

Policy On Prohibited Discrimination, Harassment and Related Misconduct

Responsible Franklin College Officers

Title IX Coordinator and Equal Opportunity Officer

Responsible Office

Office of Human Resources

POLICY ON PROHIBITED DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT

Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking

Policy Statement

This Policy prohibits all forms of Discrimination and Harassment based on Protected Status. It expressly, therefore, also prohibits Sexual Violence and Sexual Exploitation, which by definition involve conduct of a sexual nature and are prohibited forms of Sexual or Gender-Based Harassment. This Policy further prohibits Stalking and Interpersonal Violence, which need not be based on an individual's Protected Status. Finally, this Policy prohibits Complicity for knowingly assisting in an act that violates this Policy and Retaliation against an individual because of their good faith participation in the reporting, *investigation*, or *adjudication* of violations of this Policy. College students and employees who violate this Policy may face discipline up to and including expulsion or termination.

Definitions

[Discrimination](#), [Harassment](#) (including [Sexual or Gender-Based Harassment](#) and [Sexual Violence](#)), [Interpersonal Violence](#), [Stalking](#), [Complicity](#), and [Retaliation](#) (collectively hereafter referred to as "[Prohibited Conduct](#)") are defined in Section IV of this Policy.

Audience

This Policy and associated procedures apply to the conduct of and protection of College students and employees and trustees, which includes faculty, and student employees. The non-discrimination provisions also apply to contractors and other third parties under circumstances within the College's control. The Policy and associated procedures provide for the prompt and equitable resolution of reports of Discrimination, Harassment, and related misconduct.

Reason for Policy

The College is committed to providing an inclusive and welcoming environment for all members of our community. The College values safety, diversity, education, and fairness and is firmly committed to maintaining a campus environment free from Discrimination, Harassment, and related misconduct. In accordance with its [Policy Statement on Non-Discrimination](#), the College does not unlawfully discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of an individual's age, color, creed, disability, gender, gender expression, gender identity, genetic information, race, national origin, religion, sex, sexual orientation, marital status or veteran status (collectively referred to as "[Protected Status](#)"). The College's protection of these statuses is grounded in federal law. Federal law also governs the College's response to Sexual Assault, Sexual Violence, Interpersonal Violence (including domestic and dating violence), and Stalking. Such acts violate the essential dignity of our community member(s) and are contrary to our institutional values.

Related Statutes, Orders, and Policies

- Title IV of the Civil Rights Act of 1964
- Title VI of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Title II of the Genetic Information Nondiscrimination Act of 2008
- Age Discrimination in Employment Act
- Age Discrimination Act of 1975
- Equal Pay Act
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Executive Order 13672
- Executive Order 11246
- Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act
- Violence Against Women Act
- Vietnam Era Veterans Readjustment Act
- Indiana General Statutes

Related policies are set out in Section XII of the Policy.

Related College Procedures

There are specific procedures for reports under this Policy based on the relationship of the *Reporting Party* or *Responding Party* to the College:

- Procedures for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a Student as a *Responding Party* – [click here](#)
- Procedures for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a **Student as a Reporting Party** and a **College Employee as a Responding Party** – [click here](#)
- Procedures for Reporting and Responding to Concerns of **Employees** Regarding Allegations of Discrimination, Harassment, and Related Misconduct – [click here](#)

Contacts

Questions about this Policy should be directed to the Title IX Coordinator and/or Equal Opportunity Officer in the Office of Human Resources, Old Main, first floor, 317-738-8028

Document History

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FRANKLIN COLLEGE

POLICY ON PROHIBITED DISCRIMINATION HARASSMENT AND RELATED MISCONDUCT

Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking

College Resource Page for Sexual Violence and Interpersonal Violence

How to Get Help In the Event of an Emergency:

Anyone who has experienced Sexual Violence or Interpersonal Violence is urged to immediately seek help. Help includes seeking medical assistance, seeking confidential counseling or crisis response, filing a report with law enforcement, and making a report to the College. The Franklin College Security Office will help any individual get to a safe place, contact another law enforcement agency, and offer information about the College's resources and processes. Information about the difference between [Reporting Options](#) and [Confidential Resources](#) is available at the link attached to these terms

Reporting Options:

The College's Title IX Coordinator and the Equal Opportunity Officer oversee the *investigation* and resolution of all misconduct covered by the Policy on Prohibited Discrimination, Harassment and Related Misconduct (the "Policy"). To discuss any aspect of the Policy, individuals are encouraged to contact:

Title IX Coordinator and Equal Opportunity Officer

Office of Human Resources
317-738-8028

www.franklincollege.edu/about-fc/human-resources/

Any individual can make a report under this Policy to these individuals or to the individuals/departments designated below. The report may be made in person, by telephone, in writing, by e-mail, electronically ([Click to Incident Report Form](#)), or anonymously. All reports will be shared with the College's Non-Discrimination *Response Team*. Any report involving a minor will be shared with Indiana Department of Child Services (www.in.gov/dcs/2398.htm) and law enforcement agencies.

College Security Office

(317.738-8888)

Office of the Vice President of Student Affairs and Dean of Students

(317-738-8080) [Click here to link.](#)

Understanding the Difference between Making a Report to the College or Law Enforcement (Reporting Options) and Seeking Confidential Assistance (Confidential Resources)

There is a distinction between making a report to the College or law enforcement through designated **Reporting Options** (listed above) and seeking confidential assistance through **Confidential Resources** (listed below).

Reporting Options: Making a report to the College by contacting a **Reporting Option** means that the report will be shared with the Title IX Coordinator and a member of the College's *Response Team* will communicate with the *Reporting Party* to provide resources and support and to identify the appropriate action to respond to the report as outlined in this Policy. In addition, many College employees, designated as [Responsible Employees](#), are required to share information with the College's **Title IX Coordinator**. There are many options for resolution of a report, and a *Reporting Party* is encouraged to make a report even if that individual is not seeking disciplinary action against a *Responding Party*. The College will make every effort to respect a *Reporting Party*'s confidentiality and autonomy in determining how to proceed. Support and resources are always available to a *Reporting Party* regardless of the chosen course of action.

Confidential Resources: In contrast, information shared with a **Confidential Resource** will not be disclosed to anyone else, including the College, except under very limited circumstances. Any individual may choose to seek support from confidential professionals on and off campus, including counselors, medical health providers, clergy, and rape crisis counselors.

Confidential Resources:

The trained professionals designated below can provide counseling, information, and support in a confidential setting. These **Confidential Resources** will not share information about an individual (including whether that individual has received services) without the individual's express permission, unless there is a continuing threat of serious harm to the patient/client or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor). These professionals are also available to help an individual make a report to the College.

On Campus:

On-Campus Medical Care:

[Franklin College Health Center](#) (care & referrals during business hours)
317-738-8090

On-Campus Counseling Care:

[Franklin College Counseling Center](#) (for students)
317-738-8555

[FC Employee Assistance Program via Aetna](#) (for staff) 1-855-283-1915
(username & password both = resources)

[Franklin College Campus Minister](#) (staff and students)
317-738-8141

Off Campus:

Off-Campus 24-hour Medical Care:

Franciscan St. Francis Health - Indianapolis
Center of Hope (for sexual assault survivors)
317-865-5440

<http://www.franciscanalliance.org/hospitals/indianapolis/services/emergency-med/pages/center-of-hope.aspx>

Johnson Memorial Hospital - Emergency Department
317-736-2600

<http://www.johnsonmemorial.org/care-centers/general/emergency-department/757/>

Off-Campus Crisis, Counseling, Shelter:

The Julian Center
317-920-9320 (24/7 crisis line)
317-941-2200 (other services)
<http://www.juliancenter.org/>

Legacy House
317-554-5272
<http://www.hhcorp.org/hhc/index.php/programs/legacy-house>

Turning Point
1-800-221-6311 (24/7 crisis line)
317-736-8666 (other services)
<http://www.turningpointdv.org/>

RAINN - National Sexual Assault Hotline
1-800-656-4673
<https://ohl.rainn.org/online/>

Interim Protective Measures Available Through the College:

In responding to a report, the College has an interest in providing care to the *Reporting Party* and to the broader campus community. For this reason, after receiving a report, the College, through its *Response Team*, will make an immediate assessment of any risk of harm to the parties, any other individuals, or to the broader campus community and will take the necessary steps to address those risks. These steps may include establishing *Interim Protective Measures* to provide for the safety of the parties involved, any other individuals, and the campus community. *Interim Protective Measures* are available regardless of whether a *Reporting Party* chooses to pursue disciplinary action against a *Responding Party*. Examples of *Interim Protective Measures* include no-contact orders, residence modifications, academic or employment accommodations, and interim suspension.

Retaliation is expressly prohibited by this Policy, and the College will take immediate and responsive action to any report of Retaliation or any violation of *Interim Protective Measures*.

Mandatory Reporting of Child Abuse:

Individuals who suspect that a child is being harmed or observe a child being harmed should contact law enforcement by calling 911. In addition, under Indiana law, individuals who reasonably suspect that a child under the age of 18 has been abused or neglected by a parent, guardian, or caregiver have an obligation to report that suspicion to a county department of social services. The Johnson County Department of Child Services may be reached at 317-738-0301.

Franklin College Policy On Prohibited Discrimination, Harassment and Related Misconduct: Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking

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I. POLICY STATEMENT

This Policy prohibits all forms of Discrimination and Harassment based on Protected Status. It expressly, therefore, also prohibits Sexual Violence and Sexual Exploitation, which by definition involve conduct of a sexual nature and are prohibited forms of Sexual or Gender-Based Harassment. This Policy further prohibits Stalking and Interpersonal Violence, which need not be based on an individual's Protected Status. Finally, this Policy prohibits Complicity in an act that violates this Policy and Retaliation against an individual because of their good faith participation in the reporting, *investigation*, or *adjudication* of violations of this Policy. College students and employees who violate this Policy may face discipline up to and including expulsion or termination.

Discrimination, Harassment (including Sexual or Gender-Based Harassment and Sexual Violence), Interpersonal Violence, Stalking, Complicity, and Retaliation (collectively hereafter referred to as "*Prohibited Conduct*") are defined in Section IV of this Policy.

A. Notice of Non-Discrimination¹ Based on Protected Status

Franklin College ("College") is committed to providing an inclusive and welcoming environment for all members of our community. The College values safety, diversity, education, and fairness and is firmly committed to maintaining a campus environment free from Discrimination, Harassment, and related misconduct. In accordance with its Policy Statement on Non-Discrimination, the College does not unlawfully discriminate in offering equal access to its educational programs and activities or with respect to employment terms and conditions on the basis of an individual's age, color, disability, gender, gender expression, gender identity, genetic information, national origin, marital status, race, religion, sex, sexual orientation or veteran status collectively referred to as "Protected Status"). The College's protection of these statuses is grounded in federal law. For example, Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment based on race, color, national origin, religion, sex, gender, and, by extension, sexual violence, as do the other applicable laws. The Americans with Disabilities Act, the Rehabilitation Act of 1973, and § 143-422.2 prohibit discrimination in employment and education programs and activities based on disability. Title IX of the Education Amendments of 1972, prohibiting discrimination based on sex, also applies to employment and education programs and activities. Executive Order 13672 revised Executive Order 11246 (applicable to federal contractors, including the College) to prohibit discrimination based race, color, national origin, religion, sex, sexual orientation, and gender identity.

The College recognizes the rights of all members of the College community to learn and work in an environment that is free from Discrimination and Harassment. *Prohibited Conduct* against and by College students and employees, including faculty, non-faculty employees, temporary employees, student employees, and third parties is prohibited by the College. All members of the community are responsible for conducting themselves in accordance with this Policy and other College policies and procedures.

The College encourages all community members to take reasonable and prudent actions to prevent or stop *Prohibited Conduct*. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive responsibility will be supported by the College and protected from Retaliation.

¹The complete text of the Policy Statement on Non-Discrimination is located at [\(Click This Link\)](#)

To foster a climate that encourages prevention and reporting of Discrimination, Harassment, and related misconduct, the College will actively promote prevention efforts, educate the community, respond to all reports promptly, provide *Interim Protective Measures* to address safety and emotional well-being, and act in a manner that recognizes the inherent dignity of the individuals involved.

Therefore, any student who reports *Prohibited Conduct* either as a witness or as *Reporting Party* and cooperates with the *investigation* will not be subject to disciplinary action by the College for violations of the College's alcohol/drug policy occurring at or near the time of the reported *Prohibited Conduct*. Being intoxicated by drugs or alcohol does not diminish a student's responsibility to obtain consent and is no defense to any violation of *Non-Discrimination Policy*.

B. Sexual Assault, Sexual Violence, Interpersonal Violence, and Stalking Are Prohibited Forms of Conduct

Just as the College's prohibition of discrimination based on Protected Status (including [Sexual Assault](#) as a form of [Sexual Harassment](#)) is grounded in federal law, so is its prohibition against Interpersonal Violence and Stalking. The College's response to Sexual Assault, Sexual Violence, Interpersonal Violence (including domestic and dating violence), and Stalking is governed by the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. §1092(f) (the Clery Act) and Section 304 of the 2013 Amendments to the Violence Against Women Act. Such acts violate the essential dignity of our community member(s) and are contrary to institutional values.

The College is committed to taking all appropriate steps to eliminate Sexual Assault, Sexual Violence, Interpersonal Violence and Stalking; prevent the recurrence of such acts; and address their effects, both for the *Reporting Party* and the broader community.

The College recognizes that Sexual Assault, Sexual Violence, Interpersonal Violence, and Stalking encompass a broad spectrum of conduct and will respond according to both the severity of the offense and the threat it poses to the campus community.

II. SCOPE AND APPLICABILITY

A. Individuals Covered by this Policy

This Policy and associated procedures apply to the conduct of, and protection of, College students and employees, including faculty, non-faculty employees, and student employees. The non-discrimination provisions also apply to contractors and other third parties under circumstances within the College's control.

When used in this Policy, *Reporting Party* refers to any individual who may have been the subject of any *Prohibited Conduct* by an individual or organization covered under the Policy regardless of whether

the *Reporting Party* makes a report or seeks action under the Policy. Responding Party refers to any individual who has been accused of violating the Policy.

B. Jurisdiction

This Policy applies to all *Prohibited Conduct* that occurs on campus. It also applies to *Prohibited Conduct* that occurs off campus, including on-line or electronic conduct, if the conduct occurred in the context of an employment or education program or activity of the College, had adverse effects on campus, or had adverse effects in an off-campus employment or education program or activity. Examples of covered off-campus conduct include College- sponsored study abroad, research, or internship programs.

In determining if the College off campus conduct is not part of an educational program or activity of the College, the Equal Opportunity Officer or the Title IX Coordinator will consider the seriousness of the alleged conduct, the risk of harm involved, whether both parties are members of the campus community, and whether the off campus conduct is part of a series of actions that occurred both on and off campus.

Regardless of where the conduct occurred and with whom, the College will offer resources and assistance to community members who are subject to *Prohibited Conduct*. The College will also assist the *Reporting Party* in identifying and contacting external law enforcement agencies and community resources.

C. Reports Involving Minors

Individuals who suspect that a child is being harmed or observe a child being harmed should contact law enforcement by dialing 911.

In addition, under Indiana law, any person who reasonably suspects that a child has been abused or neglected by a parent, guardian, or caregiver has an obligation to report that suspicion to a county department of child services. The Johnson County Department of Child Services may be reached at 317-738-0301, <https://secure.in.gov/dcs/2398.htm>

Additional information regarding suspected child abuse or neglect may be found in the College's Policy regarding Minors on Campus. **(Policy in development)**

III. RESOURCES FOR INFORMATION AND ASSISTANCE

A. Equal Opportunity Officer

The Equal Opportunity Officer has primary responsibility for administering this Policy and oversees the *investigation*, response to, and resolution of all reports of *Prohibited Conduct*; however, questions, concerns, and/or reports may be addressed to any of the individuals or offices identified as Reporting Options or in the applicable Procedures document. The Equal

Opportunity Officer will maintain all discrimination reports including those alleging *Prohibited Conduct* based on sex, Interpersonal Violence, or Stalking, as well as those alleging Complicity and Retaliation in relation to such a report. There are specific procedures based on the relationship of the *Reporting Party* or *Responding Party* to the College:

- [Procedures](#) for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a **Student as a Responding Party**
- [Procedures](#) for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a **Student as a Reporting Party** and a **College Employee as a Responding Party**
- Procedures for Reporting and Responding to Concerns of **Faculty and Non-Faculty Employees** Regarding Allegations of Discrimination, Harassment, and Related Misconduct

B. Title IX Coordinator

The College has a designated Title IX Coordinator. The Title IX Coordinator oversees the College's *investigation*, response to, and resolution of all reports of *Prohibited Conduct* based on sex (including Sexual or Gender-Based Harassment and Sexual Violence), Interpersonal Violence, and Stalking, and of related Complicity and Retaliation, involving students, faculty, and staff. The Title IX Coordinator:

- is knowledgeable and trained in College policies and procedures and relevant state and federal laws;
- is available to advise any individual, including a *Reporting Party*, a *Responding Party*, or a third party, about College and community resources and reporting options;
- is available to provide assistance to any College employee regarding how to respond appropriately to a report of Title IX-related *Prohibited Conduct*, Interpersonal Violence, Stalking, and related Complicity and Retaliation;
- participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- is responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.

Inquiries or concerns about Title IX may be referred to the College's Title IX Coordinator. Concerns about the College's application of Title IX under this Policy may be _____ addressed to the United States Department of Education, Office for Civil Rights:

Title IX Coordinator
Office of Human Resources
317-738-8028

Office for Civil Rights
(800) 421-3481
Email: OCR@ed.gov

C. Non-Discrimination Response Team

A report of *Prohibited Conduct* may be made to any designated Reporting Option. The Equal Opportunity Officer or the Title IX Coordinator, with the assistance of the *Response Team*, will conduct an *Initial Assessment* to determine whether the alleged conduct presents a potential violation of the Policy and whether further action is warranted based on the alleged conduct. This use of a central integrated and coordinated approach will allow the College to respond promptly and fairly to eliminate the conduct, prevent its recurrence, and address its effects.

Members of the *Response Team* can help any College community member understand the Policy and the options for resolving concerns raised under this Policy in academic or work settings at the College. The *Response Team* will attempt to protect and safeguard the privacy of all individuals involved in a manner consistent with the need for a careful assessment of and response to the report.

The *Response Team* will consist of a small number of “need to know” individuals.

The *Response Team* may consult with others while conducting their *Initial Assessment*

IV. PROHIBITED CONDUCT

A. Discrimination and Harassment Based on All Protected Statuses

This Policy prohibits all forms of Discrimination and Harassment based on an individual’s Protected Status, including, as defined below, age, color, creed, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, marital status or veteran status.

In addition, this Policy prohibits related misconduct, including Interpersonal Violence, Stalking, Complicity, and Retaliation.

1. Discrimination

This Policy prohibits Discrimination, meaning any distinction, preference, or detriment to an individual as compared to others that is based on an individual’s Protected Status and that is sufficiently serious to unreasonably interfere with or limit:

- An employee’s or applicant for employment’s access to employment or conditions and benefits of employment (*e.g.*, hiring, advancement, assignment);
- A student’s or admission applicant’s ability to participate in, access, or benefit from educational programs, services, or activities (*e.g.*, admission, academic standing, grades, assignment, campus housing);
- An authorized volunteer’s ability to participate in a volunteer activity; or
- A guest’s or visitor’s ability to participate in, access, or benefit from the College’s programs.

Discrimination includes failing to provide reasonable accommodations, consistent with Indiana and federal law, to a qualified person with a disability.

2. Harassment

This Policy prohibits Harassment, which is a type of Discrimination that occurs when verbal, physical, electronic, or other conduct based on an individual's Protected Status interferes with that individual's (a) educational environment (*e.g.*, admission, academic standing, grades, assignment); (b) work environment (*e.g.*, hiring, advancement, assignment); (c) participation in a College program or activity (*e.g.*, campus housing); or (d) receipt of legitimately-requested services (*e.g.*, disability or religious accommodations), thereby creating *Hostile Environment Harassment* or *Quid Pro Quo Harassment*, as defined below.

a. Hostile Environment Harassment

Unwelcome conduct based on Protected Status that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a College program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. An isolated incident, unless sufficiently severe, does not amount to Hostile Environment Harassment.

b. Quid Pro Quo Harassment

Unwelcome conduct based on Protected Status where submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a College program or activity.

3. Additional Guidance about Discrimination and Harassment

Consistent with the definitions provided above, conduct that constitutes Discrimination and Harassment:

- May be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect, with a coercive aspect that is unstated but implied.
- May or may not include intent to harm.
- May not always be directed at a specific target.
- May be committed by anyone, regardless of Protected Status, position, or authority. While there may be a power differential between the *Reporting Party* and the *Responding Party* – perhaps due to differences in age or educational, employment, or social status – Discrimination and Harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the *Reporting Party* has a current or previous relationship, including a romantic or sexual relationship.
- May be committed by or against an individual or by or against an organization or group.
- May occur in the classroom, in the workplace, in residential settings, or in any other setting.
- May be a pattern of behavior or, if sufficiently severe, a one-time event.

- May be committed in the presence of others, when the *Reporting Party* and *Responding Party* are alone, or through remote communications, including email, text messages, or social media.
- May take the form of threats, assault, property damage, economic abuse, and violence or threats of violence.
- May include harassing or retaliatory behavior directed to a sexual or romantic partner, family member, friend, or pet of the *Reporting Party*.

4. Protected Status

Consistent with federal and state law, the College prohibits Discrimination and Harassment based on an individual's age, color, disability, gender, gender expression, gender identity, genetic information, national origin, marital status, race, religion, sex, sexual orientation or veteran status.

- **Age:** The number of years from the date of a person's birth. With respect to employment, individuals who are forty (40) years of age or older are protected from Discrimination and Harassment. There is no age threshold for students or other participants in educational programs or activities.
- **Color:** An individual's skin pigmentation, complexion, shade, or tone.
- **Creed:** A well-formed and thought-out set of beliefs held by more than one individual, which may not necessarily involve belief in a supreme being. The College will accommodate an individual's observances and practices required by their creed, unless it is unable to reasonably accommodate an individual's creed-required observance or practice without undue hardship.
- **Disability:** A person with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such impairment. A qualified person with a disability must be able to perform the essential functions of the employment or volunteer position or the academic, athletic, or extra-curricular program, with or without reasonable accommodation.
- **Gender:** An individual's socially-constructed status based on the behavioral, cultural, or psychological traits typically associated with societal attribution of masculinity and femininity, typically related to one's assigned sex at birth.
- **Gender Expression:** How someone expresses gender through appearance, behavior, or mannerisms. A person's Gender Expression may or may not be the same as the Gender Identity or assigned sex at birth.
- **Gender Identity:** The Gender with which an individual identifies psychologically, regardless of what Gender was assigned at birth.
- **Genetic Information:** Information about (i) an individual's genetic tests, (ii) the genetic tests of family members of such individual, and (iii) the manifestation of a disease or disorder in family members of such individual. Genetic Information includes, with

respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.

- **National Origin:** An individual's actual or perceived country or ethnicity of origin.
- **Race:** An individual's actual or perceived racial or ethnic ancestry or physical characteristics associated with a person's race, such as a person's color, hair, facial features, height, and weight.
- **Religion:** All aspects of religious observance and practice, as well as belief.
- **Sex:** An individual's biological status of male or female, including pregnancy. Conduct of a sexual nature is by definition based on Sex as a Protected Status.
- **Sexual Orientation:** The inclination or capacity to develop intimate emotional, spiritual, physical, and/or sexual relationships with people of the same Sex or Gender, a different Sex or Gender, or irrespective of Sex or Gender.
- **Veteran Status:** Covered Veterans include Disabled Veterans, Special Disabled Veterans, Veterans of the Vietnam era, and other protected Veterans as defined by federal and state law.
- **Marital Status:** An individual's marital status.

B. Sexual or Gender-Based Harassment, Sexual Assault, Sexual Violence, or Sexual Exploitation

1. Prohibited Forms of Conduct²

a) Sexual or Gender-Based Harassment

Sexual or Gender-Based Harassment may:

- (1) include unwelcome sexual advances, requests for sexual favors and other verbal, physical, or electronic conduct of a sexual nature that creates a hostile, intimidating, or abusive environment;
- (2) involve verbal, physical, or electronic conduct based on Sex, Gender, Sexual Orientation, or sex-stereotyping that creates a hostile, intimidating, or abusive environment, even if those acts do not involve conduct of a sexual nature; or
- (3) include Harassment for exhibiting what is perceived as a stereotypical characteristic for one's Sex or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived Sex, Gender, Sexual Orientation, Gender Identity, or Gender Expression of the individuals involved.

²These definitions overlap with Indiana criminal statutes in some cases and provide greater protection in other instances..

b) Sexual Assault or Sexual Violence

Sexual Assault and Sexual Violence are forms of Sexual or Gender-Based Harassment that involve having or attempting to have Sexual Contact with another individual without consent. Additional guidance about Consent can be found [here](#).

c) Sexual Exploitation

Sexual Exploitation is a form of Sexual or Gender-Based Harassment that involves one or more of the following behaviors committed for any purpose, including sexual arousal or gratification, financial gain, or other personal benefit:

- (1) taking sexual advantage of another person without Consent;
- (2) taking advantage of another's sexuality; or
- (3) extending the bounds of consensual Sexual Contact without the knowledge of the other individual.

Examples of Sexual Exploitation include, but are not limited to: threatening to disclose an individual's Sexual Orientation, Gender Identity, or Gender Expression; observing another individual's nudity or Sexual Contact, or allowing another to observe the same, without the knowledge and Consent of all parties involved; non-consensual streaming of images, photography, video, or audio recording of Sexual Contact or nudity, or distribution of such without the knowledge and Consent of all parties involved; prostituting another individual; knowingly exposing another individual to a sexually-transmitted infection, without the individual's knowledge; knowingly failing to use contraception without the other party's knowledge; and inducing incapacitation for the purpose of taking sexual advantage of another person

2. Related Definitions: Sexual Contact, Consent, Coercion, Force, and Incapacitation

a) Sexual Contact

Intentional touching or penetration of another person's clothed or unclothed body, including but not limited to the mouth, neck, buttocks, anus, genitalia, or breast, by another with any part of the body or any object in a sexual manner. Sexual Contact also includes causing another person to touch their own or another's body in the manner described above.

b) Consent

Consent is the communication of an affirmative, conscious and freely made decision by each participant to engage in agreed upon forms of Sexual Contact. Consent requires an outward demonstration, through understandable words or actions, that conveys a clear willingness to engage in Sexual Contact.

Consent is **not** to be inferred from silence, passivity, or a lack of resistance, and relying on non-verbal communication alone may result in a violation of this Policy. For example, a person who does not physically resist or verbally refuse Sexual Contact may **not** necessarily be giving Consent. There is no requirement that an individual verbally or physically resist unwelcome Sexual Contact for there to be a violation of this Policy.

Consent is **not** to be inferred from an existing or previous dating or sexual relationship. Even in the context of a relationship, there must be mutual Consent to engage in Sexual Contact.

Consent to one form of Sexual Contact does **not** constitute Consent to any other form of Sexual Contact, nor does Consent to Sexual Contact with one person constitute Consent to Sexual Contact with any other person. Additionally, Consent to Sexual Contact on one occasion is not Consent to engage in Sexual Contact on another occasion.

Consent **cannot** be obtained by Coercion or Force or by taking advantage of one's inability to give Consent because of Incapacitation or other circumstances. Coercion or Force and Incapacitation are described in more detail below.

A person who has given Consent to engage in Sexual Contact may withdraw Consent at any time. However, withdrawal of Consent requires an outward demonstration, through understandable words or actions, that clearly conveys that a party is no longer willing to engage in Sexual Contact. Once Consent is withdrawn, the Sexual Contact must cease immediately.

c) Coercion or Force

Coercion or force includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in Sexual Contact.

Examples of Coercion or Force include causing the deliberate Incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the Sexual Contact; threatening to harm oneself if the other party does not engage in Sexual Contact; or threatening to disclose an individual's Sexual Orientation, Gender Identity, Gender Expression, or other personal sensitive information if the other party does not engage in the Sexual Contact.

d) Incapacitation or Incapacitated

An individual who is Incapacitated is unable to give Consent to Sexual Contact. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that Sexual Contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to Sexual Contact.

Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or “drunkenness.” Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Making decisions about the potential consequences of Sexual Contact;
- Appraising the nature of one’s own conduct;
- Communicating Consent to Sexual Contact; or
- Communicating unwillingness to engage in Sexual Contact.

Where an individual’s level of impairment does not rise to Incapacitation, it is still necessary to evaluate the impact of intoxication on Consent. In evaluating whether Consent was sought or given, the following factors may be relevant:

- Intoxication may impact one’s ability to give Consent and may lead to Incapacitation (the inability to give Consent).
- A person’s level of intoxication is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.
- An individual’s level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism.

No matter the level of an individual’s intoxication, if that individual has not affirmatively agreed to engage in Sexual Contact, there is no Consent.

Anyone engaging in Sexual Contact must be aware of both their own and the other person’s level of intoxication and capacity to give Consent. The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether Consent is effectively sought and freely given. If there is any doubt as to the level or extent of one’s own or the other individual’s intoxication or Incapacitation, the safest course of action is to forgo or cease any Sexual Contact. A *Responding Party*’s intoxication is never an excuse for or a defense to committing Sexual or Gender-Based Harassment, Sexual Assault or Sexual Violence, or Interpersonal Violence, and it does not diminish one’s responsibility to obtain Consent.

C. Interpersonal Violence and Stalking

1. Interpersonal Violence

Interpersonal Violence (commonly referred to as intimate partner violence, dating violence, domestic violence and relationship violence), can encompass a broad range of abusive behavior committed by a person who is or has been:

- In a romantic or intimate relationship with the *Reporting Party* (of the same or different sex);
- The *Reporting Party*'s spouse or partner (of the same or different sex);
- The *Reporting Party*'s family member; or
- The *Reporting Party*'s cohabitant or household member, including a roommate.

Whether there was such a relationship will be gauged by its length, type, and frequency of interaction. Reports of Interpersonal Violence that do not involve one of these specified relationships or do not involve an individual's Protected Status will be resolved under the Student Code of Conduct, which is part of [The Key a Guide to Student Life](#).

Interpersonal Violence includes physical, sexual, emotional, economic, or psychological actions or threats of actions that a reasonable person in similar circumstances and with similar identities would find intimidating, frightening, terrorizing, or threatening. Such behaviors may include threats of violence to one's self, one's family member, or one's pet.

2. [Stalking](#)

Repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities.

Stalking may involve individuals who are known to one another or who have a current or previous relationship or may involve individuals who are strangers.

D. [Complicity and Retaliation](#)

1. [Complicity](#)

Complicity is any act that knowingly aids, facilitates, promotes, or encourages the commission of *prohibited conduct* by another person.

2. [Retaliation](#)

Retaliation is acts or words taken against an individual because of the individual's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual's good faith: (i) participation in the reporting, *investigation*, or resolution of an alleged violation of this Policy; (ii) opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy; or (iii) requests for accommodations on the basis of religion or disability. Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions.

Retaliation may be found even when an underlying report made in good faith was not substantiated. Retaliation may be committed by the *Responding Party*, the *Reporting Party*, or any other individual or group of individuals.

During the *investigation* and resolution of violations of this Policy that are alleged in good faith, reasonable steps will be taken to protect the *Reporting Party*, the *Responding Party*, and other participants in the reporting, *investigation*, and resolution process from Retaliation. Any individual who engages in Retaliation will be subject to prompt and appropriate disciplinary action. Individuals who have a concern about potential or actual Retaliation should contact the Office of Human Resources or Title IX Coordinator for assistance in addressing the concern. If the concern about Retaliation involves the Office of Human Resources or Title IX Coordinator, an individual may contact the Provost and Dean of the College. Individuals may also be able to utilize the applicable grievance procedure within the designated timeframe to address any concern not otherwise resolved.

V. REPORTING OPTIONS

The College is committed to providing reporting options through multiple contact points across campus that are broadly accessible to all College community members. Detailed information about Reporting Options for students, faculty, and staff is outlined in the Procedures that accompany this Policy.

Making a report to the College means telling a designated Reporting Option what happened, in person, by telephone, in writing, by e-mail, electronically, or anonymously. The College encourages a *Reporting Party* to make a report directly to one of these designated Reporting Options: the Office of Human Resources, the Title IX Coordinator, or the Office of the Vice President of Student Affairs and Dean of Students, or Franklin College Security Office. In turn, these Reporting Options will immediately refer the report to the *Response Team* to assure consistent application of this Policy. Similarly, when an individual chooses to share information with a College employee designated as a Responsible Employee, the report will be shared with the Office of Human Resources, Title IX Coordinator, or a member of the *Response Team*.

Consistent with the Procedures that accompany this Policy, upon receipt of a report, the Office of Human Resources or Title IX Coordinator, in consultation with the *Response Team*, will conduct an *Initial Assessment* of: the incident or behavior at issue; any risk of harm to the parties, any other individuals, or the broader campus community; the *Reporting Party*'s desired course of action; and the necessity for any *Interim Protective Measures* to protect the safety of the *Reporting Party*, any other individuals, or the community. A member of the *Response Team* will offer appropriate resources to support the *Reporting Party* (e.g., medical care, counseling resources, safe housing) and at the conclusion of the *Initial Assessment*, determine the appropriate manner of resolution.

The College recognizes that deciding whether to make a report and choosing how to proceed are personal decisions. At the time a report is made, a *Reporting Party* does not have to decide whether to request any particular course of action. Choosing to make a report, and deciding how to proceed after making the report, is a process that unfolds over time. The College will make every effort to respect an individual's autonomy in making the determination as to how to proceed. Resources are always available to support a *Reporting Party* regardless of the course of action chosen.

All individuals are encouraged to make a report, regardless of when or where the incident occurred, and to seek any necessary help from campus or community resources.

VI. REPORTING BY COLLEGE EMPLOYEES

A. Responsible Employees

All Employees are *Responsible Employee* except Non-Resident Assistant Student Employees and Confidential Resources. A list of Responsible Employees can be found in the [staff directory](#).

Responsible Employees will safeguard an individual's privacy, but are **required** by the College to immediately share all details about a report of *Prohibited Conduct* (including the known details of the incident (e.g., date, time, location), the names of the parties involved, a brief description of the incident and if the incident has been previously reported) with the Office of Human Resources, Title IX Coordinator, or a member of the *Response Team* in person, by telephone, electronically, or by email. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

B. All Other Employees and Students

All other employees (who are not designated as Confidential Resources) will safeguard an individual's privacy, but are **strongly encouraged** to share any information about such conduct with the Office of Human Resources, Title IX Coordinator, or a member of the *Response Team*, in recognition of the understanding that centralized reporting is an important tool to address, end and prevent *Prohibited Conduct*.

Similarly, all **students** (who are not otherwise required to report as a Responsible Employee) are **strongly encouraged** to report any information, including reports or partial reports, to the Office of Human Resources, Title IX Coordinator, or a member of the *Response Team*.

C. Confidential Resources

Confidential Resources will **not share** information about an individual (including whether that individual has received services) without the individual's express written permission, unless there is a continuing threat of serious violence to the patient/client or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor).

VII. PRIVACY AND CONFIDENTIALITY

For any report under this Policy, every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Privacy and confidentiality have distinct meanings under this Policy.

A. Privacy

Privacy generally means that information related to a report under this Policy will only be shared with those College employees who “need to know” in order to assist in the active review, *investigation*, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. If the decision is made to pursue disciplinary action against a *Responding Party*, information related to the report will be shared with the *Responding Party*. Information regarding a report will not be shared with either party’s parents or guardians unless: the party is a minor (and sharing is permissible under the Family Education Rights and Privacy Act (FERPA)); the party has signed a waiver that is compliant with FERPA; or there is an articulated threat to the health or safety of the party or other individuals.

B. Confidentiality

Confidentiality means that information shared with designated campus or community professionals will only be disclosed with the individual’s express written permission, unless there is a continuing threat of serious harm to the patient/client or to others or there is a legal obligation to reveal such information (*e.g.*, where there is suspected abuse or neglect of a minor). An individual can seek confidential assistance and support by speaking with specially designated Confidential Resources.

C. Records

The Office of Human Resources and Title IX Coordinator will maintain records of all reports under this Policy and their outcomes in order to track patterns and systemic behaviors.

D. Release of Information

If a report of *Prohibited Conduct* discloses a serious and immediate threat to the campus community, Franklin College Security Office will issue a timely notification to protect the health or safety of the community as required by the Clery Act. The notification will not include identifying information about a *Reporting Party*.

Pursuant to the Clery Act and the Amendments to the Violence Against Women Act, anonymous statistical information regarding reported criminal incidents must be shared with Franklin College Security Office for inclusion in the Daily Crime Log. This information will also be included in the College’s Annual Security Report (<http://franklincollege.edu/parents-2/safety-security/>). The College may also share aggregate and not personally identifiable data about reports, outcomes, and sanctions.

All College proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, the Violence Against Women Act, FERPA, Indiana and local law, and College policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or College policy.

VIII. *INTERIM PROTECTIVE MEASURES*

When a report is received, the *Response Team*, in consultation with other administrators, will impose reasonable and appropriate *Interim Protective Measures* when necessary to protect the safety of the parties or witnesses involved. *Interim Protective Measures* are temporary actions taken by the College to ensure equal access to its education programs and activities and foster a more stable and safe environment during the process of reporting, *investigation*, and/or *adjudication*. *Interim Protective Measures* may be applied to the *Reporting Party*, the *Responding Party*, and other involved individuals as appropriate to ensure their safety and well-being. *Interim Protective Measures* may be requested by the parties or the College at any time, regardless of whether any particular course of action is sought by the *Reporting Party*.

Interim Protective Measures are initiated based on information gathered during a report and are not intended to be permanent resolutions; hence, they may be amended or withdrawn as additional information is gathered. The Office of Human Resources or the Title IX Coordinator, in consultation with other administrators, will maintain consistent contact with the parties so that all safety, emotional, and physical well-being concerns can be reasonably addressed.

All individuals are encouraged to report concerns about the adequacy of the *Interim Protective Measures* or failure of another individual to abide by any Interim Protective Measure to the Office of Human Resources or to the Title IX Coordinator. Violations of *Interim Protective Measures* will be addressed under this Policy. The Office of Human Resources or the Title IX Coordinator will take appropriate, responsive, and prompt action to enforce *Interim Protective Measures* and/or to respond to Retaliation by another party or witness.

The range of *Interim Protective Measures* includes:

- Access to counseling services and assistance in setting up initial appointments, both on and off campus
- Imposition of a campus “No Contact Order”
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections
- Change in work schedule or job assignment
- Change in student’s campus housing
- Assistance from College support staff in completing housing relocation
- Limiting access to certain College facilities or activities pending resolution of the matter
- Voluntary leave of absence
- Providing an escort to assure safe movement between classes and activities
- Arranging for medical services
- Providing academic support services, such as tutoring
- College-imposed leave, suspension, or separation for the *Responding Party*⁴
- Any other measure which can be tailored to the involved individuals to achieve the goals of this Policy.

⁴Where the *Responding Party* is a student, cases involving violence will be immediately referred to the *Response Team* to determine whether the *Responding Party* poses a serious threat of disruption to the academic process or a continuing danger to members of the College community or College property.

IX. ACADEMIC FREEDOM AND INTEGRITY

Prohibited Conduct under this Policy is not a proper exercise of academic freedom and may not be legally protected expression. On the contrary, *Prohibited Conduct* compromises the College's integrity, as well as its tradition of intellectual freedom.

X. EDUCATION AND PREVENTION PROGRAMS

The College is committed to offering educational programs to promote awareness and prevention of *Prohibited Conduct*. Educational programs include an overview of the College's policies and procedures; relevant definitions, including *prohibited conduct*, discussion of the impact of alcohol and illegal drug use; Consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming first year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will also have ongoing opportunities for training and education. The College's Office of Human Resources and the Title IX Coordinator maintain an education and prevention calendar and tailor programming to campus needs and climate. On-line training programs can be accessed through the Office of Human Resources' website at ([Click this link](#)) In addition, more information about education and prevention programs can be found through the division of Student Affairs by calling (317) 738-8080.

As part of the College's commitment to provide an educational and work environment free from *Prohibited Conduct*, this Policy will be disseminated widely to the College community through e-mail communication, , websites, new employee orientations, student orientations, and other appropriate channels of communication.

XI. ANNUAL REVIEW

This Policy is maintained by the Office of Human Resources. The *Response Team* will review this Policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process (including as to the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed). The review will include the opportunity for individuals affected by the Policy to provide feedback and will incorporate an aggregate view of reports, resolution, and climate. The Office of Human Resources will prepare an annual report, publicly available, which will include recommendations and steps taken to improve the delivery of services and the effectiveness of the Policy and procedures.

XII. RELATED COLLEGE POLICIES

ADA Reasonable Accommodations in Employment (Employee Handbook, Section 030) States that, upon the request of any College employee or applicant for employment, the College will provide reasonable accommodations for that individual's known disability.

Reasonable accommodations may include but are not limited to making facilities accessible, job restructuring, and modifying equipment or devices.

Faculty Grievance Procedures

(Faculty Handbook, Section II. J. 38): can seek prompt, orderly, and fair resolution of work-related disputes.

Family Educational Rights and Privacy Act (FERPA) Policy:

(KEY – Section A.8) States that students who are or have been in attendance at Franklin College have the right to inspect and review their education records upon written request and identifies what student education records may be public and what information is protected from disclosure except under specified circumstances.

The Key: a Guide to Student Life

The Key Applies to every student and covers offenses other than those addressed by *The Franklin College Policy on Prohibited Discrimination, Harassment and Related Misconduct*. Offenses proscribed by the Student Code of conduct include but are not limited to academic dishonesty, conduct adversely affecting members of the College Community or the College, conduct affecting persons or property, conduct affecting the integrity of the College, and group offenses.

Minors on Campus Policy

Requires criminal background checks for all program staff (paid and volunteer) of any residential program serving minors. Furthermore, any employee who reasonably suspects a child has been abused or neglected by a parent, guardian, or caregiver must report that suspicion to a county department of social services. **(Policy in development)**

Policy on Non-Discrimination for Program Participants

(Employee Handbook – Sections 025 and 160; KEY – Section D.18) Provides for prompt and equitable resolution of complaints by College visitors or program participants who allege unlawful harassment, discrimination, or retaliation in College programs or activities.

Policy on Improper Relationships Between Students and Employees

Prohibits amorous or sexual relationships between faculty or staff employees and: (1) students they evaluate or supervise incident to any College employment responsibility or authority; or (2) students under the age of eighteen. **(Policy in development)**

Policy Statement on Non-Discrimination

States that it is College policy not to discriminate in offering access to its educational programs and activities or with respect to employment terms and conditions on the basis of race, color, gender, national origin, age, religion, creed, genetic information, disability, veteran's status, sexual orientation, gender identity, or gender expression.

Violence in the Workplace Policy

(Employee Handbook Section 165) The College is committed to providing a workplace free from violence by establishing preventative measures, holding perpetrators of violence accountable, and providing assistance and support to victims. The College's Employee Threat Assessment and *Response Team* will assess and respond to immediate and potential threats of workplace violence. The College will protect victims of workplace violence by offering security measures and accommodating other requests whenever possible and appropriate.