



## **I. General Information**

Franklin University is an intentional learning community, whose mission is to provide high quality, relevant education, enabling the broadest possible community of learners to achieve their goals and enrich the world. Franklin University is committed to its educational mission and to ensure the rights of its community members. Each community participant has a right to be free from sexual harassment in the learning environment and work setting. As such, conduct that diminishes the dignity and worth of the community members is prohibited.

Franklin University does not discriminate on the basis of age, religion, race, ethnicity, color, national origin, ancestry, immigration status, sex, sexual orientation, gender identity or expression, marital or familial status, disability, or veteran or military status as it pertains to student admission, financial aid, educational or athletic programs, or employment. Conduct by students, student organizations, staff, faculty, administrators, trustees, volunteers, visitors, contractors, and vendors which violates this policy is considered disruptive to the educational environment and work setting. Any complaint by a member or guest of the University community is investigated and addressed.

Franklin University is committed to being an inclusive community free from all forms of discrimination and harassment in all university interactions as required by local, state, and federal laws and regulations. The following individual has been designated to handle civil rights inquiries regarding the anti-harassment, non-discrimination, and sexual misconduct policies and procedures:

Brandon Perry  
Equity & Title IX Coordinator  
Franklin University  
614-947-6913  
[TitleIX@franklin.edu](mailto:TitleIX@franklin.edu)

This policy, available at [www.franklin.edu/antidiscrimination](http://www.franklin.edu/antidiscrimination) supersedes all current University policies pertaining to sexual harassment. The University reserves the right to make changes to this policy. All changes will be posted online to the respective weblinks above. Portions of this policy are based on a model policy provided by ATIXA and authored by the NCHERM Group, LLC.

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## A. Policy Definitions

- Title IX Coordinator (hereinafter the Coordinator): the individual charged with coordinating the University response to reports and complaints of all misconduct covered under this policy; they do not serve as an advocate for either the Complainant or Respondent.
- Complainant: the individual(s) alleged to be the victim of conduct that violates this policy
- Respondent: the individual(s) alleged to be the perpetrator of conduct that violates this policy
- Campus Security Authority: is a Clery Act-specific term that encompasses four groups of individuals and organizations associated with an institution:
  - A campus police department or a campus security department of an institution.
  - Any individual or individuals who assume responsibility for campus security but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into institutional property). Includes individuals who provide security at a campus parking kiosk, monitor access into a campus facility, act as event security or escort students around campus after dark.
  - Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
  - An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.

### • The Coordinator and Other Reporting Information

The Title IX Coordinator has been designated as the institution's coordinator for the University's response to all claims of sexual harassment and sex-based discrimination. Students and/or employees may contact the Coordinator in order to:

- seek information or training about rights and courses of action available to resolve reports or complaints that involve potential sexual harassment and/or misconduct;
  - file a complaint or make a report of sexual harassment or sex-based discrimination;
  - notify the University of an incident or policy or procedure that may raise potential concerns related to this document;
  - obtain information about available resources (including confidential resources) and support services relating to sexual harassment, sex-based discrimination, sexual assault; and
  - ask questions about the University's policies and procedures related to sexual harassment
- The Coordinator monitors and advises compliance, including:

- Training, consultation, and technical assistance on Title IX for students and employees;
- Conducting adequate, reliable, and impartial investigations of reports and complaints; and
- Implementing steps to ensure the Complainant's equal access to the University's programs and activities and protect the Complainant as necessary

The University has designated following person to serve as an alternate coordinator, and to investigate potential policy violations against the Coordinator:

Christopher Tyner

Executive Director of Student Life & Community Standards

614-947-6781

christopher.tyner@franklin.edu

### C. Mandatory Reporters

Federal laws establish responsibilities for employees to report certain types of crimes and incidents, particularly sexual misconduct: Title VII, Title IX and the Clery Act. Each of these laws has a different purpose, but generally they are intended to protect members of the campus community, visitors, and guests from criminal and discriminatory behavior. The responsibilities established by these laws give rise to the term "mandatory reporter." Additionally, state law imposes mandates with respect to the reporting of child and elder abuse, sexual abuse, and felony crimes under federal, state, and local laws.

University employees are expected to report such crimes immediately. The University defines all Campus Security Authorities, all employees (both staff and faculty), and all volunteers who have mentoring or supervisory relationships with students as mandatory reporters, except those listed under "Confidential Reporting" below. If you become aware of an incident of potential sexual harassment, you are expected to promptly contact the Coordinator. Other serious crimes, including those covered by the Clery Act, must be reported to Campus Safety and Security.

Where student employees have supervisory or mentoring roles (e.g., student manager, resident assistant, student coach), oversee a facility (e.g., Student Center or Library), or otherwise have authority that affects the work or educational environment of other students, they are considered mandatory reporters under this policy.

When mandatory reporters believe that someone is about to discuss a reportable issue, please inform that person of duty to report. Reporters may use this script as a guideline:

*I need to tell you that I am a mandated reporter. I may have to report anything you say. Your personal safety and overall health is our number one concern. The reason we do this report is to make sure you are able to get all the help and support you need. I will keep the information you share as private as I can, but I am required to bring it to the attention of the institution's Coordinator. I will only report what you confide in me. **I also have confidential contacts to share with you. These are people who are able to listen and support you and who will not share anything you tell them.** You also have the right to file a Title IX complaint and the right to report the crime to campus or local police. Franklin University understands that reporting a*

*crime may involve disclosing sensitive information and cannot promise complete confidentiality, however they will work to ensure each situation is resolved as discreetly as possible.*

If you are in a life-threatening situation or are witness to a serious crime, please call 9-1-1 first before calling Campus Security or the Coordinator.

**Report to Coordinator**

- Discrimination
- Harassment based on protected class
- Sexual Harassment
- Sexual Assault
- Stalking
- Relationship Violence (Domestic or Dating)

**Report to Campus Safety and/or supervisor:**

- Murder/Non-negligent manslaughter
- Negligent manslaughter
- Robbery
- Aggravated assault when not based on protected class
- Burglary/Theft
- Motor vehicle theft
- Arson
- Simple assault
- Destruction/damage/vandalism or property
- Liquor, drug or weapons law violations/arrests

When reporting crimes or misconduct, a University employee will provide names, descriptions, witness information as they are able, and if a clear threat to health or safety is present, some identifying information may be required. Other campus officials may need additional information in order to fulfill the University's obligations under various laws. When reporting crimes or misconduct, a university employee cannot and should not promise confidentiality.

In some cases, Campus Safety and Security may be required to release a timely warning to the University community about a threat to the community. In such cases, an initial investigation or determination of the nature of the threat may be conducted, after which a warning will be issued immediately.

**D. Confidentiality & Privacy**

Confidentiality and privacy are valued for parties involved in an incident of sexual harassment. When the investigation and/or resolution process requires disclosure of certain information, the University will keep the Complainant informed and protected to the extent permitted by law.

The University cannot promise complete confidentiality. However, we will work to ensure each situation is resolved as privately as possible in compliance with the Family Educational Rights and Privacy Act (FERPA), a federal law and 34 CFR §106.30. The University understands that reporting a crime may involve disclosing sensitive information, and it will use and disseminate such information consistent with the need to conduct an appropriate investigation, to provide supportive measures to Complainants and Respondents, and to perform other appropriate university functions. The University is required by Ohio Law ([2921.22](#)) to report all felonies that have knowingly been or are in the process of being committed to law enforcement authorities.

Note that the use and release of personally identifiable information from an education record of a student is governed by the Family Educational Rights and Privacy Act (FERPA), and the University will only disclose covered student information in compliance with that law and university policy.

### Confidential Resources

If a Complainant does not desire action by the University and would like the details of the incident to be kept confidential, the Complainant may seek support and/or guidance from certain resources who are not required to tell anyone else private, personally identifiable information unless there is cause for fear of Complainant's safety, cause for fear of the safety of other members of the community, and/or situations that mandate reporting, such as child or elder abuse. In addition, both Complainant and Respondent may access the resources during and after the Title IX process in order to regain control over their educational environment. These resources are listed below:

### Franklin University

Sexual Assault Response Network of Central Ohio: 614-267-7020  
[www.lighthouse-services.com/franklin](http://www.lighthouse-services.com/franklin)

### National Resources

National Sexual Assault Hotline: 800-656-HOPE (4673)  
National Domestic Violence Hotline: 800-799-SAFE (7233)  
National Organization for Victims Assistance: 800-TRY-NOVA (879-6682)

### **E. Reporting under This Policy**

Reporting is vital. The University is committed to creating a culture of reporting by stressing the critical importance of the members of its community and the University's dependence on them as reporters. The University is obligated to follow up on all allegations and is able to respond formally to alleged incidents of sexual harassment that occurred on campus, that were part of official University program or activity, or where the Complainant and Respondent are members of the University community.

How to Report Sexual Harassment:

Brandon Perry  
Equity & Title IX Coordinator  
Email: [TitleIX@Franklin.edu](mailto:TitleIX@Franklin.edu)  
Phone: 614-947-6913

## **II. Sexual Harassment and Other Terms under Title IX**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Ohio regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

The University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

**A. Sexual Harassment**

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

1) QUID PRO QUO:

- a. an employee of the recipient,
- b. conditions the provision of an aid, benefit, or service of the recipient,
- c. on an individual's participation in unwelcome sexual conduct; and/or

2) SEXUAL HARASSMENT:

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to the University's education program or activity.

3) SEXUAL ASSAULT, DEFINED AS:

- a) Sex Offenses, Forcible:
  - i) Any sexual act directed against another person,
  - ii) without the consent of the Complainant,
  - iii) including instances in which the Complainant is incapable of giving consent.
- b) Forcible Rape:
  - i) Penetration,
  - ii) no matter how slight,
  - iii) of the vagina or anus with any body part or object, or
  - iv) oral penetration by a sex organ of another person,
  - v) without the consent of the Complainant.
- c) Forcible Sodomy:
  - i) Oral or anal sexual intercourse with another person,
  - ii) forcibly,
  - iii) and/or against that person's will (non-consensually), or
  - iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- d) Sexual Assault with an Object:
  - i) The use of an object or instrument to penetrate,
  - ii) however slightly,
  - iii) the genital or anal opening of the body of another person,

- iv) forcibly,
  - v) and/or against that person's will (non-consensually),
  - vi) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - e) Forcible Fondling:
    - i) The touching of the private body parts of another person (buttocks, groin, breasts),
    - ii) for the purpose of sexual gratification,
    - iii) forcibly,
    - iv) and/or against that person's will (non-consensually),
    - v) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - f) Sex Offenses, Non-forcible:
    - i) Incest:
      - 1) Non-forcible sexual intercourse,
      - 2) between persons who are related to each other,
      - 3) within the degrees wherein marriage is prohibited by Ohio State law.
    - ii) Statutory Rape:
      - 1) Non-forcible sexual intercourse,
      - 2) with a person who is under the statutory age of consent of 16
- 4) DATING VIOLENCE, DEFINED AS:
- a. violence,
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
    - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - iii. Dating violence does not include acts covered under the definition of domestic violence.
- 5) DOMESTIC VIOLENCE, DEFINED AS:
- a. violence,
  - b. on the basis of sex,
  - c. committed by a current or former spouse or intimate partner of the Complainant,
  - d. by a person with whom the Complainant shares a child in common, or

- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Ohio, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Ohio.

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6) **STALKING, DEFINED AS:**

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**B. Definitions and Terms under Title IX**

**STANDARDS FOR ASSESSING CONDUCT:** As used in the offenses above, the following definitions and understandings apply:

1. **CONSENT**

- a. knowing, and
- b. voluntary, and
- c. clear permission
- d. by word or action
- e. to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.



If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM<sup>1</sup> or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

## 2. FORCE

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

## 3. INCAPACITATION

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

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<sup>1</sup> Bondage, discipline/dominance, submission/sadism, and masochism.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

#### 4. COERCION

Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

#### 5. RETALIATION

Retaliation is any action, statement, or behavior that is designed to punish an individual for filing a report, cooperating with an investigation, seeking guidance regarding a concern or to deter someone from taking such action. Retaliation in any form will not be tolerated by any participant or third-party to a discrimination, harassment or sexual misconduct policy violation or suspected violation. Acts of retaliation will be investigated and addressed according to this policy.

### **C. Investigation Proceedings**

#### A. Response & Deliberate Indifference

When the University receives a notice of offense or formal complaint, the Coordinator or designee will take immediate action in the following ways.

- Offer supportive measures to the Complainant, regardless of whether a formal complaint has been filed.
- Confer with University Officials pertinent to implementing any immediate interim actions necessary to stop any discrimination or harassment.
  - Should the University determine that circumstances are severe enough to require action against the Respondent,
- Complete an initial assessment and make an initial determination whether a policy violation may have occurred.

- If a complaint does not appear to allege a violation under this section, then the complaint may be addressed under the Student Equity Policy or under Section (TBD) in the Employee Handbook

#### B. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Coordinator or designee engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

- The Coordinator reaches out to the Complainant to offer supportive measures.
- The Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
- If they do not wish to do so, the Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- The Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation process.
- If a formal complaint is made (requiring the signature of the Complainant), the Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- If an informal resolution option is preferred, the Coordinator assesses whether the complaint is suitable for informal resolution, and will seek to determine if the Respondent is also willing to engage in informal resolution.
- If a Formal Investigation is preferred, the Coordinator determines if the misconduct alleged falls within the scope of Title IX or this policy.

Once the decision to commence a formal investigation is made, the Coordinator appoints trained individuals to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

#### C. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all parties or the University's educational environment, and/or deter sexual harassment and/or retaliation.

The Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint with the University either at that time or in the future, if they have not done so already.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures.

University will act to ensure as minimal an academic or occupational impact on the parties as possible. Measures will be implemented in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

#### D. Formal Complaint

Anyone may file a report of sexual harassment, regardless of whether or not the reporter is the Complainant. In order to initiate Title IX proceedings, the Complainant must submit a written complaint to the Coordinator. Reports can be made by emailing [TitleIX@franklin.edu](mailto:TitleIX@franklin.edu). In addition, a formal complaint may be filed by the Coordinator should they feel that the allegations need further exploration.

Formal complaints must allege sexual harassment under 34 CFR §106.30 found in Section II-A of this policy. Formal complaints must also state that the alleged harassment occurred during a University activity or education program that took place in the United States. Lastly, Complainants who file a formal complaint must be a member of the University or seeking to become a member, and the Respondent must be within the University's control.

If the formal complaint meets the requirements of this section, the Coordinator will inform the parties of the options of informal resolution (see Section V of this policy) or formal investigation to address the complaint. The Complainant may, at any time, withdraw their formal complaint

If, based on the formal complaint, the Coordinator finds that it does not rise to a violation under this section, the formal complaint must be dismissed. However, if the complaint alleges violations of other sections of this policy, then a formal investigation may continue to address those allegations.

If the Respondent is not a member of the campus community or no longer a member, the formal complaint against the Respondent may be dismissed unless the Coordinator feels the proceedings should continue; however, the Complainant may still be entitled to remedies.

The Coordinator may also dismiss a formal complaint if specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or specific allegations therein.

The Coordinator will inform all parties of any dismissal as well as the reasoning behind the dismissal. ALL dismissals are appealable by both parties.

E. Notice to the parties

Once the Complainant or Coordinator has filed a formal complaint, both parties will receive a notice from the Coordinator or designee. All notices to both parties will be notified and include dates, times, and locations. Notices will also include a copy of these policies and procedure, the section of the code alleged to be violated, identities of the parties involved (if applicable), and available appointment times for an initial meeting with the Coordinator, designee, or investigator. Parties' will be given 5 business days to respond to notices.

F. Rights of the Parties

**Complainant's Rights** – During the initial meeting with the Complainant, the Coordinator will give an overview of these policies and procedures. In addition, the Coordinator will provide Complainant with his/her option to pursue an informal resolution if applicable.

The coordinator will also inform Complainant of his/her rights throughout the Title IX process. Complainant is entitled to have:

- An attorney, advisor, or support person in attendance with Complainant during all meetings, hearings, interviews, or other appearances during the process.
- Any supportive measures needed in order to maintain Complainant's safety and learning environment during the investigation
- Information of the confidential resources available.
- Contact information for the Coordinator, investigator, and decision maker assigned to the investigation.

**Respondent's Rights** – During the initial meeting with the Respondent, the Coordinator will give an overview of these policies and procedures. In addition, the Coordinator will provide Respondent with his/her option to pursue an informal resolution if applicable.

The Coordinator will also inform Respondent of his/her rights throughout the Title IX process. Respondent is entitled to have:

- An attorney, advisor, or support person in attendance with Respondent during all meetings, hearings, interviews, or other appearances during the process.

- Information on any supportive measures put in place should they require an action on the Respondent's part (i.e. a mutual no-contact order)
- Information of any confidential resources available.
- Contact information for the Coordinator, investigator, and decision maker assigned to the investigation.

#### G. Formal Investigation

If the parties decide not to pursue an informal resolution or if the Coordinator determines that an informal resolution would not be appropriate based on the circumstances, a formal investigation will commence.

The Coordinator will assign a trained, efficient, and impartial investigator. Each party will be informed by the Coordinator when the investigator has been assigned and be given the investigator's contact information. Parties will be afforded adequate time before interviews to secure representation if they wish; however, the securing of representation shall not impede the timeline of the investigation.

The investigator will conduct an impartial, unbiased, and thorough investigation within a reasonable and efficient timeframe. Each party will be interviewed by the investigator and asked provide witnesses and/or any evidence they wish to present to the investigator. In addition, the investigator may gather any and all evidence related to the investigation on behalf of the University.

Parties will be given 10 days to review and respond to any evidence uncovered by the investigator once evidence gathering has been concluded and a draft report has been made to all parties review. During this time parties may edit their statements, present new evidence, and reply to all evidence gathered by either party or the investigator. After the 10 day period, each party will receive notice from the Coordinator that the investigator has begun writing the investigative report. When the investigative report has been completed by the investigator, it will be sent to the Coordinator for review. After the Coordinator has reviewed the report, both parties will receive a copy of the investigative report of their review.

#### H. Hearings

Parties will be given the decision maker's contact details with the investigative report. Parties will be given 10 days to review the investigative report and may have pre-hearing conferences with the decision maker to determine the relevancy of questions. Pre-hearing conferences Parties are not required to have pre-hearing conferences with the decision maker, and any questions that the decision maker does not determine relevancy on in a pre-hearing conference may still be brought up at the live hearing.

After the 10 day period has been concluded, a hearing will commence. Hearings may be conducted in-person or remotely via the use of web conferencing technology. The Coordinator or decision maker can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should notify the Coordinator as soon as possible, preferably at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Each party is required to have an advisor, who is not required to be legal representation. If a party does not have an advisor, then the University will provide an advisor. Please note, the advisor the University provides does not have to be legal representation even if the opposing party has legal representation. Only advisors may pose questions to the decision makers and other parties or witnesses; parties may not directly communicate with each other during the live hearing.

All questions must be posed to the decision maker, who will determine if the question is relevant or irrelevant. If the decision maker deems a question relevant, it may be posed to the party or witness in question. If the decision makers deem a question irrelevant, the party asked will not be required to answer it. The decision makers will give a sufficient, reasonable explanation for why the question will not be answered.

All hearings will be recorded and available to either party as a part of the final report. Once the hearing has been concluded, the decision maker will make a determination of responsibility based on a preponderance of the evidence standard or 50.1% that the sexual harassment occurred.

I. Final Determination Report

The decision maker will have 5 days to make a ruling regarding responsibility and write the final determination report. The final determination report will be written by the assigned decision maker that details findings of fact, reasoning for responsibility determination, any sanctions/disciplinary actions imposed, or remedies given. The report will also give the parties details of how to request an appeal, and the basis on which an appeal may be filed. Lastly, the Coordinator will review the report and deliver it simultaneously to all parties. All appeals must be filed within 5 days of receipt of report.

J. Appeals

Each party may appeal from any determination regarding responsibility and/or the Coordinator's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

Any party may file a request for appeal, but it must be submitted in writing to the Coordinator within 5 days of the delivery of the Notice of Outcome. The Coordinator will forward the request to the appeals chair to determine if the request meets the requirement for appeal. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The

Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and any sanctions/disciplinary action that may take effect.

If the Petition for Appeal is accepted, the original decision will be reviewed by an unbiased appellate authority who is not the Coordinator, investigator, or decision maker of the original investigation. The appellate may speak with the parties, witnesses, investigator, decision-maker, and Coordinator if needed. In addition, parties are allowed to submit evidence relevant to the appeal to the appellate authority.

If the original decision is upheld, the Coordinator will notify both parties of the outcome, and sanctions/disciplinary actions will begin. The Coordinator will also inform both parties should the outcome of the original investigation change and what effect on sanctions/disciplinary actions or remedies that decision has. Once the appeal has been decided, no more appeals may be filed and the case will close.

**K. Contact Information**

Please contact the Coordinator with any questions regarding these policies at:

Brandon Perry

Franklin University, Fisher Hall Rm. 148 Columbus OH 43215

614-947-6913

[TitleIX@franklin.edu](mailto:TitleIX@franklin.edu)

**L. Informal Resolution**

The Coordinator will determine if a voluntary informal resolution process is appropriate based on the complexity of the matter and the severity and extent of the alleged harassment. There are some serious offenses that may not be resolved through voluntary informal resolution including but not limited to non-consensual sexual intercourse, domestic violence, and/ sexual harassment between an employee and student where the employee is the Respondent. A voluntary informal resolution may include but is not limited to mediation, targeted educational programming, and training for relevant individuals and groups.

If the Coordinator determines that voluntary informal resolution is an appropriate option then, during the initial meetings with Complainant and Respondent, the Coordinator will inform the parties of the option to proceed with a voluntary informal resolution process. The Coordinator will not force a Complainant to directly confront a Respondent in mediation. Either party may request a voluntary informal resolution; however, both parties must agree to undergo the process. If the matter is regarding an issue under section II of this policy, no informal resolution may begin without a formal complaint.



Once both parties agree to an informal resolution, the Coordinator will draft an Informal Resolution Agreement and deliver it to both parties. Each party has five (5) business days to sign the agreement. If the parties do not sign within the required time, the case will revert to a formal investigation. The Coordinator will coordinate the voluntary informal resolution process.

The Coordinator will assign an unbiased and trained party to facilitate to the informal resolution process. The Coordinator will schedule the beginning of the process approximately 5 business days after the informal resolution agreement has been signed. The facilitator will keep the Coordinator informed of the progress of the informal resolution and will inform the Coordinator if another meeting is needed. Either party may bring a support person to informal resolution proceedings, but all questions and comments must be directed to the facilitator, not directly between parties or their advocates. At any time prior to the conclusion of the voluntary informal resolution, either party may withdraw from the voluntary informal resolution and request a formal investigation.

Both parties must agree to the outcome of the voluntary informal resolution. If a mutual decision cannot be reached, the case will revert to a formal investigation. If a mutual decision is reached and agreed upon, neither party may appeal the final decision. Any information discovered during the course of a voluntary informal resolution process will not be considered during a subsequent formal investigation. The Title IX Office will seek to complete the process within thirty (30) days of the request for a voluntary informal resolution. In the event that the voluntary informal resolution exceed the timeframe initially established, the Title IX Office will notify all parties of the need for additional time, the reason that extended time is required, and an estimated timeframe for completion of the process. In no instances, will the informal resolution process delay University-provided support services, resources or other measures for either party.

## **IV. Sanctions**

Not all forms of discrimination, harassment and sexual misconduct are equally serious offenses, and the University reserves the right to impose varying sanctions or disciplinary actions, ranging from verbal warning to expulsion/termination, depending on the severity of the offense. The University will consider the concerns and rights of both the Complainant and Respondent. Sanctions or disciplinary actions can include but are not limited to:

- Writing warning
- Letter of Corrective Action
- Loss of Privileges
- Restriction from Campus
- Probation

- Suspension (for students)
- Paid or Unpaid Administrative Leave (for employees)
- Dismissal (for students)
- Termination (for employees)

## **V. Final Rules and Regulations**

### **A. Amnesty for Parties and Witnesses**

The University will take into consideration the positive impact of reporting an incident of sexual harassment when determining the appropriate response to reports. An individual who reports sexual harassment, either as a Complainant or third party, will not be subject to disciplinary action by the University for his/her own personal consumption of alcohol or drugs at or near the time of the incident, provided the specific incident has not come to the University's attention via normal reporting channels and/or any such violations did not and do not place the health or safety of any other person at risk. Education options may be explored, but no conduct proceedings or record will result.

### **B. Bystander Intervention**

The University encourages all community members to take reasonable and prudent actions to prevent or stop an act of sexual harassment. Taking action may include direct non-violent intervention, calling law enforcement, and seeking assistance from a person in authority. Community members who choose to intervene in good faith and reasonable manner will be supported by the University and protected from retaliation.

### **C. False Complaints**

The University has an obligation to investigate all complaints. However, it also recognizes that false complaints are likely to cause significant damage to the person and reputation of an individual who is wrongfully accused. Individuals found to have knowingly made false reports may be subject to disciplinary action, but an erroneous report made in good faith will not result in disciplinary action.

### **D. Other Reporting Options**

Inquiries or complaints that involve potential violations of Title IX may also be referred externally to the US Department of Education's Office of Civil Rights:

Office of Civil Rights, Cleveland Office  
US Department of Education  
1350 Euclid Avenue, Suite 325  
Cleveland, OH 44115-1812  
Phone: 216-522-4970

TDD: 800-877-8339

Email: [ocr.cleveland@ed.gov](mailto:ocr.cleveland@ed.gov)

Franklin University is committed to being an inclusive community free from all forms of discrimination and harassment.