



**TITLE IX GRIEVANCE POLICY**  
**Franklin Pierce University**

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## **Policy Statement**

As an institution of Higher Education based in the liberal arts tradition, Franklin Pierce University (“Franklin Pierce” or “the University”) is committed to creating a community of living and learning that is free from discrimination, harassment, and violence. Franklin Pierce University prohibits discrimination and harassment on the basis of race, color, nation origin, sex, ethnicity, pregnancy, sexual orientation, gender identity or expression, religion, disability, age, or other characteristics protected under applicable federal or state law. Franklin Pierce University does not discriminate in its educational programs or activities and as a community is committed to equal opportunity and affirmative action. 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 is committed to addressing all complaints relating to allegations of violations of our Title IX Grievance Policy.

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

This Policy is intended to provide the University Community with clearly defined behavioral standards, definitions and prohibited conduct. The procedures described below apply to all complaints involving Students, Staff, Faculty, as well as any other members of the University Community. Reports will follow a grievance process procedure specific to violations of the Title IX Grievance Policy, as outlined within this document.

This Policy supersedes all previous policies covering discrimination on the basis of sex regarding sexual harassment and assault and is to be read in conjunction with the University’s Non-Discrimination and Harassment Policy and the Student [Sexual Misconduct Policy](#).

Retaliation against anyone who in good faith makes a report or complaint about a violation of the policy or participates in an inquiry or investigation related to processes as outlined within this policy is strictly prohibited. A person engaging in retaliatory action may be subject to disciplinary or legal action.

Franklin Pierce University reserves the right to make changes to this Policy as necessary. Inquiries from students and or family members regarding this policy should be directed Dawn Broussard, Director of Human Resources and Title IX Coordinator at [broussardd@franklinpierce.edu](mailto:broussardd@franklinpierce.edu).

## **Entities Affected by the Policy**

This Title IX Grievance policy applies to all Franklin Pierce University campuses including Rindge, New Hampshire; Manchester, New Hampshire; Lebanon, New Hampshire; Goodyear, AZ; and those engaging in coursework/the University community online

## **Intersection Between Title IX Grievance Policy and Other Campus Disciplinary Policies**

In recent years, “Title IX” cases have become a short-hand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Department of Education’s Final Rule, Franklin Pierce must narrow both the geographic scope of its authority to act under Title IX and the types of “sexual harassment” that it must subject to its Title IX investigation and adjudication process. ***Only*** incidents falling within the Final Rule’s definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing with cross-examination through the Title IX Grievance Policy defined below.

Franklin Pierce remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule. Specifically, our campus has a [Code of Conduct](#) that defines certain behavior as a violation of campus policy, and separate [Sexual Misconduct and Non-Discrimination and Harassment Policies](#) that address the types of sex-based offenses constituting a violation of campus policy, and the procedures for investigating and adjudicating those sex-based offenses.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Code of Conduct, Sexual Misconduct, Non-Discrimination and Harassment Policies through a separate grievance proceeding.

The elements established in the Title IX Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the University for any violation of the Code of Conduct, Sexual Misconduct Policy, Non-Discrimination and Harassment Policy, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the University and may not be cited for or against any right or aspect of any other policy or process.

## **Revocation by Operation of Law**

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Policy be revoked in

this manner, any conduct covered under the Title IX Grievance Policy shall be investigated and adjudicated under Franklin Pierce's existing Sexual Misconduct Policy.

### **Non-Discrimination in Application**

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

### **Disability Accommodations**

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator, Coordinator of Accessibility Services (for student matters) or Human Resources (for employee matters) at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

### **Definitions:**

Advisor: An individual, not otherwise a party or witness in the investigation, who may accompany the Complainant or Respondent to any meeting or related proceeding with an investigator or a University employee. While the Advisor may confer quietly with the Complainant or Respondent to provide advice or support, they may not speak or write on the Complainant or Respondent's behalf or otherwise actively participate in the meeting or proceeding. The only time an Advisor is able to participate is during a hearing at the cross-examination phase. Advisors will receive a copy of the investigation packet when it is distributed to their respective advisee. The University will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally. The University cannot agree to extensive delays solely to accommodate the schedule of an Advisor. The determination of what is a reasonable delay shall be made by the Title IX Coordinator or designee. Franklin Pierce will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor, and may offer the party the opportunity to obtain a different Advisor or utilize one provided by the University.

If a party does not obtain their own Advisor for the hearing stage of the process one will be assigned to them by the Title IX Coordinator or designee.

Bias Behavior: Any act committed against a person or group because of their actual or perceived race, color, gender, creed, religion, sexual orientation, gender identity, age, disability, or national origin of the victim.

Code of Conduct: The written policies adopted by the University governing student behavior, rights, and responsibilities while such student is matriculated at the University.

Complainant: an individual who has reported being or is alleged to be the victim of conduct that could constitute sexual harassment under this policy. This individual may also be referred to as the reporting party.

Concurrent Conduct: All alleged conduct that does not involve sex discrimination or sexual harassment or assault that arises out of the fact finding and investigation of a Title IX Grievance. Concurrent Conduct maybe addressed in conjunction with the Title IX Grievance Policy. The Title IX Coordinator will determine in the conduct is to be addressed in conjunction or referred to another process within the University.

Confidentiality: May be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials or law enforcement, in a manner consistent with state and federal law. Confidentiality is different than privacy, which refers to the University's effort to disclose and relay information only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Franklin Pierce will limit the disclosure of information as much as practicable, even if the Title IX coordinator determines that a request for confidentiality cannot be honored.

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.

Credibility Determination: the process to determine how credible an individual's statement may be. The substance of the statement (by a party or witness), the amount of detail and the accuracy or recollection, contradictory statements, delivery of information, body language, eye contact, may all be utilized to determine credibility.

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.

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.

Education Program or Activity: For the purposes of this Title IX Grievance Policy, Franklin Pierce's "education program or activity" includes:

- Any on-campus premises
- Any off-campus premises that {institution} has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of

{Institution}'s programs and activities over which the {institution} has substantial control.

Hate Crime: A crime reported to local police agencies or to a campus security authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this section, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.

No Contact Order: The no-contact order is not punitive. The no-contact order prohibits any contact or communication between all parties involved; either directly or through a third party in any form (e.g., all social media, text, phone or any other form of communication).

Preponderance of the Evidence: The legal standard of proof used for the determination of responsibility utilized for the purposes of this Policy. Also characterized as "more likely than not" or "fifty-one percent."

Privacy: University officials and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. An individual may assume that privacy will be maintained, the complainant or respondent have the right to be aware of who within the University is aware of the complaint and any information pertaining to it.

Protected/Privileged information: evidence and information that is protected under legally recognized privilege will not be included in investigations or hearings, unless the party holding such privilege has waived said privilege. Commonly recognized privileges include attorney-client, marital, religious, doctor-patient, mental health counseling, etc. If an individual requests to include said information a formal release will be signed and included within investigation materials.

Relevant evidence and questions: "Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true. "Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of the Title IX Grievance Process:

- Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
  - They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under this policy. This party may also be referred to as the responding party.

Responsible Employee: Employees that 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.

Retaliation: Any adverse action a University Community member experiences as a result of the individual making an inquiry, participating in an investigation, or making a reasonably good-faith report of possible non-compliance with laws, regulations and/or policies.

Sexual Activity: Shall have the same meaning as 'sexual act' and 'sexual contact' as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).

- the term 'sexual act' means—
  - contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
  - contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  - the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
  - the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
- the term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- Individuals must obtain affirmative consent prior to engaging in any of the activity referenced above.

Sexual assault: Any attempted or actual sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

- Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
  - Include the crime as Rape, regardless of the age of the victim, if the victim did not consent or if the victim was incapable of giving consent. If the victim consented, the offender did not force or threaten the victim, and the victim was under the statutory age of consent, define as Statutory Rape. ○
- Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

Sexual Assault Response Team (SART): A group of staff members charged with monitoring sexual harassment and assault cases to ensure that students receive the support measures they need to succeed and is responsible for the general education of the campus community around sexual harassment, violence, consent, bystander intervention, etc.

Sexual Discrimination: All forms of sexual harassment, including all forms of sexual assault, and other sexual violence committed by members of the University Community, which includes Board of Trustees, Faculty, Staff, students, and volunteers, as well as anyone doing business with or for the University.

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

- An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

Stalking: 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.

Students: All persons taking courses at the University, both full-time and part-time. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered students.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Technology and Computer Use Policy: This policy establishes a set of rules and guidelines for any activity and participation in “social media” by all Franklin Pierce University students. The term “social media” applies, without limitation, to any web-based and mobile technologies, in use now or developed in the future, that enable individuals or entities to disseminate or receive information, communicate, or otherwise interact, and includes, without limitation, email, texting, messaging, social networking, blogging, micro-blogging, and bulletin boards through providers such as Facebook, LinkedIn, TikTok, Twitter, YouTube, Instagram, Snapchat, dating applications and any other social media platforms. See [Student Handbook](#).

Title IX Coordinator: Administrator responsible for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX. Oversees the University's central review, investigation and resolution of reports of sexual harassment, sexual assault, dating/domestic violence and stalking under this Policy.

Title IX Records: records (maintained in any format) which relate exclusively to a violation of the Title IX Grievance Policy which have been filed with the Title IX Coordinator. A Title IX student file includes and is limited to incident report forms, University-generated protocol forms signed by Complainant/Respondent, investigator's interview notes, investigator's summary, evidence as agreed to by the Complainant and Respondent, notification of decision by Title IX Coordinator, documents presented as evidence at the hearing, decision of Title IX hearing panel, appeal letter with accompanying documents, and final disposition of appeal.

University Community: Board of Trustees, Faculty, Staff, students, volunteers, as well as anyone doing business with or for the University.

## **Policy Procedures**

### **I. JURISDICTION**

- This Policy applies to all members of the Franklin Pierce University Community, which includes Board of Trustees, Faculty, Staff, students (whether matriculated or not, whether taking courses on-campus or off) and volunteers, as well as anyone doing business with or for the University. The University's jurisdiction under this policy is limited to conduct which occurs on Franklin Pierce's on-campus premises, any off-campus premises that the University has substantial control over, including buildings or property owned or controlled by a recognized student organization, and within computer and internet networks, digital platforms, and computer hardware owned or operated by, or used in the operations of the University's programs and activities over which Franklin Pierce has substantial control (collectively, Franklin Pierce's education programs or activities"). This policy does not cover conduct that takes place outside of the United States, such as study abroad programs or activities. The University aims to especially protect those individuals, such as children, who are deserving of special protections.

### **II. REPORTING OF OFFENSES**

- Any student, employee or other member of the University Community who has experienced or witnessed prohibited conduct under this Policy, including any form of sexual harassment, sexual assault, dating/domestic violence or stalking, is encouraged to make a report to law enforcement and/or to designated Responsible Employees at the University. Individuals may also report to any University employee not specifically designated as a Responsible Employee. An employee who receives such a report is obligated to share this information with the Title IX Coordinator to ensure the effected party receives notification of available University resources and resolution options.
- The University encourages all Community members to take action to prevent or stop an act of sexual harassment or assault, including direct intervention when safe to do so, requesting the assistance of friends or individuals of authority, contacting law enforcement, and/or reporting the incident to campus officials. Generally, the University will not seek to hold any student who reports sexual harassment, sexual violence, dating/domestic violence or stalking accountable for conduct which may constitute a violation of Community Standards, provided that any such violation did or does not place the health or safety of any person at risk.
- The University recognizes that not every individual is prepared to move forward with a complaint under this Policy. Supportive Measures and Confidential resources are available for those who are seeking assistance, but do not necessarily wish to make a report to the University.

#### A. Designated University Officials

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

Dawn Broussard, Director of Human Resources and Title IX Coordinator

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

Phone: (603) 899-4079

[broussardd@franklinpierce.edu](mailto:broussardd@franklinpierce.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@franklinpierce.edu](mailto:polloma@franklinpierce.edu)

Wendy DiPasquale, Assistant Director of Human Resources and Deputy Title IX Coordinator for Employee Matters

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

Phone: (603) 899-1076

[dipasqualew@franklinpierce.edu](mailto:dipasqualew@franklinpierce.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

## B. 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.

For those obligated to report, failure to report allegations of violation of the Title IX Grievance policy or other forms of sexual or gender-based harassment not covered under this policy, may result in disciplinary action up to and including termination and/or dismissal from the University.

### C. Confidential Reporting

While steps are taken to protect the privacy of all involved, individuals should understand that a report to any University employee listed as a responsible employee above will necessarily trigger this Policy's review process. If an individual would like the details of an incident to be kept confidential, they may choose to speak with the following resources or submit the report anonymously [https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout\\_id=10](https://cm.maxient.com/reportingform.php?FranklinPierceUniv&layout_id=10):

- Counseling and Outreach Staff
- Health Services Staff
- Athletic Trainers

The above on-campus confidential reporting resources are staffed by medical and psychological professionals who are bound by state confidentiality laws and will not share a report with other members of the University except in extreme cases of immediate threat or danger, or where required by law. These employees may submit an anonymous report on behalf of the complainant for aggregate statistical information for Clery Act reporting purposes.

### D. Off-Campus Resources

Individuals may also choose to contact off-campus support services and resources. The following organizations can provide crisis intervention services, counseling, medical attention and assistance in interfacing with the criminal justice system:

- Rindge, NH:
  - 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.
- Manchester, NH:
  - Manchester Police Department (603) 668-8711. If no answer call 911 for Emergency.
  - Elliot Hospital (603) 669-5300
  - YWCA Crisis Hotline 603-668-2299
- Lebanon, NH:
  - Lebanon Police Department (603) 448-1212. If no answer call 911 for Emergency.
  - Dartmouth-Hitchcock Medical Center (603) 650-5000
  - WISE Crisis Center (866) 348-9473
- Goodyear, AZ:
  - Goodyear, Arizona Police Department 623-932-1220. If no answer call 911 for Emergency.
  - 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](#)

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.

Inquiries may be made to the local Office for Civil Rights (OCR) Office:

The OCR office for New Hampshire is found at:

**Boston Office**  
**Office for Civil Rights**  
**US Department of Education**  
**8th Floor**  
**5 Post Office Square**  
**Boston, MA 02109-3921**

**Telephone: 617-289-0111**

**FAX: 617-289-0150; TDD: 800-877-8339**

**Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)**

Complaints with OCR must be filed within one hundred eighty (180) days of the last act the Complainant believes was discriminatory. There is no time limit for making a report to Franklin Pierce University; however, if the Respondent is no longer a student or employee, the University's authority to pursue disciplinary action may be limited.

### III. STATEMENT OF RIGHTS

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

The University assures all individuals (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 Title IX Grievance 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 of available personal counseling, mental health, medical or student services, advocates, both on campus and in the community.
- To receive notification in writing of options for and available assistance in changing academic, transportation and living situations after an alleged incident of sexual harassment or assault, if so requested and if such changes are reasonably available.
- To be notified in writing of option to notify law enforcement and be provided assistance by campus authorities in notifying law enforcement if the individual 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 of the right to request a no-contact order.
- To be notified in writing 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). A party can change their advisor at anytime, a change in advisor does not impact the timeline of the process (investigation, hearing, appeal, etc.)
- To be presumed not responsible until a formal finding of responsibility
- To be informed of the outcome and sanction of any Title IX Grievance involving in writing (complainant and respondent will be notified simultaneously).
- To not have irrelevant prior sexual history admitted in conduct hearing.
- To choose not to have reports of Title IX resolved through the informal resolution.
  - 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 Title IX responded to in accordance with the Title IX Grievance Policy.
- The right to request witnesses provide statements and if determined to have firsthand knowledge included within the investigation and hearing.
- To appeal the finding and sanction of the hearing.

## IV FILING A REPORT

- To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Franklin Pierce, including as an employee. For complainants who do not meet this criteria, the University will utilize its [Sexual Misconduct Policy](#) and/or [Code of Conduct](#) for matters where the Respondent is a student, for matters where a Respondent is an employee the University will utilize the [Internal Complaint Procedure](#).
- A Complainant has the right, and can expect, to have reports taken seriously by the University when notified, and to have these incidents investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma and impartiality. [Full details of training can be seen at this link](#).
- Resolution procedures are guided by principles of fairness and respect for all parties. As referenced above, both on-campus and off-campus resources and support are available for both students and employees, whether as Complainants or Respondents, to provide guidance throughout the investigation and resolution of complaints.
- A Complainant may withdraw a complaint or report from the University at any time, without penalty.
- All proceedings are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, the Violence Against Women Act, federal, state and local law, and University policy.

### A. Complainant's Request Not to Pursue an Investigation

If an individual 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.

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.

- Dawn Broussard, Director of Human Resources and Title IX Coordinator (603-899-4079), is designated to evaluate requests for complainants that are employees to remain confidential, once a responsible employee has received notice of alleged Title IX Grievance.
- 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 that are students to remain confidential, once a responsible employee has received notice of alleged Title IX Grievance.

When weighing a complainant's request for confidentiality or that no investigation or discipline be pursued, the Director of Human Resources or the Dean of Student Affairs 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 harassment, sexual assault or 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 harassment, sexual assault or sexual misconduct or other violence against the complainant or others;
  - Whether the sexual harassment or assault was committed by multiple respondents;
- Whether the sexual violence was perpetrated with a weapon;
- Whether the complainant is a minor;
- Whether the University has other means to obtain relevant evidence of the sexual harassment or sexual assault;
- 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 in writing prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response. The complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

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

- Aid any individual 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 an individual to take part in any investigation or disciplinary proceedings.

Because the University is under a continuing obligation to address the issue of sexual harassment or assault University wide, reports of sexual harassment or assault (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 harassment or assault occurred; increasing education and prevention efforts, included to targeted population groups; conducting climate assessment surveys; and /or revisiting its policies and practices.

## **B. Privacy in Reporting**

The University is committed to maintaining the privacy of all parties involved and every effort will be made to protect privacy interests in a manner consistent with the need for a thorough review.

Information provided to non-confidential campus employees will be relayed only as necessary to assist the Title IX Coordinator or designee in the active review, investigation and/or resolution of the complaint. While not bound by confidentiality, the individuals with this knowledge will be kept as limited as possible to preserve a Complainant's and Respondent's rights and privacy. It is reasonable for a case in which the respondent is a student for the University's Sexual Assault Response Team to be aware of the complaint.

## **C. Receipt of Formal Complaint**

Upon receipt of notice of any allegation of sexual harassment or assault, the University shall ensure that Complainants are advised of their right to:

- notify proper law enforcement authorities (local police)
- be assisted by campus authorities in notifying law enforcement authorities if the Complainant so chooses; and
- decline to notify such authorities
- file a formal complaint

The University will also inform the Complainant of their right to be protected from retaliation for reporting an incident.

If a Complainant chooses to file a report with the local law enforcement, upon request, the University will assist the Complainant in doing so. Any criminal investigation performed by law enforcement will be separate from the investigation performed by the University. Disciplinary action may proceed concurrently with these civil and/or criminal proceedings and will not be subject to challenge on the grounds that civil or criminal charges involving the same incident have been dismissed or reduced. The University may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g. to allow for criminal evidence collection). This temporary delay may not last more than 10 days except when law enforcement specifically requests and justifies a longer delay. The University will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

Once a report is filed and a responsible employee is aware of a complaint that will constitute as the University receiving “actual knowledge.” Actual knowledge is notice of sexual harassment or allegations of sexual harassment to the University’s Title IX Coordinator or any official at the university that has authority to institute corrective measures on behalf of the university.

A Formal Complaint is a document (including an electronic submission) signed by the complainant or the Title IX Coordinator alleging sexual harassment or assault against a respondent and requesting that the University investigate the allegation of sexual harassment or assault.

The Title IX Grievance Process will be concluded within a reasonably prompt manner after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

### **Multi-Party Situations**

The University may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

### **Initial Assessment**

- Following receipt of notice or a report of sexual harassment or assault, the Title IX Coordinator or designee will reach out to the complainant to discuss their options. Once a formal complaint is received (signed statement by complainant or Title IX Coordinator) the Title IX Coordinator or designee will conduct an initial Title IX assessment. This assessment will consider the nature and circumstances of the allegations and determine if the instant Title IX Grievance Process should apply to a Formal Complaint, the safety of both the individual and wider campus Community, and the Complainant's preference for resolution.
- This Title IX Grievance Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator: (1) The conduct is alleged to have occurred on or after August 14, 2020; (2) The conduct is alleged to have occurred in the United States; (3) The conduct is alleged to have occurred in Franklin Pierce's Education Program or Activity; and (4) The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.
- If the reported sexual harassment or assault does not appear to violate the Title IX Grievance policy, then the formal complaint must be dismissed under Title IX, and may be referred to the appropriate student, faculty or staff disciplinary process, if appropriate. Parties may appeal this dismissal using the Appeal process outlined below.
- Both the Complainant and Respondent may have an Advisor and Confidential resource assist in providing support throughout the investigation and resolution of a complaint. The Advisor may be any individual, including an attorney engaged at the party's expense. They may accompany the Complainant or Respondent to any meeting or related proceeding with an investigator or a University employee. While the Advisor may confer quietly with the Complainant or Respondent to provide advice or support, they may not speak or write on the Complainant or Respondent's behalf or otherwise actively take part in the meeting or proceeding. The Advisor may during a hearing be allowed to speak during cross examination of witnesses or the other party. The Complainant or Respondent also have the right to have a confidential resource (Counselor/Advocate) in addition to their advisor present at all meetings associated with the complaint/allegation.
- A full investigation will proceed if there is reasonable cause to believe a policy violation may have occurred, evidence of a pattern of misconduct, or a perceived threat of further harm to the Community or any of its members. The University will make every effort to successfully resolve all reports in a timely manner.
- The University will provide, to a party 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 (minimum of 10 days).

### **Allegations Potentially Falling Under Two Policies:**

If the alleged conduct, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process may be applied to investigation and adjudication of the Title IX Grievance violations in addition to the violations of other university policies. The determination of whether these policies will be adjudicated separately to together is at the discretion of the Title IX Coordinator.

### **Supportive Measures**

Complainants who report allegations that could constitute covered sexual harassment under this policy have the right to receive supportive measures from Franklin Pierce regardless of whether they desire to file a complaint, which may include but are not limited to:

- Referral to counseling and health services;
- Referral to the Employee Assistance Program;
- Community education;
- Altering the housing situation of the Respondent (resident student or resident employee) or the Complainant, if desired;
- Altering work arrangements for employees;
- Implementing contact limitations between the parties (No Contact Order);
- Offering academic adjustments;
- Leaves of absence
- Increased security and monitoring of certain areas of the campus.

The University may issue a No Contact Order to both parties, whereby continued intentional contact by either party would be a violation of University policy which may result in conduct charges. No Contact Orders are institutional documents that do not have the legal effect of orders of protection, which are obtained through a court.

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.

The university can assist a complainant in receiving supportive measures from local resources such as the local crisis center or local police department. The following supportive measures can be requested from those parties:

- Information regarding NH Victims Compensation Program (<https://www.doj.nh.gov/grants-management/victims-compensation-program/>)
- Requesting an Order of Protection <https://nhlegalaid.org/protective-orders>
- Emergency Shelter (local crisis center)

- Assistance with transportation related to medical care or other support services (local crisis center)

### **Emergency Removal**

Franklin Pierce retains the authority to remove a respondent from the University's program or activity on an emergency basis, where the University (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal. The Title IX Coordinator or designee has sole discretion to implement or stay an Emergency Removal under the Title IX Grievance Policy, and to determine its conditions and duration. 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.

### **Administrative Leave**

Franklin Pierce retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Process.

### **Dismissal**

Mandated Dismissal Provisions:

- If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in § 106.30 even if proved,
- If the conduct did not occur in the recipient's education program or activity,
- If the conduct did not occur against a person in the United States,
- If at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the recipient.

Optional Dismissal Provisions:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the university;
- Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Dismissal will be issued in writing to the parties to include justification for dismissal and if the complaint is going to be referred to any other university processes. All parties have the right to appeal the dismissal utilizing the appeal grounds.

## **Investigation**

### **A. Pending Civil and/or Criminal Procedures**

The University's Title IX process and timeline will not typically be altered by the filing of civil or criminal charges of the incident which was reported. However, the university may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g. to allow for criminal evidence collection). The determination of whether a delay is appropriate will be made on a case by case basis under the advisement of the Title IX Coordinator. The University will promptly resume its investigation and processes once notified by law enforcement that their request for delay is no longer necessary.

### **B. Informal Conflict Resolution Procedure**

The informal conflict resolution procedure may be considered for less serious inappropriate behaviors. Some incidents can be resolved through mediation or other interventions as long as both parties agree to take part voluntarily. These resolutions may include, but are not limited to, referral to counseling and health services, altering housing situations, academic adjustments, educational programming or training, and supported direct confrontation of the Respondent.

The University will offer mediation for appropriate cases but will not compel a Complainant to engage in mediation, to directly confront the Respondent, or to participate in any form of voluntary resolution. Either party may change their mind at any point in time and choose to pursue a formal resolution. An agreement will be made between parties prior to engaging in informal resolution regarding information that is obtained or stated will not be admissible in an investigation or hearing if either party determines to stop informal resolution and go to a formal resolution instead.

The following offices/individuals can conduct informal resolutions:

- Human Resources Staff
- Division of Student Affairs Staff
- Senior Officers (Vice Presidents and Upper level administrators);
- Academic Deans and Program Directors (when the behavior is directly related to the applicable academic program).

To review options available to parties for informal resolution please reference the SART website at [franklinpierce.edu/sart](http://franklinpierce.edu/sart) [LINK].

If reported misconduct is resolved at this stage, the Title IX Coordinator or designee will inform the Complainant and Respondent of the final determination through the issuance of an Outcome Letter, setting forth the informal measures implemented. No appeal process will be

afforded to parties that resolve complaints via an informal resolution process. In student cases, this Outcome Letter may be a part of the Respondents educational and student conduct record.

### C. Formal Procedure

If the initial Title IX assessment concludes that more serious disciplinary action may be appropriate and the Complainant wishes to pursue a formal resolution, the University will initiate a formal investigation.

All parties will receive a Notice of Investigation which shall include information regarding the Title IX Grievance 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.

The formal investigative procedure may include interviews with the Complainant and Respondent separately and any identified witnesses. The investigator will also gather any available physical evidence, including, but not limited to, documents, communications between the parties, and other electronic records. The investigator will conduct the investigation in a manner appropriate to the circumstances of the case with sensitivity and respect, mindful of individual privacy concerns. Evidence that is provided by either party that is considered protected evidence (I.e. medical records) will not be included in the investigation packet unless that party give the University authorization in writing to do so. Information regarding a party's character may be included if the investigator deems the information relevant. Previous behavior of the parties may also be included in the investigation is the behavior is determined relevant to the alleged violations within the investigation.

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered both exculpatory and inculpatory evidence, the areas of agreement and disagreement between the parties, any supporting information or accounts, and if able a credibility assessment of all parties. This document analyzes relevant facts that will be used in reaching a determination. The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence. Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

Before the report is completed, the investigator will send the report and accompanying evidence to the Complainant and Respondent and their respective identified advisors. Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
2. Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

Each party will have 10 days to review and provide a response in writing to the investigation packet. These responses, which may include new evidence, clarification of statements, raise concerns regarding information include, etc. will be added to the final investigation packet that will be sent with the notification of hearing.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process.

Once the investigation packet review process is completed, the investigator will refer the investigation packet to the Decision Maker/Hearing Board Chair. An Administrative board hearings and procedures are used for incidents involving sexual harassment and assault. Both the complainant and respondent will receive written notification at least 10 days in advance of the hearing date and time.

### **Administrative Hearings/Board**

Franklin Pierce will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

For complaints where the Respondent is a student the Title IX Coordinator or designee will select three members from a pool of trained hearing officers to a Title IX Administrative Hearing Board and a Hearing Board Chair. None of the members will have been previously involved with the investigation. The University reserves the right to have its own attorney present during the Hearing.

For complaints where the Respondent is an employee the Title IX Coordinator or designee will select three members from a pool of trained hearing officers to a Title IX Administrative Hearing Board and a Hearing Board Chair. None of the members will have been previously involved with the investigation. The University reserves the right to have its own attorney present during the Hearing.

The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing. The parties will have an opportunity to raise any objections regarding any member of the hearing board's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

#### A. Notification of Charges

At least 10 days prior to the Hearing, the Title IX Coordinator or designee will send a letter to the parties with the following information. Once mailed via first-class mail, and/or emailed via University email, and/or received in person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s) and a description of the applicable procedures.
- The time, date and location of the Hearing.
- Deadlines to submit new information
- Reminder of parties right to have an advisor and confidential support person
- Reminder of code provision for furnishing false statements
- A statement that the Respondent is presumed not responsible until formal outcome notification
- Option to opt into an informal resolution process
- Reminder of University retaliation policy
- For compelling reasons, the Title IX Coordinator or designee may reschedule the Hearing.

#### B. Hearing Procedures

- Hearing procedures and accompanying rights of the Complainant and Respondent are noted above under *Rights of Complainant and Respondent*.
- The parties cannot waive the right to a live hearing
- Franklin Pierce will not threaten, coerce, intimidate or discriminate against a party in an attempt to secure the party's participation.
- If any party does not appear at the scheduled Hearing, the Hearing will be held in their absence and the University may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "prior statement" by that party. A verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint. If a party does not submit to cross-examination, the Panel cannot rely on any prior statements made by that party in reaching a determination

regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a “prior statement” by that party.

- The panel cannot draw an inference about the determination regarding responsibility based solely on a party’s absence from the live hearing or refusal to answer cross examination or other questions.
- The live hearing may be conducted with all parties physically present in the same geographic location, or, at Franklin Pierce’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through ZOOM or another similar online conferencing platform. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors not within a party’s control.
- Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn.
- Best efforts will be made to complete the entire process (up to the final appeal) in a timely manner. Extenuating circumstances may arise that require the extension of time frame. These circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the Complainant, Respondent or witnesses, the effect of a concurrent criminal investigation, any intervening school break or other unforeseen circumstances. The University may determine that multiple sessions or a continuance (i.e. pause on the continuation of the hearing until a later date or time) is needed to complete a hearing.
- Parties are given the opportunity to express that they believe a Board member has a conflict of interest or bias prior to the start of the formal hearing.
- Both parties will have the right to give an opening and closing statement, be questioned by the Administrative Hearing Board, cross examined by the other parties advisor, cross examine the other party and any witnesses via their advisor.
- Cross-examination will be conducted by a party’s advisor, questions must be relevant and meet the standards of expectation set by the Hearing Board Chair. Before any cross-examination question is answered, the Hearing Board Chair will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked (including by the hearing body) may be deemed irrelevant if they have already been asked and answered.
- If a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- If a party does not attend the live hearing, the party’s advisor may appear and conduct cross-examination on their behalf.

- If neither a party nor their advisor appear at the hearing, the University will provide an advisor to appear on behalf of the non-appearing party.
- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation.
- If a witness does not submit to cross-examination, the decision maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
- The hearing will be recorded using audio or audiovisual recording software and saved recordings will be made available to parties for inspection and review following the hearing.

### **Determination Regarding Responsibility**

- The Administrative Hearing Board will make recommendations to the Hearing Board Chair regarding responsibility and appropriate sanctions.
- Franklin Pierce uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.
- The Hearing Board Chair will be responsible for issuing the outcome letter via email to both parties.

### **General Considerations for Evaluating Testimony and Evidence**

When deciding the outcome, the Board will weigh the credibility of all statements, parties and witnesses.

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Board.

The Board shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

The board will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that Franklin Pierce allow parties to call "expert witnesses" for direct and cross examination. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the Board will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that Franklin Pierce allow parties to call character witnesses to testify. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the Board will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that Franklin Pierce admit and allow testimony regarding polygraph tests ("lie detector tests") at the party's expense and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the Board will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness' conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Board may draw an adverse inference as to that party or witness' credibility.

### C. Notice of Outcome

The written decision of Administrative Hearing Board will be communicated to both parties via email, concurrently. This letter will be sent within seven business days after the Hearing has concluded, barring any exigent circumstances that may cause reasonable delay. The final outcome letter will include:

- Identification of the allegations potentially constituting covered sexual harassment;

- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including notification to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and hearings held;
- Findings of fact supporting the determination;
- Conclusions as to whether there has been a policy violation;
- The rationale for the result;
- A brief summary of the evidence on which the decision is based;
- The sanction and rationale for the sanction;
- A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the complainant;
- The right to appeal on limited grounds and timeline for submission of appeal.

#### D. Sanctions

If a finding of responsibility is made, the Administrative Hearing Board will consider, as part of its deliberations, whether sanctions will: (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the Complainant and the University Community. In determining appropriate sanctions, the Panel may consider any record of past violations, as well as the nature and severity of such past violations. Any sanction imposed will be explained or supported in the written report.

Student sanctions may include, but are not limited to:

- Written Warning consists of formal notification that the student has violated the Student Code and advises that repetition will result in a more severe sanction. A written record of the warning is made.
- Educational Sanction is usually imposed in conjunction with another sanction. Educational sanctions may include, but are not limited to, evaluation/counseling, change in residence hall, participation in an educational program, writing a research paper, a supervised work project, etc. The educational sanction must be completed within the manner and time stated as part of the sanction. Participation in certain programs may be withheld or restricted until educational sanctions are completed (e.g. participation in room selection).
- Restitution is full payment for the cost of damage(s), as determined by the University, of materials and labor for repair or replacement of damaged, destroyed, or stolen university property.
- Fines may be assessed by the University for certain actions such as (but not limited to) false activation of a fire alarm.
- Conduct Probation is a serious reprimand for a violation of a specific university policy. The loss of specified privileges may also be involved. Conduct Probation is for a specified

period of time, and more severe disciplinary sanction(s) will be imposed should the student further violate any university policy.

- Ban from a space on campus separates a student from the space they are restricted from for a certain time period.
- Residence Hall Suspension separates a student from the residence halls for a specified period of time, or until specified conditions are met. A student suspended from the residence halls may continue to attend classes and utilize the University's dining hall. However, the student shall not enter, nor be in the immediate vicinity of, any residence hall; this includes lawn areas, sidewalks, parking lots near the residence halls, etc.
- Residence Hall Expulsion is a permanent separation of the student from the residence halls. A student expelled from the residence halls shall also lose all future visitation privileges and utilization of the University's dining hall; the rationale for this is that a student permanently separated from the residence halls and group activities shall also lose the privilege of gathering in the dining hall with other students. The student may not enter, nor be in the immediate vicinity of any residence halls.
- Suspension from Non-Academic Activities is a separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.) for a specified period of time.
- Expulsion from Non-Academic Activities is a permanent separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.).
- University Suspension is a separation of the student from the University and all university premises, for a specified period of time and/or until certain predetermined conditions are met. Readmission after university suspension is not automatic and must have the approval of the Assistant Dean of Student Affairs.
- University Expulsion is the permanent separation of the student from the University, and all university premises. The expulsion will be noted on the student's academic transcript as follows "Expelled per Student Code of Conduct," and the effective date of the expulsion will be noted. This notation will be a permanent part of the student's academic transcript.
- Individuals who receive University Suspension or University Expulsion will be banned from returning to any university premise or participating in any University events. If an individual is found on or within any university property they will be subject to arrest for criminal trespass. If a suspended student does not apply for or is not granted readmission, the stipulations of the University Suspension will stay in place permanently (e.g., ban).

Employee sanctions may include, but are not limited to:

- Written warning consists of formal notification that the employee has violated the Title IX Grievance and advises that repetition will result in a more severe sanction. A written record of the warning is made.
- Change of job consists of removing an employee from being in a position to retaliate or further affect the complainant.
- Mandated Counseling
- Mandatory attendance to appropriate educational workshop or training (this may be at the expense of the respondent).
- Relevant community service.
- Suspension (with or without pay).
- Termination of employment

### **Appeal to Title IX Appeal Officer/Board**

All requests for a final appeal must be submitted in writing to the Title IX Coordinator or designee within five business days of the delivery of the written findings of the Hearing Panel. Either party may appeal, but appeals are limited to the following:

- 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;
- the Title IX Coordinator, investigator(s) or decision maker(s) 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.

The appeal will be considered in an impartial manner by the Title IX Appeal Officer/Board, who will be free of conflict of interest and bias, and who will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. Dissatisfaction with the Administrative Hearing Board's decision is not grounds for appeal. The party requesting appeal must show that the grounds for a request have been met, and the opposing party may counter that the grounds have not been met.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be

extended for any party solely because the other party filed an appeal. The original finding and sanctions will stand if the appeal is not timely filed or is not based on the grounds listed above.

Appeals are not intended to be full re-hearings of the case but are confined to a review of the written record of the original Hearing and pertinent documentation regarding the grounds for appeal.

The original finding and sanctions are presumed to have been decided reasonably and appropriately. The Title IX Appeal Officer/Board can affirm the original findings, alter the findings where there is clear error, and/or alter the sanctions, depending on the basis of the requested appeal. Appeals granted based on new evidence should normally be remanded to the original Administrative Hearing Board unless otherwise directed by the Title IX Appeal Officer/Board.

The Title IX Appeal Officer/Board will issue a written decision via email and letter to all parties within reasonable time frame upon the receipt of the appeal from the Title IX Coordinator.

The decision of the Title IX Appeal Officer/Board is final and may not be appealed.

## **Resources**

Franklin Pierce University supports this policy through educational prevention, counseling, and medical support services. Educational programs at Franklin Pierce University include, but are not limited to, guest speakers, awareness programs, individual counseling, various victim support services and other programs presented by various departments.

The following are on-campus and off-campus support services available for the Complainant, Respondent, and witnesses:

- Rindge, NH:
  - 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.
  
- Manchester, NH:
  - 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
  
- Lebanon, NH:
  - 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
  
- Goodyear, AZ:
  - 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:
  - Crisis/Suicide Hotline: 1-800-273-8255
  - Domestic Violence Hotline: 1-800-942-6906
  - GLBTQ - Domestic Violence Support 1-800-832-1901
  - GLBTQ - Sexual Assault Support 1-617-779-2127
  - 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>
  - Victims Assistance Services: 1-914-345-9111