

Nabih Dakih  
Customized Programs Coordinator  
Casa Corona 202  
+593 2 297 1700, ext. 1845  
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Mateo Saenz  
Assistant Dean of International Affairs  
Casa Corona 203  
+593 2 297 1700, ext.1255  
[msaenzh@usfq.edu.ec](mailto:msaenzh@usfq.edu.ec)

**Counseling Services:** Universidad San Francisco de Quito USFQ, through the Dean of Students Office, offers free, voluntary psychological assessment and counseling to any student who has been affected by incidents of sexual misconduct.

Maria Belén Vasconez Cruz  
Dean of Students Office Counseling Services  
[bvasconez@usfq.edu.ec](mailto:bvasconez@usfq.edu.ec)

Estefanía Sevilla  
Dean of Students Office Counseling Services  
[aesevilla@usfq.edu.ec](mailto:aesevilla@usfq.edu.ec)

General Counseling Services  
[consejeriasicologica@usfq.edu.ec](mailto:consejeriasicologica@usfq.edu.ec)

Make an appointment [here](#).

**Medical Services:** Victims of sexual assault and rape are encouraged to seek medical attention as such incidents can result in injury or illness that may not be immediately seen or felt. Medical care is important, regardless of whether the victim chooses to report the incident to the police.

#### *Legal Medical Exams*

Victims do not need to decide immediately following an incident of sexual assault or rape if they want to pursue legal action, but they will have more options available in the future if they undergo a legal medical exam at the Prosecutor's Office to preserve evidence.

*The Prosecutor's Office (Fiscalía):* Ecuadorian law requires victims to undergo legal medical exams at the Prosecutor's Office in order for the evidence of sexual assault or rape to be considered valid for a legal investigation. In normal instances, a licensed legal medical professional will perform the exam at the Prosecutor's Office. The victim should go to the Prosecutor's Office to undergo a legal medical exam in the same province in which the assault occurs. A complete list of Ecuadorian Prosecutor's Offices' addresses and contact information in every province can be found [here](#).

Victims are advised to bring a change of clothes with them to the legal medical exam as their clothing may be kept as evidence.

#### *Non-legal medical exams*

If a victim requires immediate medical attention, does not wish to undergo a legal medical exam, or would like additional treatment options after an incident of sexual assault or rape, they are encouraged to seek medical attention at a local clinic or hospital.

**University Clinic (SIME):** *Sistemas Médicos (SIME) de la Universidad San Francisco de Quito* is a nearby clinic affiliated with the university that specializes in offering comprehensive ambulatory care services dedicated to the resolution of clinical diagnoses. Walk-in and scheduled appointments are available.

Information and to make an appointment: +593 2 394 9000; +593 5 3700-230  
[sime@simeusfq.com](mailto:sime@simeusfq.com)

**Hospitals near the Cumbayá campus of the University include:**

Hospital de los Valles

+593 2 297 7900

Av. Interoceánica km 12.5 y Av. Florencia, Cumbaya Área

Hospital Voz Andes

+593 2 397 1000

Juan José Villalengua Oe2-37, Quito

Hospital Metropolitano

+593 2 399 8000

Av. Mariana de Jesús s/n y Nicolás Arteta, Quito

**Legal Services:** If a victim of sexual misconduct wishes to file a criminal accusation with Ecuadorian authorities, they must seek their own legal counsel. One resource available for incidents which occur in the Pichincha province is *Consultorios Jurídicos USFQ*.

*Consultorios Jurídicos USFQ*

If a complainant wishes to file criminal accusation about the alleged incident to the Prosecutor's Office, they may contact *Consultorios Jurídicos USFQ*, an institution which acts independently from the University. *Consultorios Jurídicos USFQ* offers free legal advice to students, should they want to make a formal report through legal, non-university, channels. FAQs of the *Consultorios Jurídicos USFQ* can be found [here](#).

If an incident occurred outside of the province of Pichincha, Ecuadorian law states that the criminal accusation must be presented to the Prosecutor's Office in the province in which the incident occurred. Therefore, *Consultorios Jurídicos USFQ* will refer the victim to an in-province Consultorio Jurídico to aid in writing and presenting the criminal accusation to the appropriate Prosecutor's Office.

Consultorios Jurídicos USFQ

Hayek CE014

+593 2 297 1786

[consultoriosjuridicos@usfq.edu.ec](mailto:consultoriosjuridicos@usfq.edu.ec)

Hours of Operation: Monday through Friday from 8:30 am to 4:30 pm

# REPORTING AND INVESTIGATION PROTOCOLS

Any member of the USFQ community who considers themselves to be affected by an act of sexual misconduct is strongly encouraged to report any incident which violates the USFQ Sexual Misconduct Policy to the Dean of Students or Ombudsman. The Dean of Students oversees the resolution of complaints against students, and the Ombudsman oversees the resolution of complaints against non-student members of the USFQ community. If a student reports sexual misconduct to a member of the USFQ community other than the Dean of Students or Ombudsman, such as a First Responder, dean, program coordinator, academic coordinator, professor, or supervisor, among others, the complainant (victim) or third-party reporter **must explicitly ask that USFQ community member to notify the Dean of Students or Ombudsman in order to proceed with administrative action.** Complainants may submit reports individually or with the help of a USFQ community member orally, in writing, or electronically via the [USFQ Discrimination and Sexual Misconduct Incident Report Form](#).

Only when the Dean of Students or Ombudsman receives a sexual misconduct incident report does the University have “actual knowledge” of the incident. Upon obtaining actual knowledge of an incident of sexual misconduct, **the University must respond meaningfully to every report within five (5) calendar days, excluding academic breaks detailed in the University Academic Calendar.** Prior interactions between the complainant and USFQ employees or students are not considered “actual knowledge,” and USFQ is not required to respond.

According to Ecuadorian law, the University may not pursue an administrative investigation into an alleged incident of sexual misconduct without the victim’s explicit request.

For immediate assistance, anyone who has been a victim of sexual assault should call 911.

## WHO CAN REPORT

All individuals who have personally experienced acts of sexual misconduct or have knowledge of violations of the USFQ Sexual Misconduct Policy are encouraged to report the alleged incident as soon as possible. Reporting parties may be one of the following:

- a. **Complainant:** any member of the USFQ community, including international and national students; international, national, full-time, and part-time professors; authority figures; administrative personnel, and security and workforce staff; among others who consider themselves to be affected by acts of sexual misconduct as defined in the USFQ Sexual Misconduct Policy are encouraged to report to the Dean of Students or Ombudsman.
- b. **Third-party Reporter:** any member or non-member of the USFQ community who reports alleged incidents of sexual misconduct to the Dean of Students or Ombudsman. Third-party reporters may be friends or family of the alleged victim, witnesses, or concerned parties who have knowledge of an alleged incident. Third-party reporters may submit reports to the Dean of Students or Ombudsman. Upon receipt of a report from a third-party reporter, the Dean of Students or Ombudsman will gather as much information as possible from the reporting party. They will then contact the alleged victim, who has the right to determine if and how they would like to report the incident to the University (informal incident report or formal complaint). **The University cannot initiate an investigation into an alleged incident reported by a third-party without explicit request from the alleged victim.**

## HOW TO REPORT

The University provides the following options for reporting acts of sexual misconduct. Complainants and third-party reporters are encouraged to report an alleged incident of sexual misconduct, regardless of when or where the incident occurred, and to seek any necessary help from campus or community resources.

### USFQ Administrative Action

Reports submitted to the University will be assessed as outlined in the USFQ Sexual Misconduct Policies and Protocols. Complainants are encouraged to report an alleged incident even if that individual is not seeking disciplinary action against a respondent. Upon receipt of a report, the University must deliver a resolution to the complainant and respondent (if applicable) within sixty (60) calendar days, excluding academic breaks detailed in the University Academic Calendar.

All reports will be sent to the Dean of Students or Ombudsman, who will communicate with the complainant to provide supportive measures and refer complainants to campus services such as counseling and legal resources. Supportive measures and resources are always available to a complainant regardless of the chosen course of action.

Upon receipt of a sexual misconduct incident report, the Dean of Students or Ombudsman will conduct a preliminary inquiry into the alleged incident. Although reports will be reviewed on a case by case basis, the Dean of Students and Ombudsman consider if:

- 1) The incident of sexual misconduct violates USFQ Sexual Misconduct Policy
- 2) The incident occurred within USFQ jurisdiction
- 3) The incident was reported within USFQ statute of limitations, which is defined as either during the semester in which the alleged incident occurred or the semester immediately following the alleged incident
- 4) The incident is considered a criminal act according to Ecuadorian law

Based on the circumstances in which the alleged incident occurred and was reported, the Dean of Students or Ombudsman will advise the complainant about the appropriate action. Complainants have the right to determine how to proceed, and the University will make every effort to respect the complainant's autonomy. The complainant may choose between two options:

1. ***Making an informal incident report:*** complainants will be offered a list of supportive measures and referred to counseling services and legal resources. Informal incident reports will be added to University statistics but will not be investigated. The respondent will not be notified of the allegations and will not be sanctioned. At any point within the USFQ statute of limitations, a complainant may file a formal complaint referencing the same alleged incident that is cited in the informal incident report.
2. ***Filing a Formal Complaint:*** complainants will be offered a list of supportive measures and referred to counseling services and legal resources. The alleged incident will be added to University statistics. Formal complaints initiate USFQ Sexual Misconduct Investigation Protocols. The respondent and complainant will be notified of the allegations, and a prompt, thorough, impartial investigation into the alleged incident may ensue. Complainants maintain the right to not participate in the formal investigation process, but once the investigation has begun with the consent of the complainant, it will proceed with administrative protocols regardless of the complainant's participation or cooperation. After the investigation, the respondent may be subject to disciplinary measures, and the complainant may be offered restitution measures by the decision-making bodies. The detailed investigation process can be found on page 17 of the USFQ Sexual Misconduct Policy and Protocols.

The differences between the formal complaint and informal incident report can be found [here](#).

If an international student reports an incident of sexual misconduct to the Dean of Students or Ombudsman, the USFQ Office of International Programs will be notified of the alleged incident. The USFQ Office of International Programs will then notify the complainant's host institution of the incident with the complainant's consent. Only if a formal administrative process begins will the USFQ Office of International Programs notify the respondent's host institution. After the investigation has concluded, the respondent's host institution will be notified of the respondent's Honor Code violation and outcome of the investigation.

### Ecuadorian Legal Action

**In accordance with Ecuadorian law, directors, educators or other responsible parties at educational institutions are obligated to report alleged incidents of sexual misconduct which constitute criminal acts to authorities at the Ecuadorian Prosecutor's Office (Art. 422 COIP). Full legal definitions of different types of sex crimes can be found [here](#). However, the Dean of Students or Ombudsman will consult with the complainant, consider the complainant's interests and protection, and obtain consent from the victim prior to initiating any legal action.**

Criminal sexual offenses have no statute of limitations within the Ecuadorian penal system. Therefore, victims of sexual harassment and assault are always able to independently file a criminal accusation detailing the alleged incident to Ecuadorian authorities at the Prosecutor's Office without the involvement of the University (*Fiscalía*). Details about how to file a criminal accusation and the subsequent process at the Ecuadorian Prosecutor's Office can be found [here](#).

If a complainant reports an incident of sexual misconduct to the Ecuadorian Prosecutor's Office, the University will cooperate with legal investigations but will not provide legal counsel for the complainant or the respondent. Should a complainant report the alleged incident to Ecuadorian authorities at any point after the University has reached a final administrative decision regarding the incident, the University will cooperate with and share evidence used in the administrative investigation with Ecuadorian authorities. However, the University's final decision cannot be used as evidence of guilt or innocence of the respondent.

While the University cannot offer free legal representation to students, the International Programs Office, the Dean of Students Office, or the *Consultorios Jurídicos USFQ* will accompany the student through the process and offer support in finding legal representation or other required services.

Frequently Asked Questions about the rights of victims of sexual misconduct and the role of USFQ in legal processes can be found [here](#).

### *In Instances of Non-Consensual Sexual Contact/Sexual Assault or Non-Consensual Sexual Intercourse/Rape*

As with every other alleged incident of sexual misconduct, a complainant in a case of non-consensual sexual contact/sexual assault or non-consensual sexual intercourse/rape maintains the right to decide to report the incident to USFQ authorities and/or the Ecuadorian authorities.

According to Ecuadorian law, however, the University does not have the legal authority to initiate the administrative protocols referenced on page 17 of the USFQ Sexual Misconduct Policy and Protocols in instances of non-consensual sexual contact/sexual assault or non-consensual sexual intercourse/rape. Therefore, even if a complainant formally reports such an incident to the Dean of Students or Ombudsman, the University cannot investigate the alleged incident or sanction the alleged assailant. Legal investigations into such criminal acts will only ensue if the complainant submits

a complaint to the Prosecutor's Office. Complainants are still encouraged to report the incident to the Dean of Students or Ombudsman so that the University can continually offer the complainant supportive measures throughout the duration of the Ecuadorian Prosecutor's Office investigation and judicial process.

#### **Sexual Harassment outside of USFQ Jurisdiction or Statute of Limitations**

If a member of the USFQ community feels they have been a victim of sexual misconduct which occurred outside of USFQ jurisdiction or by a person who is not a member of the USFQ community or wishes to report the alleged incident outside of the previously stated statute of limitations, the victim is still encouraged to report the incident to the Dean of Students or Ombudsman. The Dean of Students will review the circumstances of the alleged incident and offer the victim supportive measures and refer them to counseling services and legal resources aimed at securing both the physical and psychological well-being of the student.

# INVESTIGATION PROTOCOLS

Complainants who wish to pursue a formal complaint will be offered supportive measures, which will be continually available throughout the duration of the formal complaint process. Informal incident reports will not be investigated, but complainants will still be offered supportive measures.

All timeframes which indicate the University's allotted response time and investigation protocol deadlines will be postponed during the academic breaks listed in the University Academic Calendar.

## OVERVIEW OF PROTOCOLS

Once a formal complaint has been filed, the Dean of Students or Ombudsman must notify the complainant and respondent of the allegations and interview with an investigator. At this point, the respondent is offered the opportunity to accept responsibility for the alleged incident. If the respondent accepts responsibility, then the appropriate committee will recommend sanctions and restitution measures for the respondent and complainant, respectively. The Consejo Universitario notifies and delivers the sanctions and restitution measures to the respondent and complainant, if any. Should the complainant or respondent disagree with the final decision, they have the right to petition the Consejo Universitario to reconsider the decision under certain circumstances, as outlined in the *USFQ Código de Honor y Convivencia*.

If the respondent refuses to accept responsibility, a prompt, thorough, and impartial investigation will ensue. Investigators will submit an investigation report to the complainant, respondent, and decision-making bodies. The appropriate committee will then review the investigation report and invite the complainant and respondent to participate in a hearing. After the committee hearing, the appropriate committee will recommend sanctions and restitution measures to the Consejo Universitario. The Consejo Universitario notifies and delivers the sanctions and restitution measures to the respondent and complainant, if any. In most cases, should the complainant or respondent disagree with the final decision, they have the right to petition the Consejo Universitario to reconsider the decision under certain circumstances, as outlined in the *USFQ Código de Honor y Convivencia*.

A flowchart of administrative investigation protocols can be found [here](#).

The details of the investigation process are outlined below:

## INVESTIGATION PROTOCOLS

### a. Notice of Allegations and Interview

This notification informs the complainant and respondent of the allegations and upcoming investigation process and is sent five (5) calendar days after the Dean of Students or Ombudsman receives the initial sexual misconduct incident report. Both the complainant and respondent will be individually invited to an interview with the investigator. While the complainant and respondent are not obligated to participate in the investigation, they will be mandated to acknowledge the allegations and investigation process within five (5) calendar days.

In addition to outlining sufficient details of the alleged incident, the Notice of Allegations and Interview will enclose the USFQ Sexual Misconduct Policies and Protocols, name of the

investigator, University regulations regarding confidentiality and retaliation, and expectations for the interview.

b. Respondent Acceptance of Responsibility

After the respondent has received the Notification of Allegations and Interview, the respondent will be given the option to sign a written statement accepting the allegations put forth in the formal complaint. If the respondent chooses to accept responsibility, then they:

- Waive the right to an investigation.
- Are subject to the sanctions recommended by the appropriate committee and delivered by the Consejo Universitario, if any.
- Maintain the right to petition the Consejo Universitario to reconsider the sanctions if relevant new evidence has been discovered, USFQ failed to comply with due process, or the delivered sanction is suspension or expulsion, as stated in the *USFQ Código de Honor y Convivencia*.

c. Investigation

If the respondent does not accept responsibility for the alleged incident, the Dean of Students or Ombudsman will assign the appropriate internal or external investigator to conduct a prompt, thorough, and impartial investigation of the incident.

Investigations are conducted by officials who receive annual training on the issues related to sexual harassment, sexual assault, rape, and intimate partner sexual violence as well as how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability. Investigators act as neutral fact-finders and do not determine the sanctions for the involved parties.

Investigation and resolution procedures are intended to protect the rights of both the complainant and respondent, to protect privacy, and prevent retaliation. The complainant and respondent each have the right to request a substitution of the assigned investigator if the participation of that individual poses a conflict of interest. Any request to substitute the assigned investigator must be made to the Dean of Students or Ombudsman within one (1) calendar day to allow for prompt investigation.

The complainant and respondent have the right to refuse to participate in the investigation but are required to acknowledge the allegations. The investigation will proceed with or without the participation or cooperation of the parties.

The investigation process shall be completed within eighteen (18) calendar days. Both the complainant and respondent will be given the opportunity to present witnesses and evidence during this time period.

d. Investigation Report

Upon completion of the investigation, the investigator will prepare an investigation report, which consists of an executive summary and factual report of the investigation, memoranda of interviews, and interview recordings and transcripts. The complainant and respondent will be granted two (2) calendar days to review the evidence and investigation report prior to its submission to the appropriate committee.

After the complainant and respondent have been given the opportunity to review the case materials, the evidence and investigation report will be submitted to the appropriate committee for review. In a complaint against a student member of the community, the

recommendation-making committee shall be the Student Concerns Committee for the resolution of the case. In a complaint against a non-student member of the community, such as a USFQ authority, faculty member, administrative personnel, or other staff member, the recommendation-making committee shall be the Faculty Committee for the resolution of the case.

e. **Committee Hearing**

The appropriate Committee will review the formal complaint, First Responder's report (if applicable), investigation report, and evidence. It will then invite the complainant and respondent, individually, to a Committee Hearing. At this point, the complainant and respondent will be given the opportunity to clarify any information referenced in the investigation report and explain the incident, if desired. Participation of the respondent or complainant in the hearing is voluntary for both parties and not intended to re-victimize the complainant. Neither a complainant nor respondent's sexual history may be the subject of cross examination. Personal confrontations between the parties is not permitted in a hearing. At the conclusion of the hearing, the recommendation-making committee will produce a report to summarize its findings.

The Committee's report will include recommended sanctions and restitution measures for the respondent and complainant, which will be sent to the Consejo Universitario. The Consejo Universitario acts as the ultimate decision-making body for cases of sexual misconduct. The Committee will notify the complainant and respondent once its report has been submitted to the Consejo Universitario. The committee must review the case materials, conduct the hearing, and submit its report to the Consejo Universitario within five (5) calendar days.

f. **Consejo Universitario**

The Consejo Universitario will review the formal complaint, First Responder's report (if applicable), investigation report, evidence, Committee Hearing report, and Committee's recommendations to determine if a policy violation occurred and deliver sanctions and restitution measures to the respondent and complainant, if any. The Consejo Universitario may also call upon the complainant and respondent to participate in an additional hearing, if necessary. The Consejo Universitario must review the case materials and committee report, decide upon sanctions and restitution measures, and issue the written Notification of Outcome of Investigation to the complainant and respondent within fifteen (15) calendar days.

g. **Notice of Outcome of Investigation**

The Consejo Universitario will issue a written determination to the complainant and respondent, which must include:

1. The facts and evidence upon which the determination is made
2. Whether the respondent is responsible or not regarding each allegation

If the respondent is found responsible, the written determination must include:

1. Restitution Measures to be provided by the University to the complainant
2. Any sanctions imposed upon the respondent

h. **Restitution Measures & Sanctions**

If the Consejo Universitario verifies that sexual misconduct has occurred, USFQ will offer forms of restitution such as counseling, the opportunity to retake a course without penalty, or other measures that permit the complainant to overcome the injury caused.

If it is determined that the USFQ Sexual Misconduct Policy has been violated, the University could impose disciplinary sanctions in accordance with the *Código de Honor y Convivencia*, including up to suspension or expulsion.

Decision-making bodies charged with sanctioning the involved parties take into account the gravity of the policy infraction, the damage caused to others within the USFQ community, and the repercussions inside and outside of the community. Delivered sanctions correspond to the previously established sanctions listed in Article 207 of the *Ley Orgánica de Educación Superior (LOES)*.

i. **Petition to Reconsider**

In most cases, the complainant and the respondent may submit a written request within three (3) calendar days of the Notice of Outcome of Investigation to petition the Consejo Universitario to reconsider the outcome of the investigation.

A written request for reconsideration will only be permitted if:

- The delivered sanction is suspension or expulsion
- Relevant new evidence was found and must be presented to the decision-making body
- The University failed to comply with due process

## Legal Ramifications of Sex Crimes

According to Ecuadorian Criminal Code (*Código Orgánico Integral Penal*, 2014), the following sexual offenses are considered criminal acts and punishable by prison sentence:

### *Sexual Harassment*

Article 166 of the *Código Orgánico Integral Penal* (COIP, 2014) states that an authoritative figure such as a professor, religious authority, guardian or acting guardian, labor authority, caregiver, healthcare or educational professional, personnel responsible for the care of a patient, family members or any form of authority that implies subordination of the victim who takes advantage of their authority or power over a victim and solicits an act of a sexual nature for themselves or a third party shall be sentenced to one (1) to three (3) years in prison. If the victim is younger than 18 years old, disabled, or is unable to understand the significance of the act or for whatever reason cannot resist it, the sentence shall be three (3) to five (5) years in prison. Any person who solicits sexual favors and attempts to do so against the will of the other person that is not mentioned in the Article 166 shall be sentenced to six (6) months to two (2) years in prison.

### *Non-Consensual Sexual Contact/Sexual Assault*

Article 170 of the COIP (2014) states that the person who, against the will of another, commits an act of a sexual nature against the victim or forces the victim to commit an act of a sexual nature on oneself or another person without penetration shall be sentenced with three (3) to five (5) years in prison. If the victim is younger than 14 years old, disabled, unable to understand the significance of the act or for whatever reason cannot resist it, or if the victim, as a consequence of the crime suffers physical injury, permanent psychological damage, or contracts a serious or fatal illness, the assailant shall be sentenced to five (5) to seven (7) years in prison.

### *Non-Consensual Sexual Intercourse/Rape*

Article 171 of the COIP (2014) states that the total or partial penetration of the mouth, anus, or vagina by a penis, finger(s), objects, or other organs of a person of either sex is a crime. The assailant shall be sentenced to nineteen (19) to twenty-two (22) years in prison in any of the following cases:

1. If the victim was unable to resist because he/she was unconscious, incapacitated, or suffers from a mental or physical disability.
2. If violence, threats, or intimidation were used.
3. If the victim is younger than 14-years-old.

The assailant shall be sanctioned with the maximum prison sentence after the first offense if:

1. The victim suffers physical injury or permanent psychological damage as a result of the incident.
2. The victim contracts a serious or fatal illness as a result of the incident.
3. The victim is less than 10-years-old.
4. The assailant is a guardian, legal representative, caregiver, or any other person within the intimate circle of the family or of the victim, religious minister, educational or health professional, or any person that has custody over the victim.
5. The assailant is an ascendant, descendent, or family up to fourth-degree blood relative or second-degree affinity relative.
6. The victim is under the care of the assailant for whatever reason.

In all cases, if the incident results in the death of the victim, the assailant shall be sentenced to twenty-two (22) to twenty-five (25) years in prison.

### *Legal Ramifications of Sexual Exploitation*

Article 100 of the COIP (2014) states that the person who, for his benefit or in benefit of someone else, sells, lends, takes advantage of, or exchanges a person to execute one or more acts of a sexual nature shall be sentenced to thirteen (13) to sixteen (16) years in prison.

If the victim of such conduct is a senior citizen, child, teenager, pregnant woman, person with a disability or serious illness, person at risk or vulnerable in the situation or if the victim and assailant have or have had a consensual partner, familial, conjugal, or economically dependent relationship or if a connection to civil, military, educative, religious, or labor authority exists, the assailant shall be sentenced to sixteen (16) to nineteen (19) years in prison.

# Consultorios Jurídicos USFQ

## What is *Consultorios Jurídicos USFQ*?

*Consultorios Jurídicos USFQ* acts as an independent institution from USFQ. It handles hundreds of cases related to inter-familial violence, children, sex crimes, constitutional infractions, and human rights violations. *Consultorios Jurídicos USFQ*'s services are free if the income of the victim is less than \$1,500 a month. It operates Monday through Friday from 8:30am to 4:30pm.

*Consultorios Jurídicos USFQ* acts as a resource for victims of sexual misconduct should they wish to pursue Ecuadorian legal action. *Consultorios Jurídicos USFQ* may aid victims of sexual misconduct and alleged assailants (also referred to as complainants and respondents in the USFQ Sexual Misconduct Policy and Protocols) to understand the Ecuadorian legal processes carried about by the Prosecutor's Office (*Fiscalía*) should a criminal accusation be submitted. While *Consultorios Jurídicos USFQ* provides legal advice and may help a victim to write and present a criminal accusation to the Prosecutor's Office based on the criteria outlined below, *Consultorios Jurídicos USFQ* will not act as an individual's legal representation should a criminal case ensue. *Consultorios Jurídicos USFQ* can refer a victim or an alleged assailant to local legal resources which can act as legal representation. The costs of such third-party legal services remain the responsibility of the involved individual.

## How can *Consultorios Jurídicos USFQ* help me if I am the victim of a sex crime?

Regardless of the relationship of the alleged assailant to USFQ or the location of the incident, *Consultorios Jurídicos USFQ* can always assist in the initial intake of a victim's account and explain the necessary legal steps to file a criminal accusation with Ecuadorian authorities.

If the incident occurred in the province of Pichincha, the victim is a member of the USFQ community, **and the alleged assailant is NOT a member of the USFQ community**, *Consultorios Jurídicos USFQ* can help the victim of sexual misconduct to gather the necessary information to submit a criminal accusation to the Ecuadorian Prosecutor's Office (*Fiscalía*). A lawyer from *Consultorios Jurídicos USFQ* can also help the victim to write or review the criminal accusation. Additionally, a lawyer from *Consultorios Jurídicos USFQ* can accompany the victim to the Prosecutor's Office to submit the criminal accusation.

If the incident occurred in the province of Pichincha, the victim is a member of the USFQ community, and the alleged assailant is also a member of the USFQ community, due to biases or conflict of interest, *Consultorios Jurídicos USFQ* will refer the victim to another local Consultorio Jurídico. The lawyer at the third-party Consultorio Jurídico will aid the victim in writing and presenting the criminal accusation to the Prosecutor's Office.

If the incident occurred outside of the province of Pichincha, the victim is a member of the USFQ community, and the alleged assailant is or is not a member of the USFQ community, Ecuadorian law states that the criminal accusation must be presented to the Prosecutor's Office in the province in which the incident occurred. Therefore, *Consultorios Jurídicos USFQ* will refer the victim to an in-province Consultorio Jurídico to aid in writing and presenting the criminal accusation to the appropriate Prosecutor's Office.

Victims are able to submit written or oral criminal accusations in Spanish to the Prosecutor's Office independently, but *Consultorios Jurídicos USFQ* recommends victims present a written criminal accusation that has been reviewed and signed by an attorney. It also recommends that an attorney

accompany the victim to the Prosecutor's Office to submit the criminal accusation to avoid problems with Ecuadorian authorities.

# USFQ Discrimination and Sexual Misconduct Incident Report Form

## Reporting Sexual Misconduct

Anyone (USFQ faculty, staff, students, and other concerned parties) may report knowledge of incidents related to possible violations of USFQ Non-Discrimination and Sexual Misconduct Policy. USFQ uses the term Sexual Misconduct to describe incidents of sexual harassment, sexual assault, rape, sexual exploitation, sexual coercion, stalking, and intimate partner violence.

Reports will be sent directly to the Dean of Students or Ombudsman at which point the University has actual knowledge of the alleged incident and is obligated to respond to the reporting party. The Dean of Students or Ombudsman will respond to the reporting party within 5 calendar days, excluding academic breaks detailed in the University Academic Calendar.

If you need immediate assistance, please call 911.

**IMPORTANT:** In accordance with Ecuadorian law, directors, educators or other responsible parties at educational institutions are obligated to report alleged incidents of sexual misconduct which constitute criminal acts to authorities at the Ecuadorian Prosecutor's Office (Art. 422 COIP). **However, the Dean of Students or Ombudsman will consult with the complainant, consider the complainant's interests and protection, and obtain consent from the victim prior to initiating any legal action.**

Survivors of incidents of sexual harassment and assault are always able to independently report an incident to Ecuadorian authorities at the Prosecutor's Office without involvement of USFQ authorities (*Fiscalía*).

In either instance, the legal process acts independently from the USFQ administrative process. If the student decides to file a police report, the Dean of Students or Ombudsman can direct the student to the appropriate resources such as *Consultorios Juridicos USFQ*. While the University cannot offer free legal representation to students, the International Programs Office, Dean of Students Office, or the *Consultorios Juridicos USFQ* will accompany the student throughout the process and offer support in finding legal representation or other required services.

Please acknowledge that you understand the role of USFQ by checking the boxes below:

I acknowledge that reporting an incident via the USFQ Discrimination and Sexual Harassment Incident Report form only initiates USFQ administrative processes and does not in any way initiate legal action unless the University has previously informed me of any legal proceedings.

I understand that if I wish to pursue legal action I should either submit a written request to the Dean of Students or Ombudsman to explicitly request for them to direct me to legal services or go directly to *Consultorios Juridicos USFQ*.

If you are the victim of sexual misconduct and wish to initiate an administrative investigation within USFQ, please check the box below:

I am the victim of an incident of sexual misconduct and request that USFQ authorities begin the investigation process.

If you are not the victim of the alleged incident or are the victim of the alleged incident and are unsure whether you wish to pursue an administrative investigation, the Dean of Students or Ombudsman will contact you to discuss possible next steps.

### Reporting Party Information

This will include your personal information as the victim/survivor of the alleged incident or the third-party reporter.

Full Name			
USFQ ID #			
Email Address			
Cell Phone Number			
*Nature of Report	<input type="checkbox"/> Complaint against USFQ employee	<input type="checkbox"/> Complaint against USFQ Student	
	<input type="checkbox"/> Complaint against USFQ Community Member		
	<input type="checkbox"/> Complaint against Non-USFQ Community Member	<input type="checkbox"/> Unknown	
*Date of Incident (approximate if uncertain)			
Time of Incident			
*Location of Incident			

### Victim Information

If you are the victim and filled out the "Reporting Party Information" section, you may leave this section blank. If you are a third-party reporter, please fill out this section with the name of the victim.

Full Name			
Identifies as:	Male <input type="checkbox"/>	Female <input type="checkbox"/>	Gender Non-Conforming <input type="checkbox"/>
Comments:			
Status	USFQ International Student <input type="checkbox"/>	Faculty <input type="checkbox"/>	Staff <input type="checkbox"/>
	Non-USFQ Community Member <input type="checkbox"/>	USFQ Student <input type="checkbox"/>	Other <input type="checkbox"/>
Home Institution (if applicable)			

### Alleged Respondent Information

This includes information about the alleged assailant (referred to as the "respondent"). The respondent will not be contacted until a University official has contacted the complainant to explain the reporting and investigation process, if applicable.

Name			
Identifies as:	Male <input type="checkbox"/>	Female <input type="checkbox"/>	Gender Non-Conforming <input type="checkbox"/>
Comments:			
Status	USFQ International Student <input type="checkbox"/>	Faculty <input type="checkbox"/>	Staff <input type="checkbox"/>
	Non-USFQ Community Member <input type="checkbox"/>	USFQ Student <input type="checkbox"/>	Other <input type="checkbox"/>

Home Institution (if applicable)	
<b><u>Incident Report</u></b> Describe the incident you want to report. Please provide a description of the act of sexual misconduct that you experienced or witnessed and include the name(s) or descriptions of the individual(s) about whom you are making this report and of witnesses.	

Please write your name and student ID number (USFQ or Home University). With this electronic signature I certify that this information is true to the best of my knowledge.

Name:

Date:

Student ID:

### Witness Information 1

Please enter the information of any witnesses or third parties who may have information regarding the complaint, along with contact info if known:

Name			
Status	USFQ International Student <input type="checkbox"/>	Faculty <input type="checkbox"/>	Staff <input type="checkbox"/>
	Non USFQ Community Member <input type="checkbox"/>	USFQ Student <input type="checkbox"/>	Other <input type="checkbox"/>
Phone			
Email			
What information can this witness provide? To your knowledge, do they consent to being contacted as part of any enquiries that result from this process?			

### Witness Information 2

Please enter the information of any witnesses or third parties who may have information regarding the complaint, along with contact info if known:

Name			
Status	USFQ International Student <input type="checkbox"/>	Faculty <input type="checkbox"/>	Staff <input type="checkbox"/>
	Non USFQ Community Member <input type="checkbox"/>	USFQ Student <input type="checkbox"/>	Other <input type="checkbox"/>
Phone			
Email			
What information can this witness provide? To your knowledge, do they consent to being contacted as part of any enquiries that result from this process?			

## **Instructions & Information for Filing a Formal Complaint**

If you are reporting an incident enacted by a non-student member of the University community (i.e. professor, administrative personnel, service worker, USFQ provider), please send the following information to the Ombudsman, Michelle Anderson ([ombudsman@usfq.edu.ec](mailto:ombudsman@usfq.edu.ec))

If you are reporting an incident enacted by a student member of the University, please send the following information to the Dean of Students, Nathan Digby ([ndigby@usfq.edu.ec](mailto:ndigby@usfq.edu.ec)).

Information to send to Ombudsman or Dean of Students:

- This Discrimination and Sexual Misconduct Incident Report Form
- Any additional documentation that you think can be of use in an investigation of your report
- Any additional witness information you may have

If you are an international student and would like support or guidance in making a report, you may contact Nina Karambelas ([ckarambelas@usfq.edu.ec](mailto:ckarambelas@usfq.edu.ec)) or another member of the Office of International Programs with whom you feel most comfortable speaking.

## **University Resources for Victims of Sexual Assault**

In an emergency call **911**.

If you are an international student, you may call the OPI Emergency 24/7 phone, depending on your location:

- For emergencies in Cumbaya and Quito: **+593 98 083 4444**
- For emergencies in the Galapagos Islands: **+593 98 130 8687**

### **Dean of Students Counseling Services**

Universidad San Francisco de Quito, through the Dean of Students Office, offers free, voluntary psychological assessment and counseling to any student who has been affected by issues of sexual harassment or misconduct.

Estefania Sevilla  
[aesevilla@usfq.edu.ec](mailto:aesevilla@usfq.edu.ec)

Maria Belen Vasconez Cruz  
[bvasconez@usfq.edu.ec](mailto:bvasconez@usfq.edu.ec)

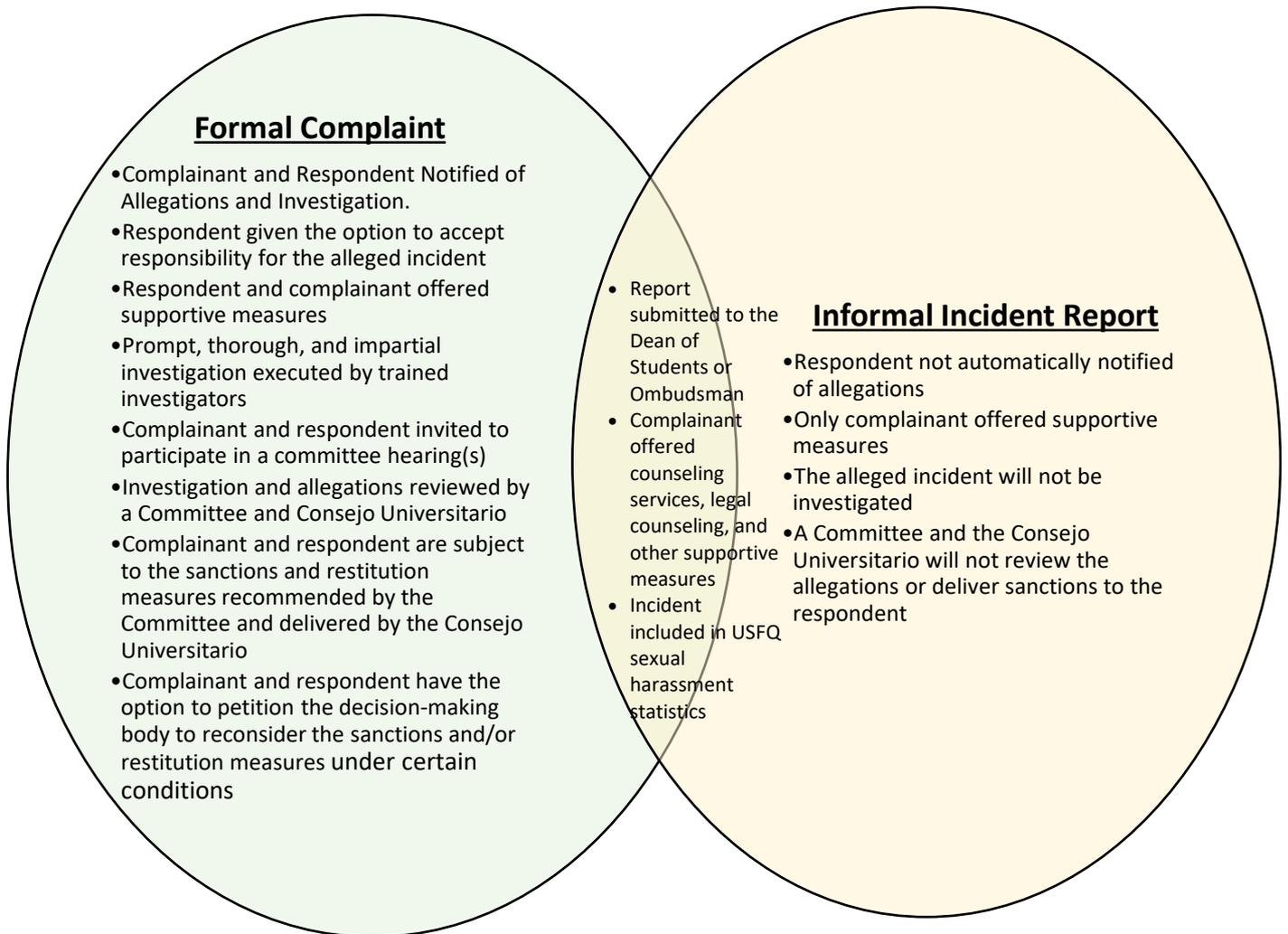
Make an appointment [here](#).

### **SIME Health Services**

Sistemas Médicas (SIME) de la Universidad San Francisco de Quito is a nearby clinic affiliated with the university that offers comprehensive care including mental health services. SIME accepts appointments and walk-ins.

For information and to make an appointment: **+593 2 394 9000; +593 5 3700-230**  
Or make an appointment online: [www.sime-usfq.edu.ec](http://www.sime-usfq.edu.ec)

# What is the Difference between a Formal Complaint and Informal Incident Report?



# Filing a Criminal Accusation with Ecuadorian Authorities

- 1. Ecuadorian Criminal Accusation:** According to Article 427 of the Ecuadorian Criminal Code, a criminal accusation can be submitted orally or in written form before the Prosecutor's Office (*Fiscalía*). The written accusation must be signed by the victim and must be in Spanish language. The oral accusation must be received in Spanish language, but the victim may state the accusation with the assistance of a translator during his/her visit to the Prosecutor's Office. Oral accusations must be signed by the victim after the facts are recorded on a physical document.

While victims are able to submit written accusations, it is best for victims to be accompanied by a lawyer to the Prosecutor's Office or present a criminal accusation signed by a lawyer at the Prosecutor's Office in case the Ecuadorian authorities have questions about the accusation.

- 2. Information that must be included in the Criminal Accusation:** According to Article 430 of the Ecuadorian Criminal Code, every criminal accusation, whether it is submitted orally or in written form, must contain the following information:
  - a. First and last name of the alleged assailant, nationality, passport number, age, address and email address for judicial notifications.
  - b. First and last name of the victim, nationality, passport number, age, address and email address for judicial notifications.
  - c. Clear description of the facts, location of where the alleged incident occurred, evidence, names of witnesses (if any), dates, times, and any information that could be useful for the Prosecutor's Office in the process.
  - d. Any and all circumstances that may help the Prosecutor's Office determine whether the alleged assailant exhibited criminal conduct.

- 3. After receiving a Criminal Accusation, the Prosecutor's Office carries out the following protocols:**

- a. Previous Investigation Phase:** Once the criminal accusation is formally received by the Prosecutor's Office, the first part of the Criminal Process, called Previous Investigation, starts. During this initial phase of the Criminal Process, which can last up to one (1) year if the crime has a sanction of maximum five (5) years or up to two (2) years if the crime has a sanction of more than five (5) years, the Prosecutor's Office is obligated to gather all the information necessary related to the criminal accusation received (Article 585 Ecuadorian Criminal Code).
- b. Actions during the Previous Investigation Phase:** During the Previous Investigation phase, the Prosecutor's Office can order several actions that they consider necessary to gather information and evidence to press charges against the alleged assailant. In crimes against sexual integrity, the most common actions taken by the Prosecutor's Office include ordering physical medical exams for the victim, ordering psychological exams for the victim, receiving declarations from witnesses, inspecting the location where the crime was committed, among others.
- c. Result of the Previous Investigation Phase:** After all the previously described actions are completed by the Prosecutor's Office during the Previous Investigation phase, the Prosecutor's Office will determine whether to dismiss the criminal accusation (which could trigger a process of reckless and malicious accusation described later in this document) or to press criminal charges before a Judge.

#### 4. Possible Outcomes of filing a Criminal Accusation

- a. **If the Prosecutor's Office is able to gather sufficient evidence:** If the Prosecutor's Office determines the existence of sufficient evidence in order to press charges against the alleged assailant and any other person who they could have considered for the commitment of a crime, the Criminal Process would continue before a Judge and a formal criminal trial will start.
- b. **If the alleged assailant is not present during the Criminal Process:** If the alleged assailant against whom the criminal accusation does not appear to defend himself, a Public Defense lawyer will be assigned during the Criminal Process.

#### 5. Important facts and responsibilities to be considered:

- a. **Private action vs. Public action:** According to the Ecuadorian Criminal Code, crimes are classified in two types. First, those of public action, in which, due to the importance of the crime, the Prosecutor's Office is obligated to prosecute when a criminal accusation is received (such as crimes against sexual integrity). Second, those of private action, in which only a private actor can prosecute by its own means.
- b. **Crimes against sexual integrity:** The Ecuadorian Criminal Code contains a specific section to describe and classify the different types of crimes against sexual integrity (Article 164 and the following). Some of these crimes are sexual harassment, sexual abuse and rape. Each one of them has a different description and sanction. However, all of these crimes are of public action, which means the Prosecutor's Office is obligated to prosecute when a Criminal Accusation is filed, even if the victim does not want to prosecute privately. All of these crimes are supposed to be confidential and avoid the revictimization of the victim. However, due the amount of people that could be involved in the Criminal Complaint process, several officers of the Prosecutor's Office will have to know the exact details of the crime and the personal information of the victim and alleged assailant.
- c. **Reckless and malicious accusations:** According to Article 270 of the Ecuadorian Criminal Code, when a person submits a criminal accusation without any bases and the facts aren't able to be proven, the accusation can be declared by a judge as reckless and malicious. If a criminal procedure results in the declaration from a judge as a reckless and malicious accusation, the person who proposed the accusation could face a sanction of six (6) to twelve (12) months of prison.

It is important to note that this is reliant upon "intentionality" of the victim. In reality, the victim's testament is a fundamental piece of evidence in cases of sex crimes. This accusation typically only applies if there is a reckless or malicious intention.

## Frequently Asked Questions

### **When will USFQ submit a criminal accusation to the Prosecutor's Office on my behalf?**

In accordance with Ecuadorian law, directors, educators or other responsible parties at educational institutions are obligated to report alleged incidents of sexual misconduct which constitute criminal acts to authorities at the Ecuadorian Prosecutor's Office (Art. 422 COIP). **However, the Dean of Students or Ombudsman will consult with the complainant, consider the complainant's interests and protection, and obtain consent from the victim prior to initiating any legal action.** Therefore, victims of a sex crimes maintain the right to decide whether or not to report the incident to the Prosecutor's Office. The legal process at the Prosecutor's Office acts independently from the USFQ administrative process.

Victims of sex crimes are also able to report an incident directly to the Prosecutor's Office without the involvement of USFQ authorities.

In either instance, victims of sex crimes are able to seek legal services at the *Consultorios Jurídicos USFQ* or elsewhere to receive advice about the legal process and/or submit a criminal accusation to the appropriate Prosecutor's Office at any point, which will be up to the victim's own discretion and not required of USFQ authorities.

### **If I submit a criminal accusation, what happens at the Prosecutor's Office?**

The Criminal Accusations guide is a helpful resource and can be found [here](#).

### **If I am a victim of a sex crime and submit a criminal accusation to the Prosecutor's Office but the investigators are unable to find conclusive evidence, can I be charged with 'Reckless and malicious accusations'?**

Very unlikely. A victim can only be accused of recklessness or maliciousness if that was the intention of the reporting party. Victim's testimonies are considered fundamental evidence in cases of sex crimes. Therefore, if the victim provides a statement, it is very unlikely that he or she could be charged for making reckless and malicious accusations.

### **If I have been sexually assaulted and file a criminal accusation with the Prosecutor's Office, can USFQ continue with its administrative processes?**

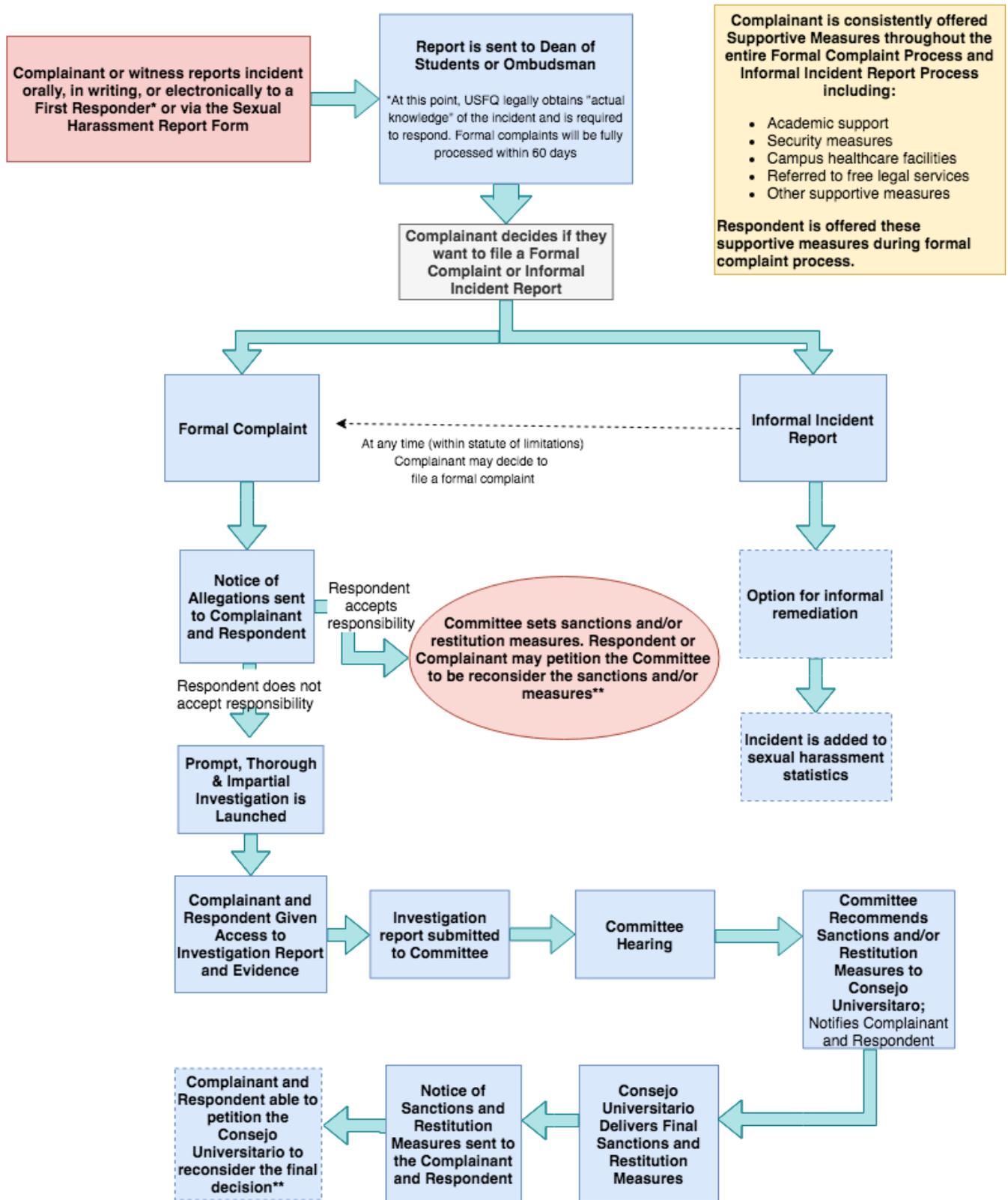
If a case of sexual harassment or other form of sexual misconduct that is not a criminal act has been reported to the USFQ Dean of Students or Ombudsman, the University is obligated to respond. All victims (referred to as 'complainants') will be offered supportive measures which include academic support, security measures, and access to counseling services. If the complainant makes an informal incident report, then the University will only provide the supportive measures to the complainant and add the alleged incident to the University's statistics. The respondent will not be informed of the allegations against them. If a complainant wishes to file a formal complaint, then the University will follow the pre-established Investigation Protocols, which can be found in the USFQ Sexual Misconduct Policy and Protocols. Such Investigation Protocols may result in an investigation into the alleged incident and sanctions or restitution measures for the alleged assailant (referred to as 'respondent') and the complainant.

According to Ecuadorian law, the University does not have the legal authority to initiate the administrative protocols referenced in the USFQ Sexual Misconduct Policy and Protocols in instances of non-consensual sexual contact/sexual assault or non-consensual sexual intercourse/rape. Therefore, even if a complainant formally reports such an incident to the Dean of Students or Ombudsman, the University cannot investigate the alleged incident or sanction the alleged assailant. Legal investigations into such criminal acts will only ensue if the complainant submits a complaint to the Prosecutor's Office. Complainants are still encouraged to report the incident to the Dean of Students or Ombudsman so that the University can continually offer the complainant supportive measures throughout the duration of the Ecuadorian Prosecutor's Office investigation and judicial process.

**If I am sexually assaulted, what medical resources are available to me?**

While it is critical to seek immediate medical attention, Ecuadorian law requires victims to undergo legal medical exams at the Prosecutor's Office in order for the evidence of sexual assault or rape to be considered valid for a legal investigation. In normal instances, this legal medical exam is performed at the Prosecutor's Office by a licensed legal medical professional. If the incident of sexual assault or rape occurred outside of the Pichincha province, victims should go to the closest Prosecutor's Office in the province in which the incident occurred. A complete list of Ecuadorian Prosecutor's Offices' addresses and contact information in every province can be found [here](#).

# USFQ Sexual Misconduct Administrative Investigation Protocol



**Complainant is consistently offered Supportive Measures throughout the entire Formal Complaint Process and Informal Incident Report Process including:**

- Academic support
- Security measures
- Campus healthcare facilities
- Referred to free legal services
- Other supportive measures

**Respondent is offered these supportive measures during formal complaint process.**

\*First Responder is a select member of the USFQ community who has been trained in receiving the initial reports of sexual assault or sexual harassment. This includes certain faculty, staff, administrators, and security department personnel.

\*\*The Complainant or Respondent may petition the decision-making body to reconsider sanctions and/or restitution measures within three days of the initial decision if and only if relevant new evidence has been discovered, USFQ failed to comply with due process, or the sanction is suspension or expulsion, as stated in the USFQ Código de Honor