



## **SEXUAL MISCONDUCT POLICY**

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## **I. INTRODUCTION**

Franklin Pierce University is committed to creating a community free from violence. Sexual assault, sexual harassment, domestic violence, dating violence and stalking as defined by State and Federal laws, will not be tolerated at Franklin Pierce University.

The University recognizes the necessity of a community which is open and intellectually stimulating, where diversity of ideas is valued and every person's safety, dignity, and autonomy is respected whether they are students, faculty, or staff, and regardless of race, ethnicity, age, religion, class, national origin, gender, sex, sexual orientation, or disability. The University is committed to addressing all concerns relating to incidents of sexual misconduct.

All members of the Franklin Pierce community share a responsibility for upholding this policy as we strive to attain our goal of creating a violence-free community.

## **II. STATEMENT OF POLICY**

If an allegation of sexual harassment or sexual violence (where the respondent is a student) does not meet the criteria (and thus, is formally dismissed) under the Title IX Grievance Policy, then the Title IX Coordinator in collaboration with the Assistant Dean of Student Affairs may decide to move forward with the allegations under the Sexual Misconduct Policy. Jurisdiction, definition of sexual harassment and status of the complainant, are a few examples of why a case might be dismissed as a Title IX Grievance and brought forth as a Sexual Misconduct Policy violation.

Franklin Pierce University prohibits sexual misconduct in all forms. Sexual Misconduct includes all forms of sexual harassment, sexual violence, sexual discrimination, domestic violence, dating violence, and stalking. This policy applies to all students and third parties regardless of race, ethnicity, age, religion, class, national origin, gender, sex, sexual orientation, or disability.

Sexual Harassment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, or objectively offensive that it effectively denies a person equal access to the recipient's education program or activity. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexual contact, gestures, comments, or other physical or verbal conduct of a sexual nature, when: (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's educational benefits; (2) Submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting that individual; or (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile or offensive educational environment.

Sexual Violence - Any non-consensual sexual penetration, non-consensual sexual contact and sexual exploitation:

- Non-consensual sexual penetration includes, but is not limited to, penetration of bodily orifice (vagina, anus, or mouth) by an object or body part, or attempts to commit the same, without effective consent.
- Non-consensual sexual contact includes, but is not limited to, physical contact or direct physical contact of the clothing covering a body part in a sexual nature (i.e., touching breast, buttocks, or pubic area) of anyone without his or her effective consent. In addition, any disrobing or other exposure to another without effective consent also constitutes non-consensual sexual contact.
- Sexual exploitation occurs when one person takes advantage of another without his or her consent for their own benefit, or to the benefit of anyone other than the person being exploited (examples might include: nonconsensual video, photography, audio-taping, or other mediums such as the Internet; peeping or voyeurism).
- Sex Discrimination occurs when a person is treated less favorably because of a person's actual or perceived sex, which includes sexual orientation, gender identity or expression, pregnancy or pregnancy-related condition or a sex stereotype.
- Dating/Domestic Violence: violence committed—
  - By a current or former spouse or intimate partner of the victim;
  - By a person with whom the victim shares a child in common;
  - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
  - By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. \*To categorize an incident as Domestic violence, the relationship between the perpetrator and the victim 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. Dating Violence: Violence as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party'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—
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of

such abuse.

- Dating violence does not include acts covered under the definition of domestic violence.
  - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - Fear for the person’s safety or the safety of others; or
  - Suffer substantial emotional distress. For the purposes of this definition
  - Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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. ○ Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
  - Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for their own or another’s safety, or to suffer substantial emotional distress. “Course of conduct” means two or more acts, including but not limited to acts in which the stalker directly or 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. “Reasonable person” means a person under similar circumstances and with similar identities as the complainant. “Substantial emotional distress” means a significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

### **III. STATEMENT ON CONSENT**

For the purpose of Franklin Pierce University’s policy and student conduct procedures, consent is defined as the act of willingly agreeing to engage in specific sexual behavior. Silence or non-communication is not to be interpreted as consent. Consent requires that a person is able to freely choose between two options: yes and no. A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate. Consent cannot be obtained by threat, intimidation, coercion or physical force. A person may be unable to give consent when they are incapacitated due to alcohol or drugs or otherwise physically or mentally incapacitated. A current or prior sexual or dating relationship does not constitute consent. A

person can withdraw consent at any time during the course of a sexual encounter. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another. Consent cannot be obtained from someone who is under the legal age of consent. Pursuing sexual contact in any form whatsoever with an unwilling or non-consenting partner is sexual assault.

#### **IV. OPTIONS FOR ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT**

Immediate Assistance for Rindge, NH Students:

- Campus Safety (603) 899-4210 or Emergency (603) 899-5555
- Residential Life (603) 899-4176 (after hours calls Campus Safety Dispatch at (603) 899-4210)
- Franklin Pierce Health Center (603) 899-4130 (after hours call Campus Safety Dispatch for EMTs at (603) 899-4210)
- Monadnock Community Hospital (603) 924-7191
- Monadnock Center for Violence Prevention (MCVP) (888) 511-6287
- Rindge Police Department 603-899-5009. If no answer call (603) 355- 2000 or 911 for Emergency.

Immediate Assistance for Manchester, NH Students:

- Campus Safety (603) 899-4210 or Emergency (603) 899-5555
- Franklin Pierce Counseling and Outreach Education (603) 899-4130 (after hours call Campus Safety Dispatch at (603) 899-4210)
- Manchester Police Department (603) 668-8711
- Elliot Hospital (603) 669-5300
- YWCA Crisis Hotline 603-668-2299

Immediate Assistance for Lebanon, NH Students:

- Campus Safety (603) 899-4210 or Emergency (603) 899-5555
- Franklin Pierce Counseling and Outreach Education (603) 899-4130 (after hours call Campus Safety Dispatch at (603) 899-4210)
- Lebanon Police Department (603) 448-1212
- Dartmouth-Hitchcock Medical Center (603) 650-5000
- WISE Crisis Center (866) 348-9473

Immediate Assistance for Goodyear, AZ Students:

- Campus Safety (603) 899-4210 or Emergency (603) 899-5555

- Franklin Pierce Counseling and Outreach Education (603) 899-4130 (after hours call Campus Safety Dispatch at (603) 899-4210)
- Goodyear, Arizona Police Department 623-932-1220 or 911
- West Valley Hospital (623) 882-1500
- EMPACT- Suicide Prevention Center Domestic Violence and Sexual Assault Services Main Line 480-784-1514 or Crisis Hotline 480-784-1500

Any party who obtains a court-issued protective order should notify the Title IX Coordinator and provide the Title IX Coordinator with a copy of the order. The party may meet with the Title IX Coordinator or designee to develop a safety action plan and put into place any necessary supportive measures.

#### Sexual Assault Response Team (SART)

There is a group of staff members charged with monitoring all sexual misconduct cases to ensure that students receive the assistance they seek (i.e., medical attention, counseling services, advocacy support, referrals, conduct intervention, etc.).

<https://www.franklinperce.edu/studentlife/student-conduct/SARHowtoReport.htm>

The following are key Staff members to whom a report may be made via email, phone or in person:

Gwen Goodman, Interim Chief Human Resources Officer and Title IX Coordinator

Office Location: In Human Resources, first floor of DiGregorio Hall

Phone: (603) 899-1076

[goodmang@franklinperce.edu](mailto:goodmang@franklinperce.edu)

Dr. Andrew Pollom, Dean of Student Affairs and Deputy Title IX Coordinator for Student Matters

Office Location: 1<sup>st</sup> Floor, Granite Hall inside Health Services area

Phone: (603) 899-4162

[polloma@franklinperce.edu](mailto:polloma@franklinperce.edu)

The Title IX coordinator, investigator and hearing board members shall receive annual training on issues relating to sexual misconduct, including investigatory and hearing procedures that protect the safety and rights of students and promote accountability, objectivity, impartiality, and a trauma-informed response.

### Confidential Resource Advisor (CRA)

Nicole Newell, Director of Counseling and Outreach, University designated Confidential Resource Advisor

Office Location: Wellness Center, ground floor of Granite Hall

Phone: (603) 899-4135

[Newelln@franklinpierce.edu](mailto:Newelln@franklinpierce.edu)

The CRA will be made available to all students or employees that report a complaint related to Title IX or individuals looking for information regarding reporting or supportive measures. The CRA shall provide resources regarding the following:

- Reporting options
- Counseling Services and local rape crisis center information
- Medical and health services available on and off campus
- Available academic and co-curricular accommodations
- Referral to Student Financial Services regarding loan counseling related to temporary leave of absence or withdrawal
- Opportunities for campus security escorts
- Overview of investigatory and adjudication process
- Referral to local crisis center or local police contact regarding legal process

Options:

Students have the right to:

- Report their complaint to the local Police Department
- Report the incident to University officials through a Responsible Employee which could include:
  - Campus Safety and Security;
  - Human Resources Administrators;
  - Dean and Assistant Dean of Student Affairs;
  - Assistant Director of Student Conduct and Community Standards;
  - Residential Life Professional Staff.

Other individuals obligated to report:

- Academic Department Chairs and Program Directors;
  - Other Deans, Associate Deans, Directors and Administrators with supervisory responsibilities;
  - Coaches including Assistant ADs and Assistant Coaches;
  - Faculty;
  - Staff;
  - Faculty/Staff advisors to student clubs/organizations;
  - Student Affairs professionals; including residential life para-professional staff.
- Report the incident anonymously  
[\[https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout\\_id=10\]](https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout_id=10)
  - Speak confidentially about an incident to a professional or licensed counselor at the university or off campus (e.g. local crisis center), or the university designated Confidential Resource Advisor
  - Seek medical attention on campus through Health Services, EMTs or off campus at the local community hospital
  - Have evidence collected by the local Police Department or local community hospital

University officials can assist complainants in seeking this assistance.

On-Going Assistance:

Support and on-going assistance can be provided by the University's Counseling and Outreach Center or by the local crisis center.

Accommodations as Supportive Measures:

The University can provide the following measures to ensure a student's access to the University's education program or activity and to protect the safety and well-being of all parties and the school's educational environment:

- No Contact Orders
- Modify class schedule
- Alternative housing arrangements
- Making other academic accommodations such as: absences, assignments, and grades
- Safety planning
- Counseling
- Leaves of absence



- Increased security and monitoring of certain areas of the campus

Supportive measures may be ongoing and will be periodically reviewed by the Title IX Coordinator to meet the needs of the parties. The University encourages any party seeking supportive measures or seeking to make changes to supportive measures to contact the Title IX Coordinator.

#### Emergency Removal

The University retains the authority to remove a respondent from Franklin Pierce's program or activity on an emergency basis, where the University undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies a removal. If Franklin Pierce determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal.

#### **V. REPORTING AND CONFIDENTIALITY**

The Franklin Pierce Community understands that all parties involved in the report of a violation of the sexual misconduct policy may experience significant distress, whether they be the complainant, the respondent, or another individual associated with the report. All parties involved are expected to be treated with respect and dignity and the community will provide a safe place where the individuals may receive appropriate personal support.

The University encourages complainants to talk to someone about what happened so the University can respond appropriately, but recognizes that not every individual is prepared to move forward with a formal complaint. This policy is intended to make students aware of the various reporting and confidential disclosure options available to them. The University encourages complainants to talk to someone in one or more of these groups. Different employees on campus have different abilities to maintain a student's confidentiality.

- Complete confidentiality can only be granted by those designated as confidential resources (see below) and typically include counselors, medical professionals and clergy. Some employees are required to report all the details of an incident (including identities of both the complainant and the respondent) to the Title IX Coordinator. A report to these employees (called "responsible employees") constitutes a report to the University.

- Individuals who would like to report an incident but wish to remain anonymous can report an incident via the Sexual Misconduct Anonymous Reporting Form [[https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout\\_id=10](https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout_id=10)]

## Amnesty

The University seeks to remove any barriers to reporting. An individual who reports sexual harassment or misconduct, either as a Reporting Party or a third party, will not be subject to disciplinary action by the University for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational or therapeutic remedies regarding alcohol or other drugs for those individuals.

## A. REPORTING OPTIONS

### Responsible Employees

Individuals may also choose to report incidents of prohibited conduct to University employees not specifically designated above. The following is a list of Responsible Employees who are trained to receive reports or complaints of sexual misconduct. These employees are “responsible employee” under Title IX because they have the authority to institute corrective measures, once these individuals are aware of a report of sexual harassment the university will be considered to have actual notice:

- President;
- Senior Officers (Vice Presidents and Upper level administrators);
- Human Resources Administrators
- Dean and Assistant Dean of Student Affairs
- Assistant Director of Student Conduct
- Residential Life Professional Staff
- Campus Safety and Security Staff

Other Individuals obligated to report include:

- Academic Deans and Program Directors;
- Other Deans, Associate Deans, Directors and Administrators with supervisory responsibilities;
- Coaches including Assistant Athletic Directors and Assistant Coaches;

- Faculty;
- Staff;
- Student Affairs professionals; including residential life para professional staff;

All employees are obligated to report incidents to the University's Title IX Coordinator or designee who will determine the most appropriate course of action. This legal obligation is based on the Title IX requirement that the University take immediate and corrective action once a Responsible Employee is aware of an incident of sexual or gender-based harassment or assault.

A responsible employee must report to the Title IX Coordinator or designee all relevant details about the alleged sexual misconduct shared by the student and that the University will need to determine what happened—including the names of the complainant and respondent (s), any witnesses, and any other relevant facts, including date, time, and specific location of the alleged incident.

### **Confidential Resources**

Counseling resources are available to anyone who thinks that they have been the victim of harassment, discrimination, and/or sexual misconduct, including sexual assault, dating violence, stalking, or domestic violence. Confidential Resources include Outreach and Counseling Services, for students at the Rindge campus, nurses and medical staff in Health Services, campus EMTs, Athletic Trainers, and the university designated Confidential Resource Advisor. While maintaining a complainant's confidentiality, these individuals or their office may report the nature, date, time and general location of an incident to the Title IX Coordinator. This limited report—helps keep the Title IX Coordinator informed of the general extent and nature of sexual misconduct on and off the campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the complainant to ensure that no personally identifying details are shared with the Title IX Coordinator.

Additional Confidential Resources are available off campus at the following locations:

- Local Victim Crisis Services
  - Monadnock Center for Violence Prevention (MCVP) (888) 511-6287 (Rindge, NH)
  - YWCA Crisis Hotline 603-668-2299 (Manchester, NH)
  - WISE Crisis Center (866) 348-9473 (Lebanon, NH)
  - EMPACT- Suicide Prevention Center Domestic Violence and Sexual Assault Services Main Line 480-784-1514 or Crisis Hotline 480-784-1500

(Goodyear, AZ)

- Any Mental Health Counselor
- Any Hospital, clinic or medical professional
- National Resources
  - National Sexual Assault Hotline (800) 656-HOPE (4673)

### **Law Enforcement (Criminal Complaint)**

All complainants have the option to notify the local law enforcement of an incident of sexual misconduct. The University will provide assistance to the student in making this notification if the student chooses to do so.

### **B. REQUESTING CONFIDENTIALITY FROM THE UNIVERSITY**

If the student discloses an incident to a responsible employee but wishes to maintain confidentiality or request that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students.

If the University honors the request for confidentiality, a complainant must understand that the University's ability to meaningfully investigate the incident and result in a hearing/outcome where a respondent is found responsible, may be limited.

Although rare, there are times when the University may not be able to honor the complainant's request to remain confidential in order to provide a safe, non-discriminatory environment for all students. Dr. Andrew R. Pollom, Dean of Student Affairs and Deputy Title IX Coordinator for Student Concerns (603-899-4162), is designated to evaluate requests for complainants to remain confidential, once a responsible employee has received notice of alleged sexual misconduct.

When weighing a complainant's request for confidentiality or that no investigation or discipline be pursued, the Dean of Student Affairs/ Deputy Title IX Coordinator for Student Concerns will consider a range of factors, including the following:

- The increased risk that the respondent will commit additional acts of sexual or other violence such as:
  - Whether there have been other sexual misconduct complaints about the same respondent;
  - Whether the respondent has a history of arrests or records from prior school indicating a history of misconduct;

- Whether the respondent threatens further sexual misconduct or other violence against the complainant or others;
- Whether the sexual misconduct was committed by multiple respondents;
- Whether the sexual violence was perpetrated with a weapon;
- Whether the complainant is a minor;
- Whether the University possesses other means to obtain relevant evidence of the sexual misconduct;
- Whether the complainant's report reveals a pattern of perpetration at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary actions. If none of these factors is present, the University will likely respect the complainant's request for confidentiality.

If the University determines that it cannot maintain a complainant's confidentiality, the University will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.

Retaliation against any individual within the process, whether by students or University employees, will not be tolerated. The University will also:

- Assist the any student in the process in accessing other available advocacy; or academic support; or counseling, disability, health or mental health services; or legal assistance;
- Provide other security and support, which could include issuing no-contact orders, helping arrange a change of living or working arrangements, or course schedules or adjustments for assignment or tests within reason; and
- Inform the complainant and respondent of the right to report a crime to local law enforcement.

The University may not require a student(s) to participate in any investigation or disciplinary proceedings.

Because the University is under a continuing obligation to address the issue of sexual misconduct University wide, reports of sexual misconduct (including anonymous reports) will also prompt the University to consider broader remedial action—such as increased monitoring; supervision or security at location where the reported sexual misconduct occurred; increasing education and prevention efforts, included to targeted population groups; conducting climate assessment surveys; and /or revisiting its policies and practices.

## C. MISCELLANEOUS

### Public Awareness Events

- Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, classroom settings (papers, articles, presentations, discussions, etc.) protests, “survivor speak out,” or other forums in which students disclose incidents of sexual misconduct are not considered notices to the University of sexual misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the University will provide information about student’s rights at these events if these disclosures are anticipated or planned.
- Although the University encourages students to talk to someone, the University provides anonymous reporting options. The anonymous reporting form informs the complainant that any identifiable information provided may serve as notice to the University for the purpose of triggering an investigation.
- Off-Campus counselors and advocates will also generally maintain confidentiality and not share information with the University unless the complainant requests the disclosure and signs a consent or waiver form.

### **Mandatory Reporting**

#### New Hampshire Law:

New Hampshire Law mandates that any person who has reason to suspect that a person is being abused or neglected must make a report to Bureau of Elderly and Adult Services (BEAS), for adults 18 years and older, or to the Division of Children, Youth, and Families (DCYF) for children under the age of 18. If you make a report to either BEAS or DCYF, please notify a Title IX Coordinator. Any questions regarding this policy can be directed to a Title IX Coordinator or Human Resources.

To report the potential of abuse or neglect involving an adult to the BEAS please follow these guidelines:

**If the vulnerable adult is not living in a nursing home or assisted living facility**, reports should be made to the Bureau of Elderly & Adult Services (BEAS) at 1-800-949-0470 (in-state) or 603-271-7014 (out-of-state) (8:00 am - 4:30 pm Monday - Friday) or the local district BEAS office. A list of BEAS district offices is available at: <https://www.dhhs.nh.gov/contactus/index.htm>.

**If the vulnerable adult is living in a nursing home or assisted living facility**, reports should be made to the Office of the Long-Term Care Ombudsman at 1-800-442-5640 (in-state only) or

603-271-4375 (8:00 am - 4:30 pm Monday - Friday). A Facility Initial Report Transmittal Form is available at: <https://www.dhhs.nh.gov/dcbcs/beas/documents/facility.pdf>.

**Reports should be made to the local police department or county sheriff after hours, weekends, or holidays.** Local police station information can be found at the Division of State Police website (available at: <http://www.nh.gov/safety/divisions/nhsp/contactus.html>).

To make a report to DCYF about the potential abuse or neglect of a minor please follow guidelines:

Call 800-894-5533 (in state only), or 603-271-6562 (out of state). Both numbers are staffed 24 hours a day, including weekends and holidays.

## **VI. STATEMENT OF RIGHTS**

It is the goal of Franklin Pierce University to ensure that students have access to needed resources, services and information.

The University assures all students (complainant and respondent) the following:

- To be treated with respect by University officials.
- To decide to file a complaint alleging the respondent violated the University's sexual misconduct policy. This decision shall rest solely with the complainant. There may be circumstances, however, depending on the status of the respondent and the seriousness of the offense, in which the University must take action to protect the complainant or other members of the University community.
- To be notified in writing/electronically of available personal counseling, mental health, medical or student services, advocates, both on campus and in the community.
- To receive notification in writing/electronically of options for and available assistance in changing academic, transportation and living situations after an alleged incident of sexual misconduct, if so requested and if such changes are reasonably available.
- To be notified in writing/electronically of option to notify law enforcement and be provided assistance by campus authorities in notifying law enforcement if the student chooses.
- The institution shall not publicly disclose the identity of the reporting party and the responding party, except as necessary to carry out a disciplinary process or as

- permitted under state or federal law.
- To be notified in writing/electronically of the right to request a no-contact order.
  - To be notified in writing /electronically of the option to report the incident to the University.
  - To have an advisor and confidential resource present at any meeting (i.e., meeting, interview, or conduct hearing).
  - To be notified of whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate
  - To be informed of the outcome and sanction of any sexual misconduct hearing involving in writing (complainant and respondent will be notified simultaneously).
  - To not have irrelevant prior sexual history admitted in conduct hearing.
  - To elect not to have reports of sexual misconduct resolved through the informal resolution process.
  - To be free from intimidating, harassing or retaliatory behavior that could constitute as a violation of university policy, local, state or federal law(s).
  - To have reports of sexual misconduct responded to in accordance with community standards and conduct procedures for students.
  - The right to request witnesses provide statements and if determined to have firsthand knowledge attend the hearing.
  - To appeal the finding and sanction of the conduct hearing in accordance with the standards for appeal established in the Student Code of Conduct. For more information, see Article IV in the Student Code of Conduct.

## VII. REPORTING PROCEDURES

- 1. Reporting an Incident of Sexual Misconduct:** Individuals can report an incident of Sexual Misconduct to Campus Safety in person or over the phone (603-899-5555) or to a member of the Residential Life Staff team in the Residential Life on the ground floor of New Hampshire Hall or over the phone (603-899-4176) or to the Title IX Coordinator or designee.
- 2. Reporting an Incident of Sexual Misconduct Anonymous Reporting:** If an individual wishes to remain anonymous they can complete the University Sexual Misconduct Anonymous reporting form [\[https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout\\_id=10\]](https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout_id=10). Depending on the nature of the information provided, Franklin Pierce's ability to respond may be limited.



3. **Time Frame for Reporting:** There is no time limit on reporting violations of this policy, although the University's ability to respond fully may become more limited with the passage of time. If the respondent is no longer affiliated with the university, Franklin Pierce will still provide support measures to the complainant and will provide resources for filing a police report, and may take other appropriate action.
4. **Initial Disclosure:** The initial disclosure of the sexual misconduct violation will be reviewed by the Title IX Coordinator or designee, the complainant will be given information regarding support services, interim measures, reporting options and rights.
5. **Formal Complaint:** If the complainant or Title IX coordinator want to move this disclosure to investigation a formal complaint is needed. A formal complaint is a written a signed document from the complaint (or Title IX Coordinator) that outlines the nature of the complaint, this can be given via email, mail or written copy. If the allegations is either a mandatory or optional dismissal form the Title IX Grievance Policy but there is a potential violation of the Sexual Misconduct Policy the report will be forwarded to the Sexual Misconduct Policy for investigation (if not already conducted) and potential adjudication. A complainant has the right to remove their formal complaint at any time (depending on the stage of the process the university may determine that it has enough information to proceed without the complainants involvement).

The University reserves the right to pursue investigations and conduct hearing in cases of sexual misconduct even when the reporting party chooses not to continue in the process.

## **B. Discipline Procedures for Sexual Misconduct**

1. The complainant (also known as reporting party) and respondent (also known as responding party) have the same rights during all phases of the campus conduct process.
2. The complainant has the right to pursue the University conduct process against the respondent through the conduct process.
3. The University commits itself to providing conduct processes that are sensitive, supportive, expedient, fair, impartial, and respectful of the individual rights of all involved.
4. If an investigation is warranted, the university will designate a trained investigator(s) to review all written reports, collect evidence, conduct interviews and complete a final investigation packet. The role of the investigator is to document the findings of fact and the collection and summation of all evidence. Both the complainant and respondent will

have the opportunity to review the final investigation packet and have 10 days to respond with any additional or clarifying information.

- a. Notice of Investigation: If an investigation is warranted, all parties will receive a Notice of Investigation which shall include information regarding the investigation process, informal resolution options, the allegations of the sexual harassment or assault (including sufficient detail, identities of parties, date, time, location, etc.), a statement that the respondent is presumed not responsible until a formal outcome has been issued, information regarding advisors and confidential resource persons, how to request accommodations, reminder of the code provision for furnishing false information and the University retaliation policy. Any new alleged violations that come about during the investigatory process will result in a new/updated investigation notice to all parties.
5. Both the complainant and respondent have the right to have witnesses participate in the investigation and hearing. These witnesses must have first-hand direct knowledge of the situation. The investigator will determine if the witnesses' testimony fits this standard. If the witness testimony does not meet this standard justification will be given in writing to the complainant or respondent who presented said witness.
6. If it is determined that there is enough information in the investigation packet to move forward with a hearing an Administrative board hearing and procedure will be utilized for incidents involving sexual misconduct. Both the complainant and respondent will receive written notification at least 10 days in advance of the hearing date and time.
7. During the hearing, the complainant and respondent will be allowed to ask questions of each other. Questions are directed to the board and if the board feels the question is relevant the board will ask the question of the complainant and respondent. Hearings may be conducted in a number of ways to include all parties in the same room at once, two rooms connected via conference call, or in separate rooms with audio connection.
8. Administrative board members receive annual training on the issues related to sexual misconduct and how to conduct a hearing process that protects the safety of the University community and promotes accountability. This information can be found on the Sexual Misconduct/Title IX Grievance page of the University website.
9. Both the complainant and respondent have the right to be accompanied by a support person, from within the University community (i.e., Faculty, Staff or Student) or an external party (i.e., parent, spouse, attorney) through every phase of the investigation and hearing process. This support person does not present any testimony at the hearing or during the investigation but is present to support and assist the complainant and respondent. The student must advise the hearing officer at least 48 hours in advance of the hearing if an external advisor is going to be present at the hearing. If a student does not have an advisor the university can provide one upon request. The student will also

have the ability to have a confidential advocate/support person in addition to their advisor if they choose.

10. Conduct decisions are based on whether it is more likely than not (preponderance of the evidence standard) that the respondent student violated the Student Code of Conduct/Sexual Misconduct Policy.
11. Possible sanctions for students resulting from the University's conduct process range from written warning to separation from the University (suspension and expulsion).
12. Both the complainant and respondent shall be informed of the outcome of the university conduct process. Both parties shall be informed in writing of the results of a disciplinary proceeding not later than 7 business days after a final determination of a complaint, not including any time for appeal, unless good cause for additional time is shown.
13. Both the complainant and respondent have the right to appeal the decision based on one of three grounds: procedural irregularity that affected the outcome of the matter; 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 the investigator or decision maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. Appeals must be submitted to the Appeal Officer/Board within 5 days of receipt of the decision.

For additional information on hearing procedures refer to the Student Code of Conduct.

### **C. Off-Campus Legal Options**

In addition to the University's conduct process, the complainant and respondent have the right to pursue criminal prosecution and/or civil litigation. The Department of Campus Safety is available to provide assistance and information on criminal prosecution. The University is committed to providing full and prompt cooperation and assistance in notifying the proper law enforcement personnel if the complainant and/or so chooses.

### **D. Statistical Reporting**

The University will provide statistics of reported sexual assaults, domestic violence, dating violence, and stalking as required and defined by the Clery Act. All personally identifying information will be removed from statistical reports.

[<https://www.franklinpierce.edu/studentlife/dcs/clery.htm>]

## **E. Education, Counseling Services, and Timely Warnings**

Franklin Pierce University Counseling and Outreach Center is a resource for students and provides education on sexual assault, domestic violence, dating violence, sexual harassment and stalking, advocacy services, information and referral, and campus-wide outreach services to complainants and respondents. The Counseling and Outreach Center provides information to students about sexual assault reporting options, available resources and assistance for the complainant and respondent, and the student's rights. The Counseling and Outreach Center ensures student's confidentiality as per New Hampshire/Arizona State and federal laws.

In addition to these services, the University educates the student community about sexual misconduct through comprehensive and intentional programming intended to end dating violence, domestic violence, sexual violence and stalking. To assist with this endeavor, all students are required to complete a Sexual Violence Prevention module prior to orientation/classes. The Dean of Students Office offers sexual misconduct education and informational programs to University students periodically throughout the year. Literature on sexual violence prevention available at the Office of Health Services and the Counseling and Outreach Center. In addition, the University has ongoing bystander campaigns, such as CARE bystander intervention, to help address sexual misconduct.

When the University, through a report from a University Official, becomes aware of an incident of sexual misconduct that occurred on or around campus, and there is a potential for bodily harm or danger to members of the University community or visitors, the Office of Campus Safety will issue a timely warning to the campus through the FPAlert and University e-mail system. While the University will provide enough information to safeguard the community, a student's name or other personally identifying information will not be disclosed.

## **F. Informal Resolutions:**

At any time, the complainant may request or the University may suggest that the reported matter be resolved through an alternative resolution process. In these instances, the Title IX Coordinator will determine whether that approach is appropriate and whether the University needs to take additional actions. If the matter is appropriate to be resolved through an alternative resolution process, the Title IX coordinator or designee may facilitate a voluntary, structured interaction between or among affected parties that is designed to allow a Respondent to accept responsibility for and acknowledge the harm to the Complainant and/or the University community. Alternative resolution options should be designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the Complainant and the safety and welfare of the campus community.

In some forms of alternative resolution, the remedies imposed will focus on supporting the Complainant with no participation or involvement by the Respondent. In other forms of alternative resolution, the Respondent may agree to participate. Depending on the type of remedy used, it may be possible for a Complainant to maintain anonymity. Alternative resolution may also include practices such as restorative justice and mediation. Practices based in restorative principles are designed to allow a Respondent to accept responsibility and/or acknowledge harm to the Complainant or to the College community. Alternative resolution will be used only with the voluntary consent of both parties, under the supervision of University-sanctioned, trained professionals, and following a determination by the College that the matter at hand is appropriate for a restorative approach.

## **VII. EMERGENCY PHONE NUMBERS**

Franklin Pierce will assist parties who seek support services (i.e., medical, counseling, law enforcement, victim services, etc.). The University will not delay its investigation of a complaint if a complainant chooses to file criminal or civil complaint. In some circumstances the university may choose to delay an investigation for a reasonable period of time if requested by local law enforcement.

- Immediate Assistance for Rindge, NH Students:
  - Campus Safety (603) 899-4210 or Emergency (603) 899-5555
  - Residential Life (603) 899-4176 (after hours calls Campus Safety Dispatch at (603) 899-4210)
  - Franklin Pierce Health Center (603) 899-4130 (after hours call Campus Safety Dispatch for EMTs at (603) 899-4210)
  - Monadnock Community Hospital (603) 924-7191
  - Monadnock Center for Violence Prevention (MCVP) (888) 511-6287
  - Rindge Police Department 603-899-5009. If no answer call (603) 355- 2000 or 911 for Emergency.
  
- Immediate Assistance for Manchester, NH Students:
  - Campus Safety (603) 899-4210 or Emergency (603) 899-5555
  - Franklin Pierce Counseling and Outreach Education (603) 899-4130 (after hours call Campus Safety Dispatch at (603) 899-4210)
  - Manchester Police Department (603) 668-8711
  - Elliot Hospital [\(603\) 669-5300](tel:6036695300)
  - YWCA Crisis Hotline 603-668-2299
  
- Immediate Assistance for Lebanon, NH Students:
  - Campus Safety (603) 899-4210 or Emergency (603) 899-5555
  - Franklin Pierce Counseling and Outreach Education (603) 899-4130 (after hours call Campus Safety Dispatch at (603) 899-4210)

- Lebanon Police Department (603) 448-1212
- Dartmouth-Hitchcock Medical Center (603) 650-5000
- WISE Crisis Center (866) 348-9473
  
- Immediate Assistance for Goodyear, AZ Students:
  - Campus Safety (603) 899-4210 or Emergency (603) 899-5555
  - Franklin Pierce Counseling and Outreach Education (603) 899-4130 (after hours call Campus Safety Dispatch at (603) 899-4210)
  - Goodyear, Arizona Police Department 623-932-1220 or 911
  - West Valley Hospital (623) 882-1500
  - EMPACT- Suicide Prevention Center Domestic Violence and Sexual Assault Services Main Line 480-784-1514 or Crisis Hotline 480-784-1500
  
- National Resources:
  - Suicide Prevention Lifeline: 1-800-273-8255
  - Domestic Violence Hotline: 1-800-799-7233 (SAFE)
  - LGBTQ Domestic Violence Hotline: 1-800-832-1901
  - National Organization on male Sexual Victimization/Male Survivor:  
[www.malesurvivor.org](http://www.malesurvivor.org)
  - Title IX Official Website:  
<https://obamawhitehouse.archives.gov/blog/2012/07/19/you-are-not-alone>
  - [RAINN: RAINN | The nation's largest anti-sexual violence organization](#)