

POLICY ON DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT

Approved: June 16, 2014

Revised: May 4, 2017

I. INTRODUCTION AND STATEMENT OF POLICY

As a Catholic and Franciscan institution of higher education, Franciscan University stands with the Catholic Church in seeing "in men and women, in every person, the living image of God himself. This image finds, and must always find anew, an even deeper and fuller unfolding of itself in the mystery of Christ...and [the Church] invites all people to recognize in everyone...a brother or sister 'for whom Christ died.'" (Compendium of the Social Doctrine of the Church # 105). This understanding is the basis for the University's commitment to promote and to defend the human dignity of all persons as Franciscan University strives to provide a learning, working, and living environment free from all forms of unlawful discrimination, discriminatory or sexual harassment, and all forms of sexual misconduct. Unlawful discrimination, harassment and sexual misconduct subvert the mission of our University, strike against the University's Catholic and Franciscan values, and threaten the careers, educational experience, and well-being of students, faculty, and staff. The University is committed to this policy based upon its values and as required by Title IX of the Education Amendments of 1972, Campus Sexual Violence Elimination Act (Campus SaVE Act), Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), Violence Against Women Reauthorization Act of 2013 (VAWA), Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, the Age Discrimination Act, as well as all other applicable laws, regulations and University policies.

All students, faculty and staff at the University have the right to expect an environment that allows them to enjoy the full benefits of their work or learning experience. It is, therefore, the policy of Franciscan that no member of the University community may engage in conduct which discriminates against or harasses another individual or group on the basis of race, color, national or ethnic origin, sex, age, disability, veteran's status or any other criteria protected by applicable law. Likewise, Franciscan prohibits conduct which constitutes sexual misconduct such as sexual harassment, sexual assault and other forms of sexual violence, dating violence, domestic violence and stalking as those terms are defined below.

This policy shall apply equally to all members of the University community including students, employees (faculty and staff), appointees, Board of Trustee members, volunteers, vendors, contractors, visitors, third parties, and any other affiliated persons or entities of the University and to all programs, activities and functions of the University. Under this policy, individuals are deemed to be "students" from the time they accept the University's offer of admission until the end of the term in which they graduate, withdraw, or are dismissed. Under this policy, individuals are deemed to be "employees" of the University from the time they accept the University's offer of employment until the last official day of their employment with the University.

All members of the University community are responsible for knowing the information and procedures outlined in this policy. The University reserves the right to make changes to this policy as necessary and once the changes are posted online, they are in effect. Therefore, all members of the University community are encouraged to check online for the updated version

of this policy. The University will ensure that the “revised date” is updated at the top of the policy to provide notice that a revised version of the policy has been approved.

The University has jurisdiction to investigate any alleged violations of this policy regardless of whether the conduct happened on-campus or off-campus, so long as the conduct could interfere with or limit a person’s ability to participate in or benefit from the University’s educational programs and activities. The University reserves the right to take any action it deems appropriate to address a situation of misconduct under this policy and provide the necessary resources to those individuals impacted, including the broader University community, when necessary, even where one or more of the parties involved are not members of the University community.

All members of the University community have an obligation to promote an environment free from conduct which conflicts with this policy. Members of the University community who are aware of conduct that violates this policy, whether they observe the conduct directly or otherwise learn about it, are expected to report it to one of the individuals listed under Section III below. All “responsible employees” (as defined in Section VI below) are obligated by this policy to report such conduct to one of the individuals listed under Section III below to assure that the matter is handled promptly and appropriately by trained personnel and that appropriate corrective and remedial actions are taken, including interim measures.

Any student, employee (faculty and staff), appointee, Board of Trustee member, volunteer, vendor, contractor, visitor, third party, and any other affiliated person or entity of the University found to have violated this policy will be subject to appropriate disciplinary and/or corrective action. The corrective and/or disciplinary action will depend on the circumstances and the gravity of the violation, and may range from reprimand to dismissal, or termination. The University will also take appropriate steps to end the misconduct, including the existence of a hostile environment, to remedy the effects of the violation for the alleged victim and the University community, and to prevent recurrence of the violation.

The intent of this policy is to prohibit unlawful discrimination, discriminatory and sexual harassment, sexual misconduct (such as sexual assault and violence, dating violence, domestic violence and stalking), and to promote the full realization of equal opportunity while preserving the religious nature of Franciscan University as Catholic and Franciscan as prescribed in the University's By-Laws and Mission Statement. It is understood that nothing in this policy will undermine the integrity of Franciscan University as a Catholic University. Therefore, no oral or written statement that is in conformity with the teaching of the Roman Catholic Church shall be deemed as violating this policy, and no absence of a statement, oral or written, when such silence is again in accord with Catholic teaching, shall be deemed a violation of this policy. Finally, the approved policies of academic freedom shall be respected and are understood to be consistent with the implementation of this policy.

Where discrimination, harassment and sexual misconduct are involved, this policy shall supersede all other policies and procedures set forth in all other University policies and handbooks. The University engages in an interactive process to consider requests for accommodations related to a disability. Individuals who believe that they are being denied equal access because of a denied accommodation or because of a failure to provide an approved accommodation should utilize the grievance procedure provided through the Student Academic Support Services for Students and the Policy and Procedures on Reasonable Disability Accommodations for Employees and Applicants. All other complaints regarding disability discrimination and/or harassment will be handled through this policy and process.

All allegations of misconduct not involving discrimination, harassment or sexual misconduct will be addressed through the procedures elaborated in the respective student, faculty or staff/employee handbooks. If the accused individual has dual status, or in cases where there are multiple accused individuals with varying statuses, the Title IX/EEO Coordinator (or designee) will determine the appropriate resolution process under this policy. Where the accused individual is not a member of the University community (such as a vendor, contractor, third party or visitor), the University is not required to follow the entire process described in this policy or in the above specified handbooks. In such cases, the University reserves the right to take summary action.

II. NON-DISCRIMINATION STATEMENT

In compliance with state and federal laws, including (but not limited to) Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act, and Titles VI and VII of the Civil Rights Act of 1964, Franciscan University of Steubenville does not discriminate on the basis of race, color, national or ethnic origin, sex, age, disability, or veteran's status (or any other criteria protected by applicable law) in its access to educational programs and activities, treatment of University Community members, admissions, or with regard to employment. Inquiries may be directed to Title IX/EEO Coordinator, Franciscan University of Steubenville, Human Resources Department, 1235 University Blvd., Steubenville, OH 43952; HR@franciscan.edu; 740-283-6238, who has been designated by Franciscan University to coordinate its compliance efforts and carry out its responsibilities under Title IX as well as those under Section 504 and the Age Discrimination Act and other applicable non-discrimination laws. Inquiries may also be directed to the Assistant Secretary for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-1100, Telephone number: 800-421-3481, Fax: 202-453-6012, TDD: 800-877-8339, Email: OCR@ed.gov.

III. Title IX/EEO COORDINATORS

The Title IX/EEO Coordinator oversees compliance with all aspects of this policy. The Title IX/EEO Coordinator (or designee) is responsible for, among other things: overseeing complaints brought forward under this policy to assure that these matters are being investigated and handled appropriately and effectively; identifying and addressing patterns of misconduct and systemic problems; and providing training to students, faculty and staff. The Title IX/EEO Coordinator (or designee) also serves as an available resource to anyone seeking additional information about the processes under this policy, about other resources that may be available to alleged victims of misconduct covered by this policy, or who wish to file a complaint of an alleged violation of this policy. Questions about this policy should be directed to the Title IX/EEO Coordinator (or designee). Anyone wishing to make a report relating to discrimination, harassment or sexual misconduct may do so by reporting their concern to the Title IX/EEO Coordinator or any of the Deputy Title IX/EEO Coordinators listed below:

Title IX/EEO Coordinator:

John J. Pizzuti, J.D.
Director of Campus Safety and Compliance
Email: jpizzuti@franciscan.edu
Phone: (740) 283-6238
Address: 1235 University Boulevard, Steubenville, OH 43952
Office Location: Room 113, Starvaggi Hall

Deputy Title IX/EEO Coordinators:

Brenan Pergi, Deputy Title IX/EEO Coordinator for Human Resources
Vice President of Human Resources
Email: bpergi@franciscan.edu
Phone: (740) 283-6445
Address: 1235 University Boulevard, Steubenville, OH 43952
Office Location: Room 114, Starvaggi Hall

Catherine Heck, Deputy Title IX/EEO Coordinator for Student Life
Assistant Vice President of Student Life
Email: check@franciscan.edu
Phone: (740) 283-6498
Address: 1235 University Boulevard, Steubenville, OH 43952
Office Location: J. C. Williams Center

Alexis Basil, Deputy Title IX/EEO Coordinator for Athletics
Assistant Athletics Director for Compliance and Operations
Email: basil@franciscan.edu
Phone: (740) 284-5359
Address: 1235 University Boulevard, Steubenville, OH 43952
Office Location: Finnegan Fieldhouse

Dr. Joanne Storm, Deputy Title IX/EEO Coordinator for Faculty
Professor of Psychology
Email: jstorm@franciscan.edu
Phone: (740) 284-5359
Address: 1235 University Boulevard, Steubenville, OH 43952
Office Location: Egan Hall

Brian Kissinger, Deputy Title IX/EEO Coordinator for Gaming, Austria
Director of Student Life
Email: bkissinger@franciscan.edu
Phone: +43 7485 98678 15
Address: 1 Kartause Maria Thron, Gaming 3292 Austria
Office Location: Administrative Wing of Kartause Maria-Thron

IV. PROHIBITED CONDUCT UNDER THIS POLICY

Discrimination

Discrimination means material, adverse treatment of a person or group on the basis of race, color, national or ethnic origin, sex, age, disability, or veteran's status or any other criteria protected by applicable law. Discrimination occurs when persons are excluded from participation in, or denied the benefits of, any University program or activity on the basis of a protected status. Notwithstanding the foregoing, this definition of discrimination does not include differential treatment explicitly permitted by law (such as the law's allowance for sex-segregated dormitories). Furthermore, this definition shall not, in any way, limit the University's right to maintain its Catholic

character and to implement programs, policies, and practices in furtherance of its religious identity and objectives as specifically allowed by federal law, including the First Amendment to the U.S. Constitution.

Any complaint of alleged discrimination will be handled through this policy, regardless of whether other issues are implicated. For example, if in making a complaint of an academic nature, a student alleges different treatment as a result of the student's status in a protected class, the different treatment will be investigated using this policy, rather than handling the issue through another University academic appeal process.

Discriminatory Harassment

Discriminatory Harassment means conduct which creates an intimidating or hostile living, learning or working environment at Franciscan on the basis of race, color, national or ethnic origin, sex, age, disability, veteran's status or any other criteria protected by applicable law. It includes oral, written, physical, or graphic conduct that substantially interferes with an individual's work, education, or participation in University programs or activities. Discriminatory harassment means unwelcome advances, requests for favors, and other oral, written, physical, or graphic conduct or communication based on race, color, national or ethnic origin, sex, age, disability, veteran's status or any other criteria protected by applicable law. Harassment rises to the level of discriminatory harassment when:

- a. Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, to obtain or continue employment,
- b. Submission to or rejection of the conduct or communication by a person is used as a factor in decisions affecting the person's employment, education or housing, or
- c. The conduct or communication has a purpose or effect of:
 - (i) Substantially interfering with the person's living, learning, or working environment, or
 - (ii) Creating what a reasonable person would perceive as an intimidating, hostile, or offensive living, learning or working environment.

Some examples of conduct that might constitute discriminatory harassment include any of the following acts or behaviors related to an individual's race, color, national or ethnic origin, sex, age, disability, or veteran's status (or any other criteria protected by applicable law):

- Epithets, "jokes," offensive or derogatory comments, or other verbal or physical conduct
- Ethnic slurs, workplace graffiti, or other offensive conduct
- Making, posting, e-mailing, or circulating demeaning or offensive pictures, cartoons or other materials in the workplace or using University equipment to circulate such materials.

In determining whether conduct rises to the level of creating a hostile environment, the University will consider the totality of the circumstances, including, but not limited to, the nature

and severity of the conduct, the duration of the conduct and whether the conduct is a part of a pattern.

Bullying

Bullying constitutes discriminatory harassment when it is motivated by an individual or group's race, color, national or ethnic origin, sex, age, disability, veteran's status or any other criteria protected by applicable law. Bullying is verbal, physical, social or psychological behavior that is harmful, and involves the misuse of power by an individual or group towards one or more persons. Bullying consists of abusive conduct relative to acts, omissions, or both, that a reasonable person would find hostile, based on the severity, nature, and frequency of the conduct and without regard to the method of delivery, such as verbal, written, graphic, electronic, or physical act. Bullying that falls outside this policy (i.e., is not based on membership to a protected class) may nonetheless violate other University policies.

Hazing

Hazing is defined broadly in the Student Handbook as "any activity expected of someone joining a group (or to maintain full status in a group) that humiliates, degrades, or risks emotional and/or physical harm, regardless of the person's willingness to participate, or that destroys or removes public or private property, or that otherwise conflicts with the academic or religious mission of the University." Hazing is covered by this policy when it is motivated by a person's race, color, national or ethnic origin, sex, age, disability, veteran's status, or any other status protected by applicable law.

Sexual Misconduct

This is a broad term that comprises a wide range of behaviors, including but not limited to, sexual harassment, sexual assault, sexual violence, dating violence, domestic violence, stalking and other forms of prohibited conduct of a sexual nature. The term "sexual misconduct" is used throughout the remainder of this policy when referring collectively to these types of prohibited conduct.

It is a violation of this policy to commit or to attempt to commit these acts of sexual misconduct. Additionally, it is a violation of this policy to aid and abet another person in the commission of any sexual misconduct. The phrase "to aid and abet" is defined as any action or course of action that assists or encourages the commission of a violation under this policy.

The following are definitions of prohibited sexual misconduct under this policy:

- **Sexual Harassment:** For purposes of this policy, sexual harassment may include any unwelcome sexual advances, requests for sexual favors or other unwelcome visual, physical, verbal or written conduct of a sexual nature. Sexual harassment may be found in a single episode as well as in persistent behavior. Sexual harassment may occur between individuals of the opposite sex and individuals of the same sex. Sexual harassment includes unwelcome sexual conduct when:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in University programs or activities, or
 - Submission to or rejection of such conduct by an individual is used as the basis for decisions pertaining to an individual's employment, education, or participation in

- University programs or activities; or
- Such conduct has the purpose or effect of interfering with an individual's work or educational performance; or creating an intimidating, hostile or offensive working and/or learning environment; or interfering with one's ability to participate in or benefit from an educational program or activity.
- Some examples of sexual harassment include but are not limited to:
 - Unreasonable pressure for a dating, romantic, or intimate relationship
 - Unwelcome sexual touching, such as kissing, hugging, rubbing, or massaging
 - Pressure for sexual activity
 - Unnecessary references to parts of the body
 - Sexual innuendos, jokes, humor, or gestures
 - Displaying sexual graffiti, pictures, videos or posters
 - Using sexually explicit profanity
 - Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
 - Social media use that violates this policy
 - Sending sexually explicit emails or text messages
 - Giving unwelcome personal gifts such as lingerie that suggest the desire for a sexual relationship
 - Commenting on a person's body, sexual relationships, or sexual activities
- **Sexual Violence:** Acts of sexual violence are a particularly severe form of sexual harassment. Sexual violence in this policy refers to any intentional physical contact of a sexual nature perpetrated against a person's will, or where a person is incapable of giving consent, that includes rape, sexual assault, sexual battery, and sexual coercion. Under this policy, sexual violence also includes sexual exploitation.

Specific examples of sexual violence include:

- Sexual penetration or touching of sexual organs that is committed by force, threat, intimidation, or otherwise without consent.
- Having sexual intercourse, or sexually touching a person who is incapacitated because of drug or alcohol use, including a person who has been given any drug causing the impairment.
- Exceeding the scope of sexual permission, such as having vaginal sex with a person when the person has only consented to other forms of sexual activity
- Threatening harm or force to have sexual contact with someone who has already refused (sexual coercion).

Consent:

While all sexual contact outside the covenant of marriage is inconsistent with Catholic teaching and the University's values, for purposes of determining whether sexual violence has occurred, "consent" is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual contact throughout a sexual encounter. Consent cannot be inferred from the absence of a "no"; a verbal "yes" or some other conduct a reasonable person would understand as affirmative agreement, is necessary. The following issues are critical to understanding consent to sexual activity:

- Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply present or future consent.

- Coercion, force, or intimidation, or the threat or any of these, invalidates consent.
- Consent must be ongoing throughout a sexual encounter.
- Being in a romantic relationship with someone does not imply consent to any form of sexual activity.
- Effective consent may not exist when there is a disparity in power between the parties.
- Consent can be withdrawn by verbal or physical conduct that a reasonable person would understand to indicate a desire to stop or not engage in the sexual conduct at issue.

Note: Although not necessarily a violation of this policy, certain consensual sexual activity that is lewd, indecent, obscene or immoral conduct or expression that violates Catholic moral teaching on sexuality, or the promotion or advocacy of such conduct or expression, may be considered a violation of other University policies.

Incapacitation:

Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition, including an intellectual or other disability. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual contact with a person whom you know – or reasonably should know – to be incapacitated constitutes sexual misconduct.

- **Non-Consensual Sexual Activity:** Non-consensual sexual activity is any intentional bodily touching of a sexual nature, however slight, with any part of the body or with any object, by any person upon another person, without consent. The definition of “sexual activity” under Ohio law can be found at Ohio Revised Code §2907.01(C) and is available at: <http://codes.ohio.gov/orc 2907.01>.
- **Fondling:** 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 his/her age or because of his/her temporary or permanent mental incapacity.
- **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent under the laws of the jurisdiction in which the incident occurred. For incidents that occur outside of the U.S. (e.g., study abroad programs), Ohio law will apply in determining a violation of this policy.
- **Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited according to the laws of the jurisdiction in which the crime occurred. For incidents that occur outside of the U.S. (e.g., study abroad programs), Ohio law will apply in determining a violation of this policy.
- **Sexual Exploitation:** Sexual exploitation is an act or omission to act that involves taking nonconsensual, unjust, humiliating, or abusive sexual advantage of another, either for his/her own advantage or to benefit or advantage anyone other than the person being exploited. Examples of sexual exploitation include but are not limited to the following:
 - Prostituting another person.

- Non-consensual video, photography or audio recording of sexual activity
 - Sharing items described in the paragraph above beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only.
 - Observing or facilitating observation by others of sexual behavior or a state of undress of another person without the knowledge and consent of that person.
 - Exposing another person to pornographic material without the person's advance knowledge or consent.
 - Going beyond the boundaries of consent to sexual activity (letting your friends hide to watch you engaging in sexual activity).
 - Engaging in voyeurism.
 - Inducing another to expose their genitals.
 - Exposing one's genitals in non-consensual circumstances.
 - Intentionally, knowingly, or surreptitiously providing drugs or alcohol to a person for the purpose of sexual exploitation.
- **Dating Violence:** Dating violence also constitutes sexual misconduct. It is physical violence or the threat of physical violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with an individual and where the existence of the relationship shall be determined based upon the reporting party's statement and with consideration of the following factors: length of relationship; type of relationship; and frequency of interaction between the persons involved in the relationship. For purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - **Domestic Violence:** Domestic violence also constitutes sexual misconduct. It includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of an individual, by a person with whom an individual shares a child in common, by a person who is cohabitating with or has cohabitated with an individual as a spouse or a partner, by a person similarly situated to a spouse of the individual under the domestic or family violence laws of the jurisdiction where the incident occurred, or by any other person against an adult or youth individual 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. According to Ohio law, no person shall knowingly or recklessly threaten, attempt, or cause physical harm to a family or household member (full-text of Ohio Revised Code §2919.25 "Domestic Violence" is available at: <http://codes.ohio.gov/orc/2919.25>).
 - **Stalking:** Stalking also constitutes sexual misconduct. The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or to suffer substantial emotional distress. For the purposes of this definition:
 - (i) Course of conduct means two or more acts, including, but not limited to, acts in which the 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.

(ii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(iii) Reasonable person for purposes of the definition of stalking means a reasonable person under similar circumstances.

According to Ohio law, no person shall engage in conduct, including conduct through electronic methods of communication and interaction, which causes emotional distress or causes a person to believe that the offender will physically harm them. The full text of Ohio Revised Code §2902.211 “Menacing by Stalking” is at: <http://codes.ohio.gov/orc/2903.211>.

If an alleged victim has obtained an order of protection or restraining order or other no contact order against the alleged perpetrator, the alleged victim must provide such information to the Title IX/EEO Coordinator (or designee) so that the University can take all reasonable and legal action to implement the order in the University’s jurisdiction.

Retaliation

As discussed further in Section VIII, it is a violation of this policy to retaliate (directly, indirectly, or through third parties, by any action, method or means) against any member of the University Community who reports or assists in making a complaint of discrimination, harassment, or sexual misconduct, or who participates in the investigation of a complaint in any way.

Examples of retaliation include:

- Suspending or limiting a person’s involvement in an activity because of his or her participation in an investigation under this policy.
- Taking adverse academic action against a student following a report of misconduct under this policy.
- Communicating threats to an individual to encourage an individual not to pursue a complaint or to withdraw a complaint under this policy.

V. STATEMENT ON CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic and/or sexual relationship between individuals in unequal positions, such as teacher and student or supervisor and employee. These relationships may be perceived as less consensual by the individual in the inferior power position. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Moreover, circumstances may change, and conduct that was previously welcome may become unwelcome. Such relationships present the potential for exploitation. Employees must be mindful that the authority which they exercise in their interactions with students and subordinates may affect the decision of a student or a subordinate to enter into or end a romantic or sexual relationship. Even when both parties initially have consented, the development of a romantic or sexual relationship renders both the employee and the institution vulnerable to possible later allegations of sexual harassment or other forms of sexual misconduct in light of the significant power differential that exists between faculty members and students and supervisors and subordinates. Accordingly, the following consensual romantic and/or sexual relationships are prohibited at Franciscan University and can

result in disciplinary action for an employee:

- Between an employee (including faculty and staff) and a student whenever there are supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities for the student.
- Between a supervisor and employee whenever the supervisor has the direct responsibility for evaluating the performance or for making decisions regarding the hiring, promotion, tenure, compensation, or termination of the employee.
- Between a Resident Director and students over whom they have direct responsibility.

VI. REPORTING OPTIONS AND CONFIDENTIALITY

All University employees are expected to promptly report actual or suspected discrimination, harassment or sexual misconduct to the appropriate designated University officials set forth in this policy. Moreover, students and other campus community affiliates and visitors are encouraged to report such incidents. There is no stated timeframe (i.e., statute of limitations) for reporting, but prompt reporting will better enable the University to provide an appropriate response.

- Failure of responsible employee to report incident

Failure of a responsible employee (unless they fall under “Confidential Reporting”) as described in this section, to report an incident or incidents of discrimination, harassment or sexual misconduct of which they become aware, is a violation of University policy and can be subject to disciplinary action for failure to comply with a University policy.

- Privacy

In all cases, the University will handle reports in a sensitive manner and will endeavor to protect the privacy of individuals to the extent it can do so consistent with its obligations to respond to complaints. Information will be shared with others only to the extent necessary to respond to the situation and in accordance with state and federal law. As such, strict confidentiality may not be guaranteed. While discretion remains important, parties are not restricted from discussing and sharing information related to their complaints with others that may support or assist them in presenting their case.

- Good Faith Reports

The University encourages the good faith reporting of misconduct under this policy. However, the University will not allow this policy or the resolution procedures to be abused for improper means. The University will not tolerate intentional false reporting of incidents or to knowingly providing false information with reckless disregard for the truth during an investigation or resolution process under this policy. Such conduct is a violation of this policy and subject to disciplinary action, up to and including termination from employment or dismissal from school.

- Reporting Options

In order to make informed choices, those individuals who have experienced violations should be aware of confidentiality and mandatory reporting requirements when consulting campus

resources. On campus, some resources may maintain confidentiality-meaning they are not required to report actual or suspected discrimination, harassment or sexual misconduct to appropriate University officials-thereby offering options and advise without any obligation to inform an outside agency or individual unless the alleged victim has requested the information to be shared. Resources exist for an alleged victim to report policy violations and crimes and these resources will take action when an incident is reported to them. The University is required to initiate a preliminary review (described below under Section X of this policy) once it receives a report regarding an incident that may have violated this policy.

The following describes the available reporting options at the University:

A. Confidential Reporting

If an individual wishes the details of an incident to be kept confidential, the individual can speak with the following confidential resources:

- Ordained priests, ordained deacons, ordained ministers, and religious sisters and brothers who are operating in that role (or in their role at Franciscan University as a chaplain, pastoral minister or pastoral associate) and are recognized by a religious order or denomination as someone who provides confidential pastoral counseling or spiritual direction
- Certified spiritual directors located at Franciscan University who are operating in that role and are recognized by the University as someone who provides confidential spiritual direction
- Licensed professional counselors at the Franciscan University Counseling Center and counseling interns working under the supervision of a licensed professional counselor
- Health service providers at the Franciscan University Health Center
- Off-campus licensed professional counselors
- Off-campus sexual assault and domestic violence counselors, sexual assault centers, victim advocacy offices, women's centers, and health centers

These confidential resources will honor confidentiality unless: (a) there is an extreme case of clear and imminent danger to the individual or to others; (b) suspected abuse of a minor; or (c) there is another basis for disclosure permitted or required by law. In such cases, the confidential resource must contact the necessary authorities. However, an individual's disclosure during the Sacrament of Reconciliation (confession) will not be revealed by the priest for any reason, which is a protected obligation upheld by law.

Additionally, these confidential resources (except for pastoral counselors and professional counselors as defined under the Clery Act) will submit annual, anonymous, aggregate statistical information only for federal statistical reporting purposes consistent with the Clery Act without disclosing any personal information or breaching any confidentiality, unless they believe it would be harmful to a specific individual. The only information to be submitted includes the date, the general location of the incident (using the Clery Act defined location categories such as "on or off-campus" or "adjacent public property" but no specific addresses are given or reported) and the Clery Act crime category. This information will be used for publication in the University's Annual Security and Fire Safety Report. This report helps to provide the community with a clear picture of the extent and nature of campus crimes, to ensure greater community safety.

B. Reporting to the University

Alleged violations of this policy are encouraged to be reported directly to the Title IX/EEO Coordinator or to one of the Deputy Title IX/EEO Coordinators listed under Section III above. Individuals may use the online Formal Complaint Form, or schedule an appointment with the Title IX/EEO Coordinator or to one of the Deputy Title IX/EEO Coordinators to report an incident.

- Confidentiality:

In the event a complainant requests that his or her name or other identifiable information not be shared with the respondent, or requests that the University take no formal action in response to a report, the Title IX/EEO Coordinator (or designee) shall evaluate such request and notify such individual of the University's response to such request. If the University honors the request for confidentiality, the University's ability to meaningfully investigate the incident and pursue disciplinary action against a respondent may be limited. The University will consider the complainant's request to the extent possible based on a careful evaluation of a range of factors, which include but are not limited to, any legal reporting requirements, the risk of harm to any individual and the University's duty to maintain a safe and non-discriminatory environment for all. In cases where the complainant requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim measures (as described below in Section X of this policy) to the complainant and the campus community, but will not otherwise pursue formal action.

Complainants are advised, however, that even if a Complainant has made such a request or requests that the University take no formal action in response to a report, the University may be obligated to move forward with a University-Initiated Investigation and potential disciplinary action if there is an individual or public safety concern and sufficient independent information exists to establish that this policy has been violated. Examples of situations in which the University may initiate or continue proceedings under the policy include when a report involves serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community. If the Title IX/EEO Coordinator (or designee) determines that the University cannot maintain complainant confidentiality, the Title IX/EEO Coordinator (or designee) will attempt to inform the complainant and will limit the information shared to those with a need to know in order to handle the University's response.

C. Reporting to Law Enforcement Authorities

Because sexual misconduct may constitute both a violation of this policy and criminal laws, the University encourages individuals to report alleged criminal sexual misconduct to law enforcement agencies. Any individual who believes that he or she is in immediate danger should dial 740-283-6911 on campus or 911. On-campus incidents may be reported to any of the local law enforcement agencies listed under Section XI of this policy. For off-campus incidents, reports may be filed with the local law enforcement agency where the incident occurred. Although individuals are encouraged to notify law enforcement agencies, they are not required to do so.

Whether or not an individual who has been subjected to sexual misconduct chooses to pursue

criminal charges externally, they have the right to pursue an internal complaint under this policy, regardless of the status of any external proceedings. As such, a complainant may seek recourse under this policy and/or pursue criminal action. In certain circumstances, the University may have an obligation to pursue an investigation, make a complaint, and/or take remedial action directly, even if a complainant chooses not to pursue the matter internally at the University and/or requests that their name not be disclosed to the alleged perpetrator. Law enforcement's determination of whether or not to prosecute a respondent, nor the outcome of any criminal prosecution, is determinative of whether a violation of University policy has occurred.

The University will assist a complainant, at the complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process. In addition, the University will assist an alleged victim of sexual misconduct, who is interested, in obtaining a protection/restraining order from a court of law. If a complainant obtains such a court order, Campus Security will enforce the court order on campus. The investigation and proceedings under this policy may be carried out prior to, simultaneously with, or following any external civil or criminal proceedings occurring off-campus.

At the request of law enforcement, the University may agree to defer its fact gathering for a brief period during the initial evidence-gathering stage of a criminal investigation. The University will nevertheless communicate with the complainant regarding support, options for resolution and the implementation of interim measures to address concerns regarding their safety and well-being. The University may also take immediate and prompt steps that it deems necessary to protect the University community. The University will promptly resume its fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

D. Reporting to University Employees

All Franciscan University employees (which include all faculty, staff, and administrators) are considered "responsible employees" for purposes of this policy in accordance with Title IX of the Education Amendments Act of 1972, unless they fall under "Confidential Reporting." Under this policy, responsible employees are obligated to promptly report actual or suspected discrimination, harassment or sexual misconduct to one of the appropriate University officials designated in Section III of this policy. Anonymous reporting does not satisfy this mandatory reporting obligation. Prompt reporting is necessary to assure that the matter is handled promptly and appropriately by trained personnel and that appropriate corrective and remedial actions may be taken as warranted, including interim measures. Prompt reporting of such incidents enhances the ability of the University to promptly remedy violations of this policy and to prevent their recurrence. The information reported should include all relevant details about the alleged incident that a student or another person has shared with the responsible employee, including the names of the alleged perpetrator (if known), the student or other member of the campus community who experienced the alleged misconduct, others involved in the incident as well as the date, time and location of the incident. Before a person reveals this type of information to a responsible employee, the responsible employee should make every effort to ensure that the person understands the employee's reporting obligation and the person's option to request that the University maintain his or her confidentiality (which request would be considered by the Title IX/EEO Coordinator or designee), and the person's ability to share the information confidentially with certain individuals on campus (such as the counselors in the Franciscan University Counseling Center and priests) or with off-campus sexual assault resource centers, advocates, and health care providers.

E. Reporting Sexual Misconduct Involving a Child/Minor

Sexual misconduct involving a child/minor (anyone under 18 years of age) must be reported. Ohio state law requires that all University employees who have reason to believe that a child/minor is a victim of child abuse or neglect (including sexual misconduct) have an affirmative duty to make an oral report to Child Protective Services (CPS) 1-855-OH-CHILD (1-855-642-4453) or to local law enforcement (See Section XI for a list of local law enforcement agencies). Failure to report may result in criminal charges.

F. Anonymous Reporting

If someone other than a University responsible employee wants to make a report of discrimination, harassment or sexual misconduct on his or her behalf or on behalf of another person, but wishes to remain anonymous, you may do so by completing a secure Anonymous Online Form. This information will then be sent to the Title IX/EEO Coordinator (or designee) for review and appropriate response and action. It is important to understand that if you choose to file an anonymous report, the University's ability to investigate, respond or take further action may be limited by the level of information available about the incident or individuals involved.

VII. AMNESTY FOR SEXUAL MISCONDUCT COMPLAINANTS AND WITNESSES

The University encourages reporting of sexual misconduct and seeks to remove barriers to making a report. At times, students may be hesitant to report sexual misconduct to University officials because they are concerned that they may be subject to student disciplinary action for lesser policy violations (such as visitation or underage drinking) that occurred during the incident. These behaviors are not condoned by the University, but the importance of addressing alleged sexual misconduct is the paramount consideration of the University. Consequently, students who report sexual misconduct in good faith, as a complainant or witness, will not be subject to student disciplinary action for other policy violations that occurred during the incident as long as such violations did not place the health and safety of any other person at risk. The University may, however, require students to participate in educational activities or other interventions as deemed appropriate by the Office of Student Life. Moreover, amnesty does not preclude or prevent action by law enforcement or other legal authorities.

VIII. RETALIATION PROHIBITED

Any actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of discrimination, harassment or sexual misconduct is prohibited and is a separate violation of this policy. This includes but is not limited to retaliation against any individual who brings a complaint under this policy or who cooperates with or otherwise participates in the investigation or resolution of a complaint under this policy. The University will take steps to prevent retaliation and will also take responsive action if the University finds that retaliation has occurred. Individuals who (directly, indirectly, or through third parties, by any action, method or means) engage in such retaliatory actions are subject to disciplinary action. An individual who is threatened in any way should immediately report these concerns to the Title IX/EEO Coordinator or one of the designated Deputy Title IX/EEO Coordinators. All complaints, allegations or reports of retaliation under this policy should be made and processed by the same procedures set forth in this policy.

IX. PRESERVATION OF EVIDENCE

You are strongly encouraged to preserve evidence to the greatest extent possible in cases of discrimination, harassment and sexual misconduct. Preservation of evidence may assist with the investigation and may be necessary for proof of the crime or in obtaining a protection order, if applicable. Nonetheless, the University will investigate complaints of misconduct even in the absence of physical evidence.

General Suggestions

- Do not alter, dispose of, or destroy any physical evidence.
- If there is suspicion that a drink may have been drugged, inform a medical assistance provider, Campus Security and/or law enforcement as soon as possible so they can attempt to collect possible evidence (e.g., from the drink, through urine or blood sample).
- Preserve evidence of electronic communications by saving them and/or by taking screen shots of text messages, instant messages, social networking pages, or other electronic communications, and by keeping pictures, logs, or copies of documents that relate to the incident and/or perpetrator.
- Even if individuals choose not to make a complaint regarding sexual misconduct, they should nevertheless consider speaking with Campus Security or other law enforcement to preserve evidence in the event that they change their mind at a later date.

Suggestions Specific to Sexual Violence

- When physical violence of a sexual nature has been perpetrated against you, the University recommends that you immediately go to the emergency room of a local hospital, contact local law enforcement or campus security, and report the incident to the appropriate designated University officials set forth in this policy. If you are a student and need assistance or are uncomfortable contacting any of these entities or officials directly, please contact your resident assistant or resident director.
- Because some evidence, particularly evidence that may be located on the body, dissipates quickly (within 48-96 hours), individuals who have been sexually assaulted and wish to preserve evidence should go to a local hospital immediately to seek a medical examination and/or evidence collection.
- An individual who has been sexually assaulted should not shower, bathe, douche, smoke, brush teeth, eat, drink, or change clothes or bedding before going to the hospital or seeking medical attention. When seeking medical attention at a hospital, you should, if possible, take a full change of clothing, including shoes, for use after a medical examination.
- If the individual who has been sexually assaulted decides to change clothes or bedding, they should not wash the clothes worn or bedding used during the assault, and should bring them to a hospital or the police in a non-plastic bag (e.g., paper bag).

X. RESOLUTION PROCESS

Overview of the Resolution Process

Upon receiving a report of a violation of this policy, the Title IX/EEO Coordinator (or designee) will begin a preliminary review (described below). Upon completion of the preliminary review, the Title IX/EEO Coordinator (or designee) will determine whether or not there is reasonable cause to initiate the resolution process outlined below.

Definitions and Important Information

A. Parties

Under this policy, the “complainant” is an individual who is the subject of the alleged misconduct for which a complaint or report is made. The individual who is alleged to have engaged in behavior in violation of this policy is referred to as the “respondent.”

B. Confidentiality

In the handling of inquiries and complaints under this policy, the University will protect confidentiality to the extent consistent with the University’s legal obligations to take all reasonable steps to protect the welfare of the University community. See also Section VI above.

C. Advisors

Each party has the right to choose and consult with an advisor of their choice throughout the investigation and resolution process. The advisor may be any person who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any interview, meeting or proceeding related to the investigation and resolution process. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in such interviews, meetings or proceedings. An advisor shall keep all information acquired during the process confidential. The University reserves the right to dismiss an advisor who fails to follow this policy.

D. Interim Measures

At any time after receiving notice of an allegation of a violation of this policy, the University may provide reasonable and appropriate interim measures to address the immediate effects of discrimination, harassment, sexual misconduct or retaliation to ensure equal access to its education programs and activities and to protect the alleged victim and the campus community as necessary. The Title IX/EEO Coordinator (or designee) will notify the alleged victim of his/her options for interim measures. Additionally, the Title IX/EEO Coordinator (or designee) has sole discretion to implement or stay an interim measure imposed under this policy and to determine its conditions and duration. The measures that the University implements will vary depending on the facts of each case. Factors that might be considered during this process include, but are not limited to the following: the specific need expressed by the alleged victim; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the alleged victim; whether the alleged victim and alleged perpetrator share the same residence hall, dining hall, class, transportation or job location; and whether other judicial measures have been taken to protect the victim (e.g., civil protection orders). The University will keep interim measures as confidential as possible, provided the confidentiality does not impair the University’s ability to provide the accommodations or protective measures.

These interim measures may include, but are not limited to:

- Imposition of a “no contact order,” an administrative remedy designed to curtail contact and communications between two or more individuals.
- Interim suspension of a student or employee.
- Referral to counseling and health services.
- Rescheduling of exams and assignments.
- Rescheduling of dining times.
- Change in class schedule, including the ability to transfer course sections or withdraw from a course.

- Change in work schedule or job assignment.
- Change in campus housing as available and extracurricular activities.
- Providing campus escorts and transportation accommodations.
- Denying access to campus housing, facilities, events and/or activities.
- Any other remedy that can be used to achieve the goals of this policy.

When necessary to protect the safety of the complainant or other University community members, the University may issue a full or partial suspension to the respondent on an interim basis until the matter is resolved. A respondent will have the opportunity to meet with the Title IX/EEO Coordinator (or designee) and be heard prior to an interim suspension being imposed.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by an interim measure. The University will take immediate action to enforce a previously implemented measure and disciplinary sanctions can be imposed for failing to abide by a University-imposed measure.

E. Notice to Parties

The Title IX/EEO Coordinator (or designee) will contact the complainant if someone other than the complainant made the report. In cases in which someone other than the complainant made the report, the reporting party may have no further involvement in the process. The Title IX/EEO Coordinator (or designee) will notify the complainant of available resources (such as counseling services, medical and mental health services, victim advocacy services), the right to report/file a criminal complaint with local law enforcement, and the option to seek a protection/restraining order from a court of law.

The Title IX/EEO Coordinator (or designee) will initiate the resolution process by notifying the respondent that a complaint has been filed against him or her and inform the respondent of the nature of the complaint, providing a written copy or a summary of the complaint to the respondent.

The Title IX/EEO Coordinator (or designee) shall explain to both parties the avenues for informal and formal action, including a description of the process and the relevant avenues to the complainant and respondent and provide each of them with a copy of this policy.

F. General Rights of Complainants and Respondents

- The right to be treated with dignity and respect.
- The right to receive information about this policy.
- The right to a prompt and equitable investigation and resolution of allegations of prohibited conduct.
- The right to be notified of available medical, counseling and pastoral services.
- The right to be informed of options to notify law enforcement authorities and the option to be assisted by the University in notifying such authorities, if the individual so chooses. Filing a report with law enforcement does not prevent the University from proceeding under this policy.
- The right to be informed of the option to seek a protection/restraining order from a court of law.
- The right to have this policy and the procedures set forth herein followed.

- The right to protect confidentiality to the extent possible as allowed by the law and this policy.
- The right to reasonably available interim measures, as described in these procedures.
- The right to freedom from retaliation for making a good faith report of prohibited conduct or participating in any proceeding under the policy.
- The responsibility to refrain from retaliation directed against any person for making a good faith report of prohibited conduct or participating in any proceeding under the Policy.
- The responsibility to provide truthful information in connection with any report investigation, or resolution of prohibited conduct under the policy or these procedures
- The opportunity to articulate concerns or issues about proceedings under the policy and these procedures.
- The right to timely notice of any meeting or proceeding at which the party's presence is contemplated by these procedures.
- The opportunity to choose an advisor, including the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by these Procedures.
- The right to written notice of an investigation, including notice of potential policy violations and the nature of the alleged prohibited conduct.
- The opportunity to challenge the assigned Investigator or any member of the Hearing or Appeals Panel for conflict of interest.
- The opportunity to offer information, present evidence, and identify witnesses during an investigation.
- The opportunity to be heard, orally and/or in writing, as to the determination of a policy violation and the imposition of any sanction(s).
- The right to progress of the investigation and anticipated time to resolution.
- The right to review investigative documents, specifically witness interview summaries, papers submitted by either party or a witness, and the investigative report.
- The right to equal access to any information that will be used during Informal and/or Formal Resolution proceedings and related meetings.
- The right to reasonable time to prepare any response contemplated by these procedures.
- The right to written notice of any extension of timeframes for good cause.
- The right to appeal a finding and/or sanction.
- The right to written notice of the outcome of any Investigation, Informal and Formal Resolution Processes, and/or Request for Appeal.

G. *Completion of Investigation Process*

The University aims to bring all allegations to a prompt resolution within sixty (60) calendar days of the original complaint, which can be extended as necessary for good cause by the Title IX/EEO Coordinator (or designee) with written notice to the parties.

H. *Standard of Review*

Decisions regarding whether or not a respondent violated this policy will be based upon careful

consideration of all available information presented and evaluated using a “preponderance of the evidence standard” (i.e., if it is “more likely than not” that the policy was violated).

I. *Acceptance of Responsibility*

The respondent may, at any time, elect to resolve the complaint by accepting responsibility for the prohibited conduct, in which case the Title IX/EEO Coordinator (or designee) will refer the matter to either: (i) the Vice President of Student Life (or designee) for students; (ii) the Vice President of Human Resources (or designee) for employees and all other individuals; or (iii) the Vice President for Academic Affairs for faculty, to determine the appropriate sanctions. As to respondent faculty members, if the proposed sanction by the Vice President for Academic Affairs includes suspension or dismissal of a tenured faculty member, the matter will be referred to the University’s President, who will decide whether to initiate the process set forth in the Faculty Handbook for imposition of such a sanction.

J. *Hearing Panel and Appeals*

Hearing Panel. A hearing panel is appointed when necessary according to the process described below. The Title IX/EEO Coordinator (or designee) will appoint a standing pool of trained members from the University faculty and staff and, in the discretion of the Title IX/EEO Coordinator (or designee), external trained professionals with experience adjudicating cases of prohibited conduct under this policy. The Title IX/EEO Coordinator (or designee) will select at least three (3) members from this pool to serve on the Hearing Panel. The Vice President of Student Life (or designee) will serve as the Chairperson of the Hearing Panel involving a complaint against a student. The Vice President of Human Resources (or designee) will serve as the Chairperson of the Hearing Panel involving a complaint against any employee or person who is not a student.

Appeals. Appeals will be reviewed by the Chief Operating Officer (or designee).

K. *Conflict of Interest*

A complainant and/or respondent may challenge the participation of an investigator or panelist selected on the Hearing Panel and/or the person designated to review an appeal because of perceived conflict of interest, bias, or prejudice. Such challenges, including rationale, must be made in writing to the Title IX/EEO Coordinator (or designee) within 48 hours after receiving notification as to the identity of the investigator, panelist member and/or the person designated to review an appeal. The Title IX/EEO Coordinator (or designee) will have the sole discretion to determine whether such a conflict of interest exists and whether an investigator, panelist member and/or the person designated to review an appeal should be replaced. If an involved University employee determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent or witness, or due to any other conflict of interest, another suitable person will be assigned.

Investigation

Preliminary Review

Upon receiving a report for a violation of this policy, the Title IX/EEO Coordinator (or designee) will begin a preliminary review. Upon completing the preliminary review, the Title IX/EEO Coordinator (or designee) will determine whether or not there is reasonable cause to initiate a

formal investigation (see below) and whether or not there is reasonable cause to move toward adjudication through either the Informal Resolution Process or Formal Resolution Process as described below.

At any point in the investigation, if it is determined that there is no reasonable cause to believe that this policy may have been violated, the Title IX/EEO Coordinator (or designee) has authority to terminate the investigation and end further proceedings under this policy; however, the case could be referred to other University offices where appropriate to address the alleged misconduct in accordance with the respective student, faculty or employee handbook.

At the discretion of the University, a respondent may not be permitted to withdraw or take a leave of absence from the University after the University receives a report of an alleged violation of this policy. The University reserves the right to proceed with an investigation regardless of a respondent's request for a withdrawal or for a leave of absence from the University.

Complaints Involving Multiple Parties

When there are multiple complainants making complaints against a single respondent, or a single complainant making complaints against multiple respondents, each complaint will usually be addressed separately under these procedures. If the complaints arise from the same set of facts, the investigator and Title IX/EEO Coordinator (or designee) may merge the complaints into a single complaint for investigation and resolution purposes. Similarly, reciprocal allegations by a respondent against a complainant or additional allegations raised by a complainant after the initial complaint may be combined for investigation and resolution purposes.

Special Procedure for Complaints against the President or Title IX/EEO Coordinator

If a complaint involves alleged conduct on the part of the University's President, the University's Board of Trustees will designate an Investigating Officer. Based on the information gathered by the investigation, the Board of Trustees will prepare and issue the written report determining the complaint. The determination of the Board of Trustees is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Title IX/EEO Coordinator, the University's President will designate an Investigating Officer. Based on the information gathered by the investigation, the President will prepare and issue the written report determining the complaint. The determination of the President is final and not subject to appeal.

Informal and Formal Resolution Processes

A. Informal Resolution Process

The University encourages informal resolution when the parties desire to resolve the situation cooperatively. Informal resolution may include inquiries into the facts, but does not rise to the level of a formal investigation. The informal resolution process is designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow, the informal process will be initiated as soon as possible after the filing of the complaint or receipt of a report of an alleged violation, absent any unusual circumstances.

With the concurrence of the complainant and the respondent, an investigator assigned by the Title IX/EEO Coordinator (or designee) and/or the Title IX/EEO Coordinator (or designee) will

seek an outcome through informal resolution with the assistance of an appropriate University official designated by the Title IX/EEO Coordinator (or designee). Any resolution through this informal resolution procedure must be mutually agreed upon by the parties involved. Both the complainant and the respondent have the right to bypass or end the informal resolution process at any time and initiate a formal resolution investigation and hearing. Any failure to comply with the terms of an informal resolution agreement may result in disciplinary action/sanctions and/or, if warranted, a further allegation of misconduct.

Informal resolution includes, but is not limited to, options such as referral to another campus office or program, mediation, separation of the parties, referral of the parties to counseling programs, conducting educational and/or training programs, or other remedial measures. Situations that are resolved through informal resolution are usually subject to follow up after a period of time. Steps taken by the Title IX/EEO Coordinator (or designee) to help the parties achieve informal resolution will be documented.

Some reports of alleged violations of this policy may not be appropriate for informal resolution, and may require a formal investigation at the discretion of the Title IX/EEO Coordinator (or designee). The Office for Civil Rights of the U.S. Department of Education has taken the position that face-to-face mediation is not an appropriate mechanism for resolution in cases of alleged sexual assault or sexual violence. Face to face mediation will not be used to resolved cases of alleged sexual assault or sexual violence.

The Title IX/EEO Coordinator (or designee) will review the resolution and may approve it, reject it, or require modification. If the resolution is approved, the investigator will prepare a written memorandum and will present the memorandum to the parties for their review and signature. The investigator will then provide the parties with simultaneous written notice that the complaint has been resolved. Typically an Informal Resolution will be completed within 45 days of the receipt of the complaint. If additional time is needed, both parties will be notified.

B. Formal Resolution Process

If the allegation of alleged violation of this policy has not been resolved as a result of the informal process or is not suited for informal efforts, or if either the complainant or the respondent requests to invoke the formal resolution process, a formal investigation will be initiated. The formal resolution process will involve an investigation and, depending on the circumstances, a hearing panel determination. An investigation by the University and a decision by the hearing panel will, in most cases, be rendered within sixty (60) calendar days of the filing of a complaint. This time period can be modified for good cause at the discretion of the University's Title IX/EEO Coordinator (or designee), if deemed necessary to conduct a thorough investigation or to protect the rights of all parties. If the investigation and resolution for the alleged violation will not be completed within 60 calendar days from the filing of the complaint, the complainant and the respondent will be notified.

- Formal Investigation

This policy provides for a thorough, prompt, fair and impartial investigation. The Title IX/EEO Coordinator (or designee) or a trained investigator appointed by the Title IX/EEO Coordinator (or designee) will conduct the formal investigation. The University reserves the right to utilize outside trained investigators as needed.

During an investigation, the complainant will have the opportunity to describe his or her

allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The investigator will review evidence presented and will meet with additional witnesses identified by the complainant, the respondent, or third parties, as determined appropriate by the investigator. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information throughout the investigation process. In some cases, the investigator may interview the parties on more than one occasion. The investigator may visit relevant sites or locations and record observations through written, photographic, or other means. Additionally, the investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

Evidence that is irrelevant or whose prejudicial effect substantially outweighs its probative value may be excluded from consideration by the investigator or the Hearing Panel.

- Investigation Report

Upon completion of the investigation, the investigator will provide both the complainant and the respondent with the opportunity to review the written report and submit the written report to the Title IX/EEO Coordinator (or designee). The report will detail the allegations made by the complainant; summarize the statements of the complainant, respondent and witnesses; describe the findings and conclusions of the investigation; and include a recommendation as to whether or not there is sufficient evidence, by a preponderance of the evidence standard, to support a finding that the respondent violated this policy.

(a) *Recommended Finding(s) that the Respondent Violated this Policy*

When the investigator recommends that there is sufficient evidence, by a preponderance of the evidence standard, to support a finding that the respondent violated this policy, the respondent may accept or contest the recommendation by notifying the Title IX/EEO Coordinator (or designee) in writing within five (5) days from receipt of the written report. The failure of the respondent to timely accept or contest the recommendation within five (5) days shall be deemed as accepting the recommendation.

- (i) If the respondent accepts the recommended finding(s) that the respondent violated this policy, the Title IX/EEO Coordinator (or designee) will refer the case to either: (1) the Vice President of Student Life (or designee) for students; (2) the Vice President of Human Resources (or designee) for employees and all other individuals; or (3) the Vice President for Academic Affairs (or designee) for faculty, solely on the issue of sanctions as outlined in this policy. As to respondent faculty members, if the proposed sanction by the Vice President for Academic Affairs includes suspension or dismissal of a tenured faculty member, the matter will be referred to the University's President, who will decide whether to initiate the process set forth in the Faculty Handbook for imposition of such a sanction. The decisions and recommended actions of the relevant Vice Presidents and the President, where applicable, will be communicated in writing to the Title IX/EEO Coordinator (or designee) and to the complainant and respondent.
- (ii) If the respondent contests the recommended finding(s) that the respondent violated this policy, the respondent must submit to the Title IX/EEO Coordinator

(or designee) a written statement explaining why the respondent contests such finding(s). The complainant will have an opportunity to review and respond in writing to any such statement. The Title IX/EEO Coordinator (or designee) will refer the case for a hearing before the Hearing Panel for further proceedings as outlined in this policy.

(b) *Recommended Finding(s) that the Respondent Did Not Violate this Policy*

When the investigator recommends that there is insufficient evidence, by a preponderance of the evidence standard, to support a finding that the respondent did not violate this policy, the complainant may accept or contest the recommendation by notifying the Title IX/EEO Coordinator (or designee) in writing within five (5) days from receipt of the written report. The failure of the complainant to timely accept or contest the recommendation within five (5) days shall be deemed as accepting the recommendation.

- (i) If the complainant accepts the recommended finding(s) that the respondent did not violate this policy, the complainant must submit to the Title IX/EEO Coordinator (or designee) a written statement indicating that the complainant accepts the recommended finding(s). Upon receipt of the same, the case will be closed and documented accordingly.
- (ii) If the complainant contests the recommended finding that the respondent did not violate this policy, the complainant must submit to the Title IX/EEO Coordinator (or designee) a written statement explaining why the complainant contests such finding(s). The respondent will have an opportunity to review and respond in writing to any such statement. The Title IX/EEO Coordinator (or designee) will refer the case for a hearing before the Hearing Panel for further proceedings as outline in this policy.

- Procedure for Hearings that Proceed to a Hearing Panel

When, following an investigation, the complainant or respondent disputes the recommended findings from the investigator, the case will proceed to a Hearing Panel. The University utilizes a Hearing Panel (as described above) specially trained to handle cases of prohibited misconduct pursuant to this policy. All Panel members receive periodic training on hearing practices.

- Notice: Both the complainant and the respondent will be notified at least 120 hours in advance of the date and time of the hearing and the names of the hearing panelists.
- Attendance/Participation: Should the respondent or complainant fail to attend the scheduled hearing, the hearing will proceed and a decision will be made in his or her absence. A representative may not appear in the place of a respondent or complainant. Additionally, neither party is required to participate in the hearing in order for the hearing to proceed. Hearings are closed to all but the respondent, complainant, witnesses, advisors, and the Hearing Panel. The University reserves the right to permit other individuals to participate as an observer.
- Postponement: The hearing may be postponed until a later date for good cause at the sole discretion of the University's Title IX/EEO Coordinator (or designee). Any requests by the complainant or respondent for a postponement of the hearing must

be communicated to the Title IX/EEO Coordinator (or designee) at least 48 hours before the hearing unless there is a compelling emergency.

- Accommodations: Accommodations may be made for complainants and respondents who do not wish to be in the hearing room at the same time. This accommodation may include audio conferencing, videoconferencing, or placing a privacy screen in the hearing room. All requests must be made to the Title IX/EEO Coordinator (or designee) at least 48 hours in advance of the hearing.
- Voluntary Agreement: At any time during the course of this process, the parties may voluntarily agree to resolve any allegations of prohibited behavior in lieu of findings and sanctions under this policy.
- Witnesses: The complainant and respondent may testify on their own behalf and may suggest other relevant material witnesses to provide information. Absent exceptional circumstances, the complainant and respondent must inform the Title IX/EEO Coordinator (or designee) in writing at least 72 hours in advance of the hearing the names of any proposed witnesses and what information they will provide. The Chairperson of the Hearing Panel will consider the parties' suggestions for additional witnesses and may, in his or her discretion, direct that such witnesses appear at the hearing; the Chairperson may decline to order the appearance of witnesses whose testimony would be duplicative of information already contained in the investigation file, irrelevant, or otherwise unhelpful to the panel's work. Additionally, the complainant and respondent must provide to the Title IX/EEO Coordinator (or designee) in writing at least 72 hours in advance of the hearing suggested questions to be asked of the witnesses testifying before the panel. The names of proposed witnesses and suggested questions submitted to the Title IX/EEO Coordinator (or designee) by the complainant or respondent will be shared with the other party in advance of the hearing.
- Duty of Candor: All members of the University community and other individuals, who appear before the Hearing Panel, whether as parties to the proceedings or as witnesses, are expected to provide truthful testimony.
- Hearing Packet: In advance of the hearing, the Title IX/EEO Coordinator (or designee) prepares a packet with information it deems relevant to the case to be shared with the Hearing Panel. The Title IX/EEO Coordinator (or designee) will provide both the complainant and the respondent with the opportunity to review the hearing packet in advance of the hearing. If a complainant or respondent wishes to share additional relevant written information to a hearing panel in advance of the hearing, it must be submitted to the Title IX/EEO Coordinator (or designee) at least 24 hours before the hearing. The Title IX/EEO Coordinator (or designee) will share the additional information with the complainant/respondent and the Hearing Panel. The packet will include a copy of the investigation report and the written responses from the complainant and the respondent regarding the report.
- Recordings: A respondent, complainant, advisor, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room. The Hearing Panel will make an audio recording of the hearing to be kept on file for three years. Reasonable care will be taken to create a quality audio recording and minimize technical problems;

however, technical problems that result in no recording or an inaudible one will not be a valid argument for appeal.

- Hearing Format: The Hearing Panel has general authority over the conduct of the hearing (e.g., it may set time frames for witness testimony and it may limit opening/closing statements or their length, etc.). The general course of procedure for a panel hearing is as follows:
 - (a) Introductions
 - (b) Opening statement from the complainant
 - (c) Opening statement from the respondent
 - (d) Complainant's witnesses to be questioned by the Panel.
 - (e) Respondent's witnesses to be questioned by the Panel.
 - (f) Panel questioning of the complainant and respondent.
 - (g) Complainant's closing statement.
 - (h) Respondent's closing statement.
 - (i) Complainant's brief rebuttal statement.

A complainant or respondent may not question each other or other witnesses directly. If any additional questions (other than those questions previously submitted in writing prior to the hearing) are desired to be asked by either party during the hearing, the party must make that request to the Chairperson of the Hearing Panel, who will determine whether to ask them. The Chairperson of the Hearing Panel determines the relevancy of any information presented at the hearing and can exclude any irrelevant or duplicitous information.

- Evidence: Issues regarding admission of evidence or testimony, including relevancy and the reliability of the evidence and testimony will be determined by the Chairperson of the Hearing Panel during the hearing. Sexual history of either party may not be considered during the hearing unless such information is determined to be highly relevant by the Chairperson.
- Decision: At the conclusion of the hearing, the Hearing Panel will deliberate in private regarding whether the respondent is "In violation" or "Not in violation" of this policy. The Chairperson and Hearing Panel may confer with the Title IX/EEO Coordinator, as needed. Evidence will be evaluated under a "preponderance of the evidence standard," meaning that the respondent will be found "In violation" of the policy if, based upon the entirety of the evidence presented during the hearing, it is determined that the respondent "more likely than not" violated the policy in question. A majority vote is required. If there is a finding that the respondent is "In violation" of this policy, sanctions will be imposed as described below. The parties will be advised in writing of the decision and the imposed sanctions, if applicable. The written decision will summarize the hearing panel's rationale for the decision and, where applicable, will summarize credibility determinations that were important to the decision.
- Sanctions:
 - If there is a finding that the respondent is "In violation" of this policy, a sanction will be imposed.
 - Sanctions for students will be determined by the Vice President of Student Life (or designee) and may include, but are not limited to: warning, restitution, disciplinary probation, suspension for a definite period of time after which the

student is eligible to return (Note: Conditions for readmission may be specified), permanent dismissal, specialized treatment off-campus, no-contact orders, trespass from campus, housing restrictions, adjustments to course schedules, revocation of admission, restrictions on participation in graduation and/or other University programs or activities, and/or other educational sanctions deemed appropriate under the circumstances.

- Sanctions for University employees (other than faculty) will be determined by the Vice President of Human Resources (or designee) and may include, but not limited to: warning, restitution, suspension for a definite period of time after which the employee is eligible to return (Note: Conditions for reemployment may be specified), permanent termination from employment, required counseling, educational measures, and/or other sanctions deemed appropriate under the circumstances
- Sanctions for University faculty will be determined by the Chief Academic Officer (or designee) and may include, but not limited to: warning, restitution, suspension for a definite period of time after which the faculty member is eligible to return (Note: Conditions for reemployment may be specified), permanent termination from employment, required counseling, educational measures, termination of an appointment with tenure or of a non-tenured appointment (for faculty) and/or other sanctions deemed appropriate under the circumstances.
- Imposed sanctions will remain in effect pending the outcome of any appeal process; although a request may be made to the Chairperson of the Hearing Panel to delay implementation of the sanctions until the appeal is decided. However, as to respondent faculty members, if the proposed sanction includes suspension or dismissal of a tenured faculty member and the case is not appealed, the matter will be referred to the University's President, who will decide whether to initiate the process set forth in the Faculty Handbook for imposition of such a sanction.
- Both parties will be notified in writing simultaneously of the panel's decision. The parties will also be informed of the sanctions imposed, if applicable, and the University appeal procedures. The Chairperson will also promptly notify the Title IX/EEO Coordinator (or designee) in writing of the decision and the sanctions imposed, if applicable. Regardless of the outcome of the formal hearing, interim measures may be provided to the complainant or respondent by the Title IX/EEO Coordinator (or designee). Such interim measures (as described hereinabove) include any appropriate remedy warranted by the circumstances.

Appeals

Complainants and respondents may file a written appeal with the University's Title IX/EEO Coordinator (or designee) within seven (7) calendar days from the date of the decision. To file an appeal, please use the University's Request for Appeal or contact the Title IX/EEO Coordinator (or designee) to obtain a paper version of the Request for Appeal Form. The non-appealing party will have an opportunity to provide a written response to the request for appeal via the University's Response Statement or contact the Title IX/EEO Coordinator (or designee) to obtain a paper version of the Response Statement. This Response Statement must be submitted within seven (7) calendar days of receipt of Request for Appeal.

If the appeal request is not timely filed with the University's Title IX/EEO Coordinator (or designee), the appeal will be dismissed and the Hearing Panel's decision and imposed sanctions (if applicable) will stand. However, as to respondent faculty members, if the proposed

sanction includes suspension or dismissal of a tenured faculty member and the appeal is dismissed, the matter will be referred to the University's President, who will decide whether to initiate the process set forth in the Faculty Handbook for imposition of such a sanction.

The only grounds for appeal are as follows:

- The appropriateness of the sanction(s) relative to the violation(s);
- To consider substantive new evidence, unavailable during the investigation or at the time of the hearing, that could substantially impact the original finding or sanction;
- A procedural or substantive error occurred that significantly impacted the outcome of the hearing; and/or
- The decision of the Hearing Panel was unsupported by substantial evidence. Substantial evidence refers to evidence that a reasonable person could accept as adequate to support the decision.

If an appeal is timely filed, the Chief Operating Officer(or designee) will review the case and may issue the following outcomes:

- Affirm the decision and imposed sanction(s) rendered.
- Affirm the decision and change the sanction(s) imposed to a lesser or more severe sanction.
- If the Chief Operating Officer(or designee) determines that a procedural or substantive error(s) occurred in the Formal Resolution Process, the case may be remanded to the Hearing Panel with specific instructions to correct the error(s) and reconsider the case.
- If the Chief Operating Officer(or designee) determines that the appeal request contains substantive new information, the case shall be remanded to the Hearing Panel to reconsider the case in light of the new information.
- Reverse the decision (and imposed sanctions if applicable) rendered as the decision was unsupported by substantial evidence.

The decision of the Chief Operating Officer(or designee) will be final. However, as to respondent faculty members, if the proposed sanction is upheld by the Chief Operating Officer(or designee) and includes suspension or dismissal of a tenured faculty member, the matter will be referred to the University's President, who will decide whether to initiate the process set forth in the Faculty Handbook for imposition of such a sanction.

The Chief Operating Officer(or designee) will generally decide an appeal within twenty (20) calendar days from when the appeal was received; if the decision will take longer, the Chief Operating Officer(or designee) will let the parties know. The Chief Operating Officer(or designee) will provide written notification to the complainant and respondent after a decision has been determined.

XI. AVAILABLE RESOURCES

The following resources are available to the University community:

- *Law Enforcement*

Steubenville Police Department
123 South 3rd Street
Steubenville, OH 43952
Tel. 740-283-6090

Jefferson County Sheriff's Department
16001 Ohio Route 7
Steubenville, OH 43952
Tel. 740-283-8600

Polizeiinspektion (for Gaming, Austria Campus)
Im Markt #3
3292 Gaming
Tel. 05 9133 3151

- Medical Care

Franciscan University Health Center
Lower Level of Finnegan Fieldhouse
1235 University Boulevard
Steubenville, OH 43952
Tel. 740-284-7223

Trinity West Medical Center
4000 Johnson Rd.
Steubenville, OH 43952
Tel. 740-264-8000

Weirton Medical Center
601 Colliers Way
Weirton, WV 26062
Tel. 304-797-6000

Landesklinikum Scheibbs Hospital (for Gaming, Austria Campus)
Eisenwurzstraße 26
3270 Scheibbs
Tel. +43 (0)7482 9004-0

Dr. Claudia Reiter (for Gaming, Austria Campus)
Im Markt 7
3292, Gaming, Austria
+43 (0)7485 98400

- Confidential Counseling and Pastoral Care:

Franciscan University Counseling Center
Lower Level of Finnegan Fieldhouse
1235 University Boulevard

Steubenville, OH 43952
Tel. 740-284-7217

Franciscan University Chaplain's Office
Christ the King Chapel
1235 University Boulevard
Steubenville, OH 43952
Tel. 740-283-6276

ALIVE, Inc. (Sexual Violence Advocacy)
P.O. Box 866
Steubenville, Ohio 43952
Tel. 740-512-6092 (24-Hour Hotline)

Ohio Alliance to End Sexual Assault
Tel. 888-886-8388

National Sexual Assault Hotline
Tel. 800-656-HOPE (4673)
866-331-8453 (TTY)

National Coalition Against Domestic Violence
Tel. 800-799-SAFE
800-787-3224 (TTY)

Franciscan University Pastoral Ministry (for Gaming, Austria Campus)
Tel. +43-748598678-14

Dr. Mark Shats, Licensed Clinical Psychologist (for Gaming, Austria Campus)
Im Markt 7
3292 Gaming, Austria
Tel. +43 (0)660 575 3062

- *Legal and Immigration Assistance*

Jefferson County Prosecuting Attorney
Jefferson County Justice Center
16001 State Route 7
Steubenville, Ohio 43952
Tel. 740-283-1966

Southeastern Ohio Legal Services
100 North Third Street
Steubenville, Ohio 43952
Tel. 740-283-4781

Catholic Charities Legal Immigration Services
206 W. Main Street
Ravenna, Ohio 44266
Tel. 330-297-7257

U.S. Consulate Vienna: KONSULARABTEILUNG (CONSULAR SECTION)
Parkring 12A-1010 Wien
Fax: (+43-1) 512 58 35
Email: ConsulateVienna@state.gov

US Embassy Vienna: BOTSCHAFT DER VEREINIGTEN STAATEN
Boltzmannngasse 16A-1090 Wien
Tel.: (+43-1) 31339-0 Fax: (+43-1) 310 06 82
Email: embassy@usembassy.at

XII. EDUCATION, AWARENESS AND PREVENTION

Educational efforts are essential to maintaining a campus environment that is free of the forms of prohibited misconduct addressed by this policy. There are multiple goals to be achieved through education, awareness and prevention programs: (i) ensuring that all employees and students are aware of and understand their rights and responsibilities under this policy, (ii) notifying members of the University community of the types of conduct forbidden by this policy and how to reduce the risk of exposure to such conduct; (iii) informing administrators, faculty and staff about their obligations when they receive a report and/or observe conduct that may be in violation of this policy. The Office of Student Life, the Office of Human Resources, Campus Security, the University Health Center, and the University Counseling Center offer a variety of programs on prohibited misconduct addressed by this policy as well as awareness and prevention with respect to such misconduct. For more information about those programs, see www.franciscan.edu/Security/.

XIII. FEDERAL STATISTICAL REPORTING AND TIMELY WARNING OBLIGATIONS

Certain campus officials - those deemed Campus Security Authorities (i.e., Vice President of Student Life, Assistant Vice President of Student Life, Director of Athletics, Athletic Coordinator of Compliance & Student Welfare, Coordinator of Facilities & Fitness, Assistant Director of Residence Life, Title IX/EEO Coordinator, Director of Campus Safety and Compliance, Director of Campus Security, and Chief Academic Officer) – have a duty to report a crime when it is brought to their attention for statistical reporting purposes under the Clery Act. However, all personally identifiable information is kept confidential, but statistical information must be passed along to the appropriate University official regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the University's Annual Security Report. This report helps to provide the community a clear picture of the extent and nature of campus crime and to ensure greater community safety.

The University will issue a timely warning when it receives a report of a crime that represents a serious or ongoing threat to the safety of members of the campus community. The university may also issue a warning to the campus community when other instances pose a safety concern.

XIV. POLICY DISSEMINATION

The Title IX /EEO Coordinator is responsible for distributing copies of this policy to all employees and students of the University. In addition, this policy will be placed on the University website.

XV. RECORDKEEPING

The Title IX/EEO Coordinator is responsible for maintaining records relating to reports, investigations, and resolutions of all alleged violations of this policy. Personally identifiable information regarding incidents or complaints of sexual assault or relationship violence will not be publicly released, except where required by law or court order. Personally identifiable student information is protected by the Family Educational Rights and Privacy Act (FERPA). Statistical crime reporting required by the Clery Act does not include personally identifiable information. Requests for information about this policy should be directed to the Title IX/EEO Coordinator.