



## **Campus Safety and Security Report 2020**

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## **SECURITY**

Franklin College is dedicated to providing as safe and secure an environment as possible for all members of the campus community. The Security Office coordinates campus safety and security. The office is located in the Eli Lilly Napolitan Student Center located at 198 S. Forsythe Street. Foot and vehicular patrols are conducted 24 hours a day, seven days a week, 365 days a year. The Security office can be contacted from off campus by calling 317-738-8888 and from on campus by dialing extension 8888.

College security officers are charged with the enforcement of college policies; the protection of college property; the reporting of violations of criminal codes and other rules and regulations; response to the campus fire alarm system; the enforcement of parking and traffic regulations; and providing a dusk-to-dawn escort service. Although security officers have no arrest powers and there is not any written "memorandum of understanding" (MOU) agreements with the Franklin City police department or the Johnson county Sheriff's department, the Security Office maintains an outstanding working relationship with both. Liaison is also maintained with state and federal law enforcement agencies.

The office is staffed by a Director, five full-time officers, and one part-time officer. This full-time staff is supplemented with police officers and sheriff deputies on a part-time basis for additional security coverage.

### **REPORTING PROCEDURES**

Members of the campus community are requested to report emergencies and criminal activity to the Director of Security or security officers by dialing the (317) 738-8888. There are also 17 emergency call boxes located on campus, 15 of which are in parking lots. The other two are located just south of the Johnson-Dietz circle in Dame Mall and north of the tennis courts in Grizzly Park. The boxes enable people to contact the security officer on duty, via the two-way radio system. When activated, a strobe light on top of the pole lights indicating there is an emergency. Additionally, when the emergency box is used, a pre-recorded message is sent to the security officer's radio so that they will know where to respond. This is done in case the caller is unable to communicate with the officer.

Emergency calls or reports of crimes may also be made directly to the Franklin City Police/Fire Departments by dialing 911 - if the emergency or crime is occurring at the time. Other crime reporting may be made to the police on the non-emergency line (317) 736-5155. When a call is made to the security office, officers will respond immediately to the situation and assess the need for additional personnel. Security or other employees receiving the report of an incident will advise victims of their option to file criminal charges with local law enforcement authorities as appropriate. Individuals with further questions about pursuing legal action can contact the campus life office for assistance.

The college acknowledges that there may be instances when a pastoral or professional counselor becomes aware of a campus crime as a result of a confidential disclosure by a client. In these situations, the counselor will inform the client of appropriate procedures to report the crime. A confidential crime report may be submitted by the client directly to the Director of Security or through the counselor.

If a crime has occurred and rapid dissemination of information to the campus is necessary, special crime alerts are prepared and distributed throughout campus. These may take the form of a text message, voice mail, and/or e-mails. These media are also utilized periodically to remind students and employees of routine security measures in which they should be engaged. Annual notice of crime statistics is provided through publication and is sent in an e-mail message to all employees and students and is posted on the college's internal web page. Copies of this annual report are also available in the security office and are provided to all prospective students, employees and other interested persons, upon request.

### **FACILITIES SECURITY**

Most campus buildings and facilities are accessible to members of the campus community and to guests and visitors during normal working hours, Monday through Friday. Some non-residential buildings are open weekends for limited hours if special events are taking place. After buildings have been secured, entry can be obtained by employees who work in a building with the proper key or identification card. Students may be given card access after closing if they have obtained prior permission from the appropriate faculty or staff member. The security office must be contacted for additional accesses to be added to a student's ID card. Students are discouraged from working alone in buildings unless prior satisfactory arrangements have been made with the security office.

Physical Facilities personnel maintain the buildings and grounds with a concern for safety and security. When broken windows, locks or lights are reported to the security officer or discovered by officers on their daily

rounds, these are reported to physical facilities. These reports are responded to quickly, and the needed repairs or replacements are made to maintain a high level of safety and security for the campus. Periodic inspections are made of all campus lighting, trees and shrubbery and emergency call boxes, and recommendations are made for improved safety measures.

All residence halls, fraternity houses and on campus homes have automatic fire alarm systems which are monitored by the security office. When an alarm is activated, the security officer will respond to determine the cause of the alarm, ensure that the building has been evacuated and allow people to return when their safety is assured.

All residence life staff members undergo thorough training in the enforcement of residence hall security policies. Security measures, especially regarding locking of doors, are reviewed with all residents by their residence hall staff in floor or hall meetings.

When the residence halls are locked, authorized residents can obtain access with their identification cards. Residents are responsible for the actions of themselves and their guests. During breaks and the summer recess, special security procedures are established, including changing card access permissions. Any student authorized to remain on campus during breaks must be registered with the office of residence life and will be granted access on their identification card.

### **DRUG-FREE SCHOOLS AND COMMUNITY ACT**

The Drug-Free Schools and Communities Act of 1989 mandates institutions of higher education adopt and implement a program designed to prevent the unlawful possession, use, dispensation or distribution of illicit drugs and alcohol by students and employees.

Franklin College has developed this policy not only in response to the federal drug-free legislation, but also to attempt to provide a healthy environment by preventing the use of illegal drugs and the abuse of alcohol within the college community. The misuse of alcohol and the use of drugs can lead to serious health risks, such as the loss of muscle control, headaches, increased likelihood of accidents, impaired judgment, personality disorders, addiction and death.

The college prohibits the unlawful use, possession, manufacture or distribution of alcohol and other controlled substances by any member of the faculty, staff or student body on college property or at any college-sponsored function, whether on or off-campus, including college fraternity houses. The college requires the cooperation of the entire campus community in its pursuit to maintain a drug-free environment in all phases of campus life.

Any employee or student who violates this prohibition, or who does not cooperate with the college in its attempts to maintain a drug-free environment, will face disciplinary action up to and including suspension or dismissal from the college and referral for prosecution. Individuals violating any town ordinances, state criminal laws or federal laws relating to alcohol or drug possession or use also risk fines and imprisonment.

If questions arise related to any of these guidelines or policies, students should direct them to the campus life office, while employees should direct them to the human resources office. Employees and students are encouraged to familiarize themselves with resources available in the area for substance abuse, counseling and treatment.

Staff members in the Franklin College counseling and health center, as well as the college minister, are available to assist students with substance-related problems and to provide referral to community agencies. All counseling is confidential.

### **EDUCATIONAL PROGRAMS**

Franklin College will provide prevention and awareness training for new students as well as ongoing training for current students and employees. This training will be provided through the Office of Human Resources and the Campus Life division. All members of the college community are encouraged to participate throughout the year in ongoing campaigns and trainings focused on the prevention of sexual misconduct on campus. It is the collective responsibility of all members of the Franklin College community to foster a safe and secure campus environment.

Examples of ongoing campaigns and trainings are listed as follows:

- Haven Training-Dating Violence/Domestic Violence/Sexual Assault/Stalking/Bystander online training
- Safe Zone Training
- Student programming throughout the academic year

The college follows all federal regulations issued for reporting, training, and disciplinary proceedings. All new employees are required to participate in a training program. The college is committed to offer, on an ongoing basis, the following programs:

- Awareness programs
- Bystander intervention
- Prevention and awareness campaigns
- Primary prevention programs

Students are regularly provided programming through informational sessions in the residence halls and in fraternity houses about safety and security. Programs about the appropriate use of alcohol and the effects of both alcohol and drugs are provided through new student programs, residence life and Greek programs, and general campus programming. The college provides programming to enhance the awareness and prevention of sexual misconduct and sexual harassment through designated staff members who give presentations and provide resources on request. In addition, each of these issues is addressed in pamphlets, brochures and other literature distributed throughout the campus via residence hall programs, bulletin boards, activity fairs, student newspaper and employee newsletters.

### **Crime definitions from the uniform crime reporting handbook**

**Arson-** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Criminal Homicide-Manslaughter by Negligence-** The killing of another person through gross negligence

**Criminal Homicide-Murder and Non-negligent Manslaughter-** The willful (non-negligent) killing of one human being by another

**Robbery-** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear

**Aggravated Assault-** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

**Burglary-** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft-** The theft or attempted theft of a motor vehicle (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned and including joyriding)

**Weapon Law Violations-** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature. Include in this classification: manufacture, sale or possession of deadly weapons; carrying deadly weapons, concealed or openly; using, manufacturing, etc, of silencers; furnishing deadly weapons to minors; aliens possessing deadly weapons; and attempts to commit any of the above.

**Drug Abuse Violations-** The violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic

narcotics - manufactured narcotics which can cause true addiction (Demerol, Methadone); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).

**Liquor Law Violations-** The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness. Include in this classification: the manufacture, sale, transporting, furnishing, possessing, etc., of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating still; furnishing liquor to a minor or intemperate person; underage possession; using a vehicle for illegal transportation of liquor; drinking on train or public conveyance; and attempts to commit any of the above.

**Sex Offenses (Definitions from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program)**

**Sex Offenses-Forcible-** Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

**A. Rape-** The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**B. 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.

**C. Incest-** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**D. Statutory rape-** Sexual intercourse with a person who is under the statutory age of consent.

**Sexual assault-** any physical contact of sexual nature, up to and including rape that occurs against a person's will and/or without a person's consent.

For the purpose of the policy, the terms assault, battery and rape are defined as:

- Sexual Assault is physical contact of a sexual nature against one's will or without one's consent. It is a violation of sections one, two, three, and fifteen of the college's student conduct code and Indiana law.
- Sexual Battery, according to Indiana law, occurs when one person causes another to submit to being touched by force or the imminent threat of force, or when the victim is so mentally disabled or deficient that consent cannot be given.
- Rape, according to Indiana law, is sexual intercourse that is coerced through force, or threat of force, or with someone who is unconscious, or so mentally deranged or deficient as to be incapable of consent.

Sexual harassment has been defined by the Equal Employment Opportunity Commission to include unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature which:

- Involves a stated or implicit threat to a persons' academic, living, or working environment; or
- Has the purpose or effect of interfering with an individual's academic or work performance; or
- Creates an intimidating, offensive or hostile academic, living or working environment.

**Franklin College prohibits domestic violence, dating violence and stalking as defined below:**

For the purpose of this report, Domestic violence is defined as a felony or misdemeanor crime of violence committed by-

- a current or former spouse or intimate partner of the victim
- a person with whom the victim shares a child in common a person who is cohabitating with or had cohabitated with the victim as a spouse or intimate partner
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies [under VAWA], or
- any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

Dating violence is defined as violence committed by a person-

- who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- where the existence of such relationship shall be determined based on a consideration or the following

factors:

- 1) The length or the relationship;
- 2) The type of relationship; and
- 3) The frequency of interaction between the persons involved in the relationship

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to-

- o fear for his or her safety or the safety of others; or suffer substantial emotional distress

### **Definitions of campus areas:**

#### **Campus**

(1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(2) Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

#### **On Campus Residence Hall**

Any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus is considered an on-campus student housing facility.

Includes Residence Halls:

1. Hoover Hall
2. Cline Hall
3. Dietz Center
4. Elsey Hall
5. Johnson-Dietz
6. Maple St. house
7. Forsythe St. house
8. Nelp house

#### **Non-Campus**

(1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

(2) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

#### **Public Property**

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

#### ***Hate Crime***

A criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of Clery, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.

#### **Main Campus Crime statistics:**

<b>Crime Statistics</b>		Year	On Campus	On Campus (Residence Halls)	Non Campus	Public Property	
I.	Murder/Non-negligent manslaughter	2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
II.	Negligent Manslaughter	2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
III.	Sex Offenses Forcible sex offenses (rape and fondling)	2020	5	5	1	1	
		2019	2	2	3	1	
		2018	7	5	3	1	
Non-forcible sex offenses (Statutory rape and incest)		2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
IV.	Robbery	2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
V.	Aggravated Assault	2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
VI.	Burglary	2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	4	0	0	N/A*	
VII.	Motor Vehicle Theft	2020	0	0	0	N/A*	
		2019	1	0	0	1	
		2018	1	0	0	N/A*	
VIII.	Arson	2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
IX.	Arrests						
		a. For Alcohol	2020	1	0	0	N/A*
			2019	1	0	0	0
		2018	2	0	0	N/A*	
b. For Weapons		2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
c. For Drugs		2020	0	0	0	N/A*	
		2019	0	0	0	N/A*	
		2018	0	0	0	N/A*	
X.	Disciplinary Referrals						
		a. Alcohol Related Violations	2020	25	22	1	N/A*
			2019	37	33	1	1
		2018	42	33	2	1	
b. Drug Related Violations		2020	6	3	1	N/A*	
		2019	8	6	0	N/A*	
		2018	18	16	1	N/A*	

c. Weapons Violations		2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	5	5	0	N/A*
XI.	Domestic Violence	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	1	1	0	N/A*
XII.	Dating Violence	2020	2	1	0	N/A*
		2019	1	0	1	N/A*
		2018	4	4	1	N/A*
XIII.	Stalking	2020	3	2	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
XIV.	Hate Crimes	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*

\*Information was requested from Franklin Police regarding public areas but was not received to make the report for 2018, 2019 or 2020

Criminal Offense	2020 total	Race	Religion	Sexual Orientation	Gender	Disability	Ethnicity National origin
Murder/Non-negligent/	0	0	0	0	0	0	0
Manslaughter	0	0	0	0	0	0	0
Negligent manslaughter	0	0	0	0	0	0	0
Sex Offenses-forcible	0	0	0	0	0	0	0
Sex Offenses-nonforcible							
Incest	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0
Aggravated assault	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0
Simple assault	0	0	0	0	0	0	0
Larceny-theft	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0
Destruction/damage/Vandalism or property	0	0	0	0	0	0	0



**Graduate Health Science at Acorn crime statistics:**

<i>Crime Statistics</i>		Year	On Campus	On Campus (Residence Halls)	Non Campus	Public Property
I.	Murder/Non-negligent manslaughter	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
II.	Negligent Manslaughter	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
III.	Sex Offenses Forcible sex offenses (rape and fondling)	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
Non-forcible sex offenses (Statutory rape and incest)		2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
IV.	Robbery	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
V.	Aggravated Assault	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
VI.	Burglary	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
VII.	Motor Vehicle Theft	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
VIII.	Arson	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
IX.	Arrests For Alcohol	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
	For Weapons	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
	For Drugs	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
X.	Disciplinary Referrals Alcohol Related Violations	2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*
Drug Related Violations		2020	0	0	0	N/A*
		2019	0	0	0	N/A*
		2018	0	0	0	N/A*

d. Weapons Violations	2020	0	0	0	N/A*
	2019	0	0	0	N/A*
	2018	0	0	0	N/A*
XI. Domestic Violence	2020	0	0	0	N/A*
	2019	0	0	0	N/A*
	2018	0	0	0	N/A*
XII. Dating Violence	2020	0	0	0	N/A*
	2019	0	0	0	N/A*
	2018	0	0	0	N/A*
XIII. Stalking	2020	0	0	0	N/A*
	2019	0	0	0	N/A*
	2018	0	0	0	N/A*
XIV. Hate Crimes	2020	0	0	0	N/A*
	2019	0	0	0	N/A*
	2018	0	0	0	N/A*

\*Information was requested from Franklin Police regarding public areas but was not received to make the report for 2017, 2018 or 2019

Criminal Offense	2020 total	Race	Religion	Sexual Orientation	Gender	Disability	Ethnicity National origin
Murder/Non-negligent/	0	0	0	0	0	0	0
Manslaughter	0	0	0	0	0	0	0
Negligent manslaughter	0	0	0	0	0	0	0
Sex Offenses-forcible	0	0	0	0	0	0	0
Sex Offenses-nonforcible							
Incest	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0
Aggravated assault	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0
Simple assault	0	0	0	0	0	0	0
Larceny-theft	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0
Destruction/damage/Vandalism or property	0	0	0	0	0	0	0

## Fire Safety Amenities in Franklin College Residential Facilities

<b>Franklin College Residential Facilities</b>	Fire alarm monitoring done on site (by FC security)	Partial sprinkler system	Full sprinkler system	Smoke detection	Fire extinguisher devices
Elsey Hall	x		X	x	x
Dietz Center	x		X	x	x
Johnson-Dietz	x		X	x	x
Hoover Hall	x			x	x
Cline Hall	X			X	X
KDR house	x			x	x
PDT house	x			x	x
SAE house	x			x	x
Maple house				x	x
Nelp house				X	X
Forsythe house				x	x

There were no fires reported which resulted in no deaths, injuries, or property damage during the reporting year.

Fire drills are conducted in each of the residential facilities each semester resulting in two fire drills per academic year.

### **Fire safety policies**

Due to the potential for fire, candles and incense are strictly prohibited. Since students are prohibited from burning candles and incense, they are not to be present in student rooms. Violation of this policy constitutes a fire safety violation as outlined in the residence hall fire safety regulations and procedures.

Hot plates, coil-type cooking devices (toasters, toaster ovens, electric and Foreman grills), candle warmers, or any types of cooking equipment which have exposed heating elements are prohibited.

Regardless of their type, all space heaters, heat lamps and halogen lamps are prohibited. Students in possession of exposed heating devices, space heaters, heat lamps, or halogen lamps will be held responsible for a fire safety violation. Students are not permitted to use two-prong extension cords.

### **TIMELY WARNINGS ABOUT CRIMES**

In order to promptly alert students and employees of dangerous situations on or near campus and provide them with enough time and information to take necessary precautions, Franklin College has instituted a timely warning system. These warnings may be issued for any of the Clery Act crimes that occur on campus; in certain non-campus buildings or property owned or controlled by the college; and on public property on or immediately adjacent to the campus. For a warning to be issued, the crime must be considered a serious or continuing threat to the campus community. The director of security or his/her designee and a cabinet member, typically the vice president for campus life, are responsible for determining the necessity of a warning and for issuing the alert. In deciding whether or not to issue a timely warning, the director of security or his/her designee examines the facts of each incident and considers when and where the incident occurred, when the incident was reported and any other information available to the security office. For example, if an assault occurs between two students who have a disagreement, there may be no ongoing threat to other campus community members, and a timely warning would not be distributed. Timely warnings may be distributed for other crimes if deemed necessary by the director of security and vice-president of campus life. Timely warnings are generally written and issued by the director of security or his/her designee. Certain details may be withheld from a message if the information

would compromise law enforcement efforts. Any details that could disclose the identity of the victim are withheld from timely warnings. Text message is the primary method of timely warning communication, however on a case-by-case basis, other means of distribution may be used, including: e-mail, phone calls, the Franklin College website at FranklinCollege.edu, or outdoor public announcement system (emergency call boxes).

Members of the Franklin College community are encouraged to provide a phone number to reach them by text in order to receive the warnings. This information should be verified regularly by visiting the security page on GrizLink.

### **MISSING PERSON NOTIFICATION POLICY AND PROCEDURES**

It is the policy of the Franklin College Security Office to thoroughly investigate all reports of missing persons. Additionally, the College holds that every person reported missing will be considered at risk until significant information to the contrary is confirmed. All reports of missing persons must immediately be directed to the Security Office by calling extension 8888 (Off Campus: 317-738-8888) or made in person at the Napolitan Student Center on campus. Reports of missing students received by other College departments are to be promptly forwarded to the Security Office and/or Franklin Police Department. It is the policy of this office to support and assist missing person investigations originating outside our jurisdiction. It should also be noted that there is no required waiting period for reporting a missing person. A person may be declared "missing" when his, her or their whereabouts are unknown and unexplainable for a period of time, typically 24 hours or sooner, especially if it is regarded by knowledgeable persons as highly unusual or suspicious in consideration of the subject's behavior patterns, plans, or routines.

The purpose of this policy is to establish procedures to be followed if a missing person complaint is made to the Security Office. If a complaint is made to this office, Security staff will follow the steps listed below:

- Person receiving the complaint will immediately dispatch a security officer to the location of the complaint. In addition, make appropriate notification to the Director of Security and Title IX Coordinator (or their designee) who will notify the Vice President for Student Development (or designee).
- The responding officer will gather all essential information about the person (description, clothes last worn, where subject might be, with whom they might be, vehicle description, etc.) And every effort will be made to make contact directly with the student or their designated confidential contact(s).
- An up to date photograph may also be obtained to aid in the search.
- The responding officer will also gather information about the physical and mental wellbeing of the individual.
- Appropriate campus staff will be notified to aid in the search for the individual. A quick but thorough search will be conducted in all campus buildings, grounds, and parking lots.
- Class schedules will be obtained and a search of appropriate classrooms will be conducted.
- The Vice President for Student Affairs (or designee) will be promptly notified and is responsible for communicating with the family or relatives of the missing person.

If the above actions are unsuccessful in locating the person or it is apparent from the beginning that the person is actually missing (i.e. call from parents, guardians), the investigation will be turned over to the appropriate local law enforcement agency. This will take place as soon as practical but never later than 24 hours from the initial report. At this time, the local law enforcement agency becomes the authority in charge and the Security Office will assist them in any way necessary.

In accordance with the Higher Education Act of 2008, all students may register a confidential contact with the College. Access to this information is restricted to authorized campus officials and law enforcement officers

actively involved in the furtherance of a missing person investigation. The confidential contact does not have to be a parent of a student. This is the individual(s) who will be contacted by the Vice President for Student Affairs (or designee) or a law enforcement agency within 24 hours of the determination that the student is reported missing. This individual will also be updated as to the progress of the investigation. In the event a student is under 18 years of age, and has not been legally emancipated, the student's parents or guardian will also be contacted within 24 hours of the determination that the student is reported missing. Please note that the local police department will be notified even if a student has not registered a confidential contact.

### **EMERGENCY NOTIFICATIONS**

When Franklin College receives a report of a potential emergency or other dangerous situation, the security office responds and assesses each individual incident. If the incident is confirmed to be ongoing or imminently threatening to the health or safety of the campus community, an emergency notification is immediately initiated. College officials authorized to send messages via the emergency notification process will, without delay and taking into account the safety of the community, collaborate to determine the content of the message. These officials will communicate information regarding the threat either to the campus community as a whole or to the appropriate segment of the community if the threat is limited to a particular building or segment of the population. Franklin College will not immediately issue a notification for a confirmed emergency or dangerous situation if by doing so, in the professional judgment of campus officials, it will compromise efforts to assist a victim, to contain the emergency, to respond to the emergency, or to otherwise mitigate the emergency. Franklin College's use of emergency notification procedures is not necessarily limited to crimes. An incident such as a serious gas leak, tornado, hazardous materials spill, winter storm, or other hazards could also warrant the use of this protocol. College officials authorized to send messages via the emergency notification process include the following staff: director of security, assistant vice-president of facilities, and assistant director of information technology services. These officials will use their discretion to determine the content of the message, specific method(s) of notification, recipients of the notification, and the sending authority. Usually, such notification will be made using the RAVE Mobile Safety alert system. Notification may be accomplished using a variety of messaging methods which may include one or all of the following: text messages, telephone calls, email, social media, and/or web site updates. If there is a need to disseminate information outside of the campus community, information may be posted on the Franklin College website at <http://franklincollege.edu/>, distributed to local news agencies, or posted to social media.

### **SEXUAL ASSAULT AND SEXUAL HARASSMENT**

Franklin College is committed to creating a campus culture which values individuals of various backgrounds, abilities and ages, and seeks to overcome the social risks associated with being "different". An important part of this commitment is providing an environment free of discrimination. Actions, words, jokes or comments based on an individual's age, color, creed, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, veteran status, or marital status may constitute harassment, a form of discrimination, and will not be tolerated. Sexual conduct, in particular, whether overt or subtle, can serve to create an offensive learning and working environment and is thus prohibited. The college affirms the principle that students and employees have the right to be free of any forms of sexual assault and sexual harassment. Sexual assault and sexual harassment are violations of the Franklin College Student Conduct Code and the Employee Sexual Harassment Policy, as well as violations of state and federal law. The College has developed a policy addressing discrimination, harassment and related misconduct which includes sexual and gender-based harassment, sexual violence, interpersonal violence and stalking to inform students and employees of their rights and the services available.

#### **Responsible Franklin College Officer**

Title IX Coordinator

### **AMENDED AND RESTATED POLICY ON PROHIBITED DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT**

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

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### **Policy Statement**

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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.

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### **Definitions**

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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.

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### **Audience**

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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.

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### **Reason for Policy**

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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.

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### **Related Statutes, Orders, and Policies**

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- 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
  - Code of Federal Regulations, 34 C.F.R 106 et al Related polices are set out in Section XII of the Policy.

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## **Related College Procedures**

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There are specific procedures for reports under this Policy based on the relationship of the Complainant or Respondent to the College:

- [Procedures](#) for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a Student or Employee as a Respondent.

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## **Contacts**

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Questions about this Policy should be directed to the Title IX Coordinator, Steve Leonard.  
101 Branigin Blvd., Franklin Indiana 46131, 317-738-8899, [TitleIXresponse@franklincollege.edu](mailto:TitleIXresponse@franklincollege.edu)

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## **Document History**

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- Effective Date: Reports filed on or after August 14, 2020

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## **FRANKLIN COLLEGE AMENDED AND RESTATED POLICY ON PROHIBITED DISCRIMINATION HARASSMENT AND RELATED MISCONDUCT**

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

**How to Get Help In the Event of an Emergency:**

Anyone who has experienced Sexual Harassment 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.

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**Reporting Options:**

The College’s Title IX Coordinator oversees the investigation 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 Steve Leonard Franklin College**

**101 Branigin Boulevard  
Franklin, IN 46131-2598  
317-738-8899  
[TitleIXresponse@franklincollege.edu](mailto:TitleIXresponse@franklincollege.edu)**

Any individual can make a report under this Policy to Title IX Coordinator. The report may be made in person, by telephone, in writing, by e-mail, electronically or anonymously. Any report involving a minor will be shared with Indiana Department of Child Services ([www.in.gov/dcs/2398.htm](http://www.in.gov/dcs/2398.htm)) and law enforcement agencies.

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**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 filed with the Title IX Coordinator who will communicate with the Complainant to provide resources and support and to identify the appropriate action to respond to the report as outlined in this Policy. In addition, 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 Complainant is encouraged to make a report even if that individual is not seeking disciplinary action against a Respondent. The College will make every effort to respect a Complainant's confidentiality and autonomy in determining how to proceed. Support and resources are always available to a Complainant 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

<https://www.mylifevalues.com/login> (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

[www.franciscanhealth.org/healthcare-facilities/franciscan-health-center-of-hope-indianapolis-1965](http://www.franciscanhealth.org/healthcare-facilities/franciscan-health-center-of-hope-indianapolis-1965)

Johnson Memorial Hospital - Emergency Department

317-736-3300 [www.johnsonmemorial.org/new-emergency-department](http://www.johnsonmemorial.org/new-emergency-department)

**Off-Campus Crisis, Counseling, Shelter:**

The Julian Center 317-920-9320 (24/7 crisis line) 317-941-2200 (other services)

[www.juliancenter.org/](http://www.juliancenter.org/)

Legacy House 317-554-5272

[www.legacy-house.org/](http://www.legacy-house.org/)

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

RAINN - National Sexual Assault Hotline  
1-800-656-4673 [hotline.rainn.org/online](http://hotline.rainn.org/online)

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### **Interim Protective Measures Available Through the College:**

In responding to a report, the College has an interest in providing care to the Complainant and to the broader campus community. For this reason, after receiving a report, the College, through its Title IX Coordinator, 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 Complainant chooses to pursue Formal Complaint against a Respondent. 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.

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### **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.

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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**

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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-Discrimination<sup>1</sup> 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.

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 Complainant 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, Complainant 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 Complainant makes a report or seeks action under the Policy. Respondent 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 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 Complainant 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.

### **III. RESOURCES FOR INFORMATION AND ASSISTANCE**

#### **A. Title IX Coordinator**

The Title IX Coordinator has primary responsibility for administering this Policy and oversees the investigation, response to, and resolution of all reports of Prohibited Conduct; The Title IX Coordinator 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 Complainant or Respondent to the College:

- Procedures for Reporting and Responding to Complaints of Discrimination, Harassment, and Related Misconduct Involving a Student, Student Organization or Employee as a Respondent

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 and employees.

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 Complainant, a Respondent, 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 Steve Leonard Franklin College 101 Branigin Boulevard Franklin, IN 46131-2598 317-738-8899 <a href="mailto:TitleIXresponse@franklincollege.edu">TitleIXresponse@franklincollege.edu</a>	Office for Civil Rights (800) 421-3481 Email: <a href="mailto:OCR@ed.gov">OCR@ed.gov</a>
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## **B. Initial Assessment**

When report of Prohibited Conduct is made, the Title IX Coordinator, and/or his/her designee, will conduct an Initial Assessment and provide information to the Complainant on the availability of supportive measures, the right to file a Formal Complaint, and how to file a Formal Complaint. 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.

Title IX Coordinator 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 Title IX Coordinator 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 Title IX Coordinator may consult with appropriate College individuals while conducting the Initial Assessment.

Upon the filing of a Formal Complaint by the Complainant or Title IX Coordinator, the Title IX Coordinator will initiate the Grievance Process with a prompt, thorough, and impartial Investigation and will designate an Investigator(s) who has training and experience investigating allegations of Prohibited Conduct.

## **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 be committed by anyone, regardless of Protected Status, position, or authority. While there may be a power differential between the Complainant and the Respondent-



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 Complainant 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 Complainant and Respondent are alone, or through remote communications, including e-mail, 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 Complainant

#### 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 Conduct<sup>2</sup>**

#### **a) Sexual or Gender-Based Harassment**

Sexual or Gender-Based Harassment consists of:

- (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- (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 that

is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or

(3) 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; or

(4) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34

U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

### **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 Respondent'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 Complainant (of the same or different sex);
- The Complainant's spouse or partner (of the same or different sex);
- The Complainant's family member; or
- The Complainant'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 Student Handbook.

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 Respondent, the Complainant, 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 Complainant, the Respondent, 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 Title IX Coordinator for assistance in addressing the concern. If the concern about Retaliation involves the Title IX Coordinator, an individual may contact the President of the College. Individuals may also be able to utilize the applicable Grievance Process within the designated timeframe to address any concern not otherwise resolved.

## **V. REPORTING OPTIONS**

The College is committed to providing reporting options that are broadly accessible to all College community members. Detailed information about Reporting Options for students, and employees is outlined in the Procedures that accompany this Policy.

Making a report to the College means telling the Title IX Coordinator what happened, in person, by telephone, in writing, by e-mail, electronically, or anonymously. The College encourages a Complainant to make a report directly to the Title IX Coordinator. Similarly, when an individual chooses to share information with a College employee designated as a Responsible Employee, the report will be shared with the Title IX Coordinator.

Consistent with the Procedures that accompany this Policy, upon receipt of a report, the Title IX Coordinator will conduct an Initial Assessment and provide information to the Complainant on the availability of supportive measures, the right to file a Formal Complaint, and how to file a Formal Complaint. Upon the filing of a Formal Complaint by the Complainant or Title IX Coordinator, the Title IX Coordinator will initiate the Grievance Process with a prompt, thorough, and impartial Investigation and will designate an Investigator(s) who has training and experience investigating allegations of Prohibited Conduct. The Title IX Coordinator or their designee will offer appropriate resources to support the Complainant (e.g., medical care, counseling resources, safe housing).

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 Complainant 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 Complainant 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.

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 Title IX Coordinator 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 Title IX Coordinator 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 Title IX Coordinator.

### **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 Respondent, information related to the report will be shared with the Respondent. 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 articulable 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 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 Complainant.

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 Title IX Coordinator or the Investigator, 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 Complainant, the Respondent, 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 Complainant.

Interim Protective Measures are initiated based on information gathered during the investigation and are not intended to be permanent resolutions; hence, they may be amended or withdrawn as additional information is gathered. The Investigator, 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 Title IX Coordinator. Violations of Interim Protective Measures will be addressed under this Policy. 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 Respondent <sup>4</sup>
- Any other measure which can be tailored to the involved individuals to achieve the goals of this Policy.

## **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.

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 Title IX Coordinator. The Title IX Coordinator 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 Title IX Coordinator 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:**

(Student Handbook – 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 Student Handbook:**

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 on Non-Discrimination for Program Participants**

(Employee Handbook – Sections 025 and 160; Student Handbook – 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 Statement on Non-Discrimination**

(Student Handbook – Section D.18; Employee Handbook – Sections 025 and 160): 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.

### **Non Faculty Grievance Policy**

(Employee Handbook Section 105): Provides a formal process by which employees can seek prompt, orderly, and fair resolution of work-related disputes.

### **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.

## **Procedures for Reporting and Responding to Complaints of Discrimination, Harassment, and Misconduct Involving a Student, Student Organization or Employee as the Respondent**

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## **I. OVERVIEW**

This document sets forth procedures for reporting, investigating, and responding to the College's Policy concerning Discrimination, Harassment (including Sexual or Gender-Based Harassment and Sexual Violence), Interpersonal Violence, Stalking, Complicity, and Retaliation and student misconduct as described in the Student Handbook (hereinafter collectively referred to as "Prohibited Conduct") involving a student or student organization or employee as the Respondent ("Procedures"). Please refer to the Policy and/or the Student Handbook for applicable definitions of key terms.

The College has a compelling obligation to address allegations and suspected instances of Sexual Harassment when it has Actual Knowledge of Prohibited Conduct. The College shall inform the Respondent of the allegations and may take any further action it deems appropriate, including pursuing an Investigation even in cases when the Complainant is reluctant to proceed. The Complainant will be notified in advance when such action is necessary.

These procedures apply to alleged Sexual Harassment that takes place in a College's educational program or activity, against a person in the United States. This includes locations, events, or circumstances over which the College exercised significant control over both the Respondent and the context in which the Sexual Harassment occurred.

These procedures also apply to alleged Sexual Harassment that occurs off-campus, in any building owned or controlled by a Student organization that is officially recognized by the College.

In situations not covered above, but where the Sexual Harassment undermines the security of the College Community or the integrity of the educational process or poses a serious threat to self or others, other applicable College procedures for general misconduct may be applied.

These procedures are not intended for, and will not be used to, infringe on academic freedom or to censor or punish members of the College Community who exercise their legitimate First Amendment rights

All community members are strongly encouraged to report to the College any incident of Prohibited Conduct. Many College administrators are specifically trained to support individuals affected by such Prohibited Conduct, and the College is committed to promoting a safe and healthy educational and work environment.

Individuals are encouraged to report incidents of Prohibited Conduct to the Title IX Coordinator. As an alternative, as outlined below, an individual can also seek confidential assistance that does not involve notice to the College.

Upon receipt of a report, the Title IX Coordinator, will offer appropriate resources to support the Complainant (*e.g.*, medical care, counseling resources, safe housing) and conduct an Initial Assessment. The Initial Assessment will consider the nature of the report, the safety of the parties

and the Campus Community, the Complainant’s expressed preference for resolution, and the necessity for any Interim Protective Measures.

Following this Initial Assessment, the Title IX Coordinator may: 1) take no further action (*e.g.*, at the Complainant’s request or where the conduct, on its face, would not rise to the level of a Code of Conduct violation); or 2) pursue the filing of a Formal Complaint, Informal Resolution, Investigation and Grievance Process to determine if disciplinary action is warranted. Each resolution process is guided by the same principles of fairness and respect for all parties. Resources are available for both a Complainant and a Respondent to provide support and guidance throughout the Investigation and resolution of the report.

The College encourages a Complainant to explore all available options for resolution, including a report under of Prohibited Conduct and a report to law enforcement. The processes are not mutually exclusive an individual can choose to pursue both a report under the Procedures and a criminal investigation at the same time. If an individual has not already contacted the Security Office or a law enforcement agency, Title IX Coordinator is available to assist a Complainant in contacting the College’s Security Office or an appropriate law enforcement agency.

## II. EMERGENCY LAW ENFORCEMENT, MEDICAL, AND CRISIS RESPONSE RESOURCES

As a first priority, the College encourages all individuals to report Prohibited Conduct, or potential criminal conduct by calling 911 or by contacting the Security Office. If the incident occurred off-campus, the Security Office will refer the report to the police department or law enforcement agency in the correct jurisdiction.

The College also encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident of Prohibited Conduct. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response. Emotional care, counseling, and crisis response are also available on and off campus.

Law Enforcement	Medical Providers & Crisis Response
<p><b>Franklin College Security Office</b> 317-738-8888 The Security Office will help any individual get to a safe place a, coordination with outside law enforcement, and information about the College’s resources and complaint processes.</p>	<p><b>Franklin College Campus Health Services 317-738-8090</b> After hours: 317-738-8888</p> <ul style="list-style-type: none"> <li>• Confidential care for students</li> <li>• Medical referral</li> </ul>
<p><b>Franklin Police Department</b> If in an emergency, dial 911 317-736-3670 <a href="#">Franklin Police Department Web Page</a></p>	<p><b>Johnson County Hospital Emergency Room 317-736-2600</b></p> <ul style="list-style-type: none"> <li>• Confidential care for students</li> <li>• Sexual assault exams/evidence collection</li> <li>• After-hours medical care</li> <li>• Screening and treatment of STIs</li> <li>• Emergency contraceptives</li> </ul>

<b>Johnson County Sheriff's Department</b> If in an emergency, dial 911 317-736-9155	<b>Counseling &amp; Psychological Services</b> 317-738-8080 <ul style="list-style-type: none"> <li>• Confidential care for students</li> <li>• Individual and group counseling and referral</li> </ul>
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### III. RESOURCES AND REPORTING OPTIONS

All individuals are encouraged to seek the support of on and off campus resources, regardless of when or where the incident occurred. Trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under the Procedures is pursued. In general, the College provides two categories of resources: Confidential Resources and Reporting Options. Detailed information about each of these categories is provided below.

#### A. 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 a patient/client (including whether that individual has received services) without 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.*, suspected abuse or neglect of a minor).

On Campus Confidential Resources	Off Campus Confidential Resources
<b>Campus Health Services 317-738-8090</b> After hours: 317-738-8888	<b>Johnson Memorial Hospital            Emergency Room 317-736-2600</b>

<b>Counseling &amp; Psychological Services 317-738-8080</b>	
<b>Campus Ministry 317-738-8140</b>	

#### B. Reporting Options

The College encourages a Complainant to promptly report Prohibited Conduct directly to the Title IX Coordinator.

The College encourages all individuals to promptly report Prohibited Conduct so that immediate and corrective action can be taken to eliminate the conduct, prevent its recurrence, and address its effects. The College will provide support and assistance and will respond consistent with the procedural options available at the time of the report. Upon receipt of a report, the Title IX Coordinator or his/her designee will make an immediate assessment of the risk of harm to the parties or to the broader campus community and will take steps necessary to address any risks. These steps will include establishing Interim Protective Measures to provide for the safety of the parties and the campus community and, where appropriate, to assess whether any individual poses a serious threat of disruption of the academic process or a continuing danger to other members of the College community or College property.

The College recognizes that deciding whether to make a report and choosing how to proceed are personal decisions that may evolve over time. At the time a report is made, a Complainant does not have to decide whether to request any particular course of action. The Title IX Coordinator (whose

contact information is listed below) will provide support to assist each individual in making these important decisions, and consistent with the goal of safety for all community members. Title IX Coordinator will make every effort to respect an individual's autonomy in making the determination as to how to proceed.

On Campus Reporting Options	Off Campus Reporting Options For External Law Enforcement Action
Title IX Coordinator Steve Leonard 101 Branigin Boulevard., Franklin, IN 46131 317-738-8899 <a href="mailto:TitleIXresponse@franklincollege.edu">TitleIXresponse@franklincollege.edu</a>	911
	<b>Franklin Police Department</b> If in an emergency, dial 911 317-736-3670
	<b>Johnson County Sheriff's Department</b> If in an emergency, dial 911 317-736-9155
	<b>Law Enforcement Agency in the Local Jurisdiction Where the Incident Occurred</b>

### 1. Anonymous Reporting

Any individual may make a report of Prohibited Conduct to the College without disclosing one's name (an "anonymous report") and without identifying the Respondent or requesting any action. Depending on the level of information available about the incident or the individuals involved, the College's ability to respond to an anonymous report may be limited. The Anonymous Reporting Form can be found by visiting GrizLink.

The Title IX Coordinator will receive the anonymous report and will determine any appropriate next steps, including individual or community remedies.

### 2. Reporting Considerations: Timeliness and Location of Incident

All individuals, including a Complainant or witness, are encouraged to report Prohibited Conduct regardless of when or where it occurred, as soon as possible to maximize the ability to respond promptly and effectively. The College does not, however, limit the time frame for reporting. If the Respondent is no longer a student or employee at the time of the report, or if the conduct did not occur on campus, in the context of an education program or activity of the College, or have continuing adverse effects on campus or in an off-campus education program or activity, the College may not be able to fully investigate nor take disciplinary action against the Respondent. In each instance, the College will still provide any fair and reasonable support and resources to a Complainant designed to end the Prohibited Conduct, prevent its recurrence, and address its effects. The Title IX Coordinator will also help a Complainant identify external reporting options.

### 3. Amnesty Reporting



Any student who reports Prohibited Conduct either as a witness or as Complainant 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 Prohibited Conduct.

## **IV. PROCEDURAL OPTIONS**

### **A. Time Frame for Resolution**

Consistent with the goal to maximize educational and employment opportunities and minimize the disruptive nature of the investigation and resolution, the Title IX Coordinator seeks to resolve all reports within one academic semester, depending on when the report is received. In general, an Investigation may last up to sixty (60) days. The Title IX Coordinator may set reasonable time frames for required actions under the Procedures. Those time frames may be extended for good cause as necessary to ensure the integrity and completeness of the Investigation and Grievance Process, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties, account for College breaks or vacations, or address other legitimate reasons, including the complexity of the Investigation (including the number of witnesses and volume of information provided by the parties) and the severity and extent of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

### **B. Initial Assessment**

When a report is made, the Title IX Coordinator and/or his/her designee will conduct an Initial Assessment and provide information to the Complainant on the availability of supportive measures, the right to file a Formal Complaint, and how to file a Formal Complaint. Upon the filing of a Formal Complaint by the Complainant or Title IX Coordinator, the Title IX Coordinator will initiate the Grievance Process with a prompt, thorough, and impartial Investigation and will designate an Investigator(s) who has training and experience investigating allegations of Prohibited Conduct.

### **C. Investigation**

The first step of the Investigation will usually be a separate meeting with the Complainant and Respondent to gather facts that will enable Investigator as appropriate, to:

- Assess the nature and circumstances of the allegation;
- Address any immediate concerns about the physical safety and emotional well-being of the parties;
- If the conduct is criminal in nature, notify the Complainant of the option to notify law enforcement and to be assisted in doing so, as well as the option to decline to notify law enforcement;
- Notify the Complainant of the availability of medical treatment to address any physical and mental health concerns and to preserve evidence;
- Provide the Complainant with information about:
  - On and off campus resources;

- The available range of Interim Protective Measures;
  - An explanation of the procedural options, including Informal Resolution and Investigation and the Grievance Process.
- Discuss the Complainant and Respondent's expressed preference for manner of resolution and any barriers to proceeding;
  - Explain the College's policy prohibiting Retaliation;
  - Explain the role of the Advisor;
  - Conduct an assessment for potential pattern evidence or other similar conduct;
  - Assess the reported conduct for the need for a timely warning under federal law;
  - Enter non-identifying information about the report into the College's daily crime log if the conduct is potentially criminal in nature.

Where a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Investigator will balance this request against the following factors in reaching a determination whether the request can be honored:

- the nature and scope of the alleged conduct, including whether the reported misconduct involves the use of a weapon;
- the respective ages and roles of the Complainant and Respondent;
- the risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- whether there have been other reports of misconduct by the Respondent;
- whether the report reveals a pattern of misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- the Complainant's wish to pursue disciplinary action;
- whether the College possesses other means to obtain relevant evidence;
- considerations of fundamental fairness and due process with respect to the Respondent should the course of action include disciplinary action against the Respondent; and
- the College's obligation to provide a safe and non-discriminatory environment.

Where possible based on the facts and circumstances, the Investigator will seek action consistent with the Complainant's expressed preference for manner of resolution, recognizing that the College must move forward with cases in which there appears to be a threat to any individual or the College as a whole. The College's ability to fully investigate and respond to a report may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an Investigation or Grievance Process.

#### **D. Informal Resolution**

Informal Resolution, when agreed to by the Complainant and Respondent by written consent and deemed appropriate by the Investigator, is a path designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the parties and the safety and welfare of the campus community. Informal Resolution is not appropriate for all forms of conduct under the Procedures. The Informal Resolution cannot be utilized if a Formal Complaint has not been filed by the College or if the Respondent is an employee of the College. The parties are not required to participate in an Informal Resolution and any party at any time prior to agreeing to a resolution, has the right to withdraw from the Informal Resolution process and resume the Grievance Process with respect to the Formal Complaint;

The College retains the discretion to determine, which cases are appropriate for Informal Resolution.

Informal Resolution can take any form that the parties agree upon. The Title IX Coordinator will work with the parties to develop a form of resolution that adequately resolves the needs of the parties. Depending on the form chosen, it may be possible for a Complainant to maintain anonymity throughout the Informal Resolution process

To assess pattern or systemic behavior fairly, the Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution. The time frame for completion of Informal Resolution may vary, but the College will seek to complete the process within thirty (30) days of the beginning of the process.

### **1. Grievance Process**

The Investigator will send the Complainant and the Respondent a written Notice of Investigation within ten (10) of the filing of the Form Complaint. The Notice of Investigation will contain the actual allegations of facts that constitutes Prohibited Conduct and any evidence that supports it; that there is a presumption of innocence in favor of the Respondent; that the Complainant and/or the Respondent have a right to an Advisor of their choice; that all parties have a right to review the evidence; information regarding any Code of Conduct provisions that prohibit false statements made in bad faith; and the range of potential violations under the Procedures, and the range of potential sanctions. Upon receipt of the Notice of Investigation, or at any stage in the process, the Respondent may choose to accept responsibility for the Prohibited Conduct. Once the Notice of Investigation has been delivered to the parties, the Investigation phase begins.

The Title IX Coordinator will oversee the Investigation. The Investigation is designed to provide a fair and reliable gathering of the facts by a trained and impartial investigator. All individuals, including the Complainant, the Respondent, and any third-party witnesses, will be treated with appropriate sensitivity and respect throughout the Investigation. The Investigation will safeguard the privacy of the individuals involved in a manner consistent with federal law and College Policies.

During the Investigation, the Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The Investigator will speak separately with the Complainant, the Respondent, and any other individuals who are willing to participate and have information relevant to the determination of responsibility. As part of the Investigation, the Investigator may gather or receive information that is relevant to the determination of an appropriate sanction or remedy, including information about the impact of the alleged incident on parties.

Throughout the process, any Complainant or Respondent may be accompanied by an Advisor present related to resolution of a report under the Procedures. The Advisor can be anyone of the individual's choosing who is not otherwise a party or witness involved in the Investigation.

The Investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available.

The College will seek to conclude the Investigation within sixty (60) days from the issuance of the Notice of Investigation. The time frame for completion of the Investigation, or any designated time frames of steps in the Investigation, may be extended for good cause as necessary to ensure the

integrity and completeness of the Investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for College breaks or vacations, to account for complexities of a case (including the number of witnesses and volume of information provided by the parties), or to address other legitimate reasons. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Where the College is made aware that there is a concurrent criminal investigation, the Investigator will coordinate with law enforcement so that any College processes do not interfere with the integrity or the timing of the law enforcement investigation. At the request of law enforcement, the College may agree to defer the fact-finding portion of its Investigation until after the initial stages of a criminal investigation. The Investigator will nevertheless communicate with the parties regarding resources and accommodations, procedural options, anticipated timing, and the implementation of any necessary Interim Protective Measures for the safety and well-being of all affected individuals. If the College decides to defer the fact-finding portion of its Investigation until after the initial stages of a criminal investigation, the Investigator will promptly resume fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation.

All community members, including students, faculty and other College employees, are expected to cooperate with the Investigator in the Investigation, as well as the Grievance Process of any report to assure fairness and procedural due process. The Investigator may request the appearance of persons from the College community who can provide substantial, relevant evidence. Both a Complainant and a Respondent may decline to participate in proceedings.

## **2. Relevance and Special Considerations**

The Investigator has the discretion to determine the relevance of any witness or other evidence to the finding of responsibility and may exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative.

The Investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. The Investigator will not exclude direct observations or reasonable inferences drawn from the facts.

### **A. Character Evidence:**

Information that does not directly relate to the facts at issue, but instead, reflects upon the reputation, personality, qualities, or habits of an individual – that is, information regarding the character of the Complainant, the Respondent, or any witness – is not relevant to the determination of whether there is Prohibited Conduct.

### **B. Prior Sexual History and/or Pattern Evidence:**

A party's character or reputation with respect to other sexual activity is not relevant and will not be considered as evidence. Similarly, a party's prior or subsequent sexual activity is typically not relevant and will only be considered as evidence under limited circumstances. Those circumstances include:

### **(1) Pattern Evidence**

Evidence of an occurrence or occurrences of sexual or other relevant behavior so distinctive and so closely resembling either party's version of the alleged encounter as to tend to prove a material fact, including whether consent was sought or given, may be admissible. Where there is evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of Prohibited Conduct as to the Respondent, this information may be deemed relevant to the determination of Prohibited Conduct or assigning of a sanction. The determination of relevance will be based on an assessment of whether the previous or subsequent incident was substantially similar to the conduct cited in the report or indicates a pattern of behavior and substantial conformity with that pattern. Where there is a prior finding of Prohibited Conduct by the Respondent for a similar act of Prohibited Conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and assigning of a sanction.

### **(2) Prior Sexual History between the Parties**

Where there was a prior or ongoing relationship between the Complainant and the Respondent, and the Respondent asserts that Consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent.

### **(3) Prior Sexual History with Other Parties**

A party's sexual history with an individual other than the Complainant or Respondent may be relevant under very limited circumstances to prove intent, motive, absence of mistake, or to explain an injury or physical finding.

## **C. Consolidation of Reports:**

At the discretion of the College, multiple reports may be consolidated in one Investigation or one Hearing if the information related to each incident would be relevant and probative in reaching a determination on the other incident. This includes matters where the determination has been made that there is relevant Pattern Evidence or where the evidence of the other conduct is inextricably intertwined with Prohibited Conduct.

Matters may be consolidated where they involve multiple Complainants, multiple Respondents, or related conduct involving the same parties that would otherwise have been heard under the Student Code of Conduct (provided that it does not delay the prompt resolution of conduct under the Policy).

## **D. Impact Statement:**

The Complainant and Respondent will be provided the opportunity to submit a written Impact Statement. These written Impact Statements will not be considered in the determination of responsibility, but will be provided to the Investigator, and at the appropriate stage of the process, to the disciplinary authority or Decision Maker for consideration in the determination of the sanction and remedy. The Impact Statement may be submitted at any time in the process, provided that it is received no later than ten

(10) days after the parties have been given notice of the opportunity to review the draft Investigative Report. The parties may submit a supplemental Impact Statement to the Decision

Maker if there is a change in circumstances warranting an updated Impact Statement. The Impact Statements will be shared with the parties and may be redacted at the discretion of the Investigator, or in accordance with FERPA.

The Investigator may also consider a community Impact Statement as appropriate based on the nature and facts of the circumstances and the extent to which the conduct at issue was directed at and created a hostile environment for community members beyond the Complainant. The Investigator may limit the submission or use of community Impact Statements.

### **3. Review of Draft Investigation Report**

At the conclusion of the Investigation, the Investigator will prepare a written report that summarizes the information gathered, synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts, however, before the report is finalized, the Investigator will send to each party and their Advisors an electronic or hard copy of all evidence that is directly related to the allegations

A Complainant and Respondent may submit any additional comment or information to the investigator within ten (10) days of the date of the notice of the draft Investigation Report. This is the final opportunity for the parties to identify any additional information or witnesses.

### **4. Investigative Report**

Upon receipt of any additional information from the Complainant and/or Respondent, or after the ten (10) days comment period has lapsed without comment, the Investigator will make an Investigative Report.

Both the Complainant and Respondent will be notified of the Investigative Report in writing at least ten (10) days before a Hearing.

### **5. Dismissal of the Formal Complaint**

In the event that prior to, or in the course of, an investigation, the Investigator determines that the allegations fail to meet the definition of Prohibited Conduct or did not occur while in the United States and under the College's educational program or activity, the investigation and Formal Complaint will be dismissed. Formal Complaints may still be resolved through an informal resolution process as outlined above or according to procedures set forth in the Student Code of Conduct.

The Investigator also reserves the right to dismiss the Formal Complaint and stop the investigation if:

- i. The Complainant notifies the Title IX Coordinator in writing that they wish to withdraw their Formal Complaint;
- ii. The Respondent is no longer enrolled in or employed by the College; or
- iii. Specific circumstances prevent the school from gathering sufficient evidence to reach a determination about allegations (e.g. lack of participation in the investigative process by parties or witnesses).

Written notice of any dismissal decision must be sent to the parties. Any party may appeal the dismissal decision as described in the Appeal process.

### **E. Hearing**

Upon issuance of the Investigative Report, the matter will be referred to a Decision Maker for a Hearing to determine whether Prohibited Conduct was committed and/or to determine an appropriate sanction.

The Decision Maker will issue a Notice of Hearing to the Complainant and Respondent. The Decision Maker's role is twofold: determination that a violation occurred by a preponderance of the evidence and, if warranted, the imposition of sanctions.

The College is responsible for establishing that a violation occurred, and the Complainant and Respondent may choose their own level of engagement at the hearing. At the hearing, the Investigator is responsible for presenting evidence. The Complainant and Respondent must be given an opportunity to question this evidence.

### **F. Imposition of Sanctions**

The Procedures prohibits a broad range of behaviors, which are serious in nature. In keeping with the College's commitment to foster an environment that is safe, inclusive, and free of Prohibited Conduct, the Procedures provides the Decision Maker with wide latitude in the imposition of sanctions tailored to the facts and circumstances of each report, the impact of the misconduct on the Complainant and surrounding community, and accountability for the Respondent. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the College's educational mission and federal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or dismissal from the College.

In reaching this determination, the Decision Maker may solicit information from the Complainant and Respondent, and any other individual who can provide information relevant to a determination regarding potential sanctions. The Decision Maker may also review any written Impact Statements. A Complainant and Respondent who elects to attend the Hearing may be accompanied by an Advisor.

In determining the appropriate sanction, the Decision Maker shall consider the following factors:

- the nature and violence of the conduct at issue;
- the impact of the conduct on the Complainant;
- the impact or implications of the conduct on the community or the College;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the College or elsewhere, including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful environment conducive to learning;
- protection of the College community; and
- any other mitigating, aggravating, or compelling circumstances to reach a just and appropriate resolution in each case.



The Decision Maker may also consider restorative outcomes that, taking into account the safety of the community as a whole, allow a Respondent to develop insight about their responsibility for the behavior, learn about the impact of the behavior on the Complainant and the community, and identify how to prevent or change the behavior.

Where the Decision Maker concludes that a sanction of suspension or dismissal is appropriate, and the Respondent has not already been suspended on an interim basis, there will be an immediate assessment by the Decision Maker to determine whether the Respondent poses a serious threat of disruption of the academic process or a continuing danger to other members of the College Community or College property. The Decision Maker may impose interim suspension pending the conclusion of any appeal. Where the sanction is something other than suspension or dismissal, the imposition of sanction will be deferred pending the conclusion of any appeal. Interim Protective Measures in effect for the Complainant and Respondent will continue pending the conclusion of any appeal.

### **1. Sanctions that Impact a Student's Status**

Sanctions may be imposed individually or in combination. Sanctions that affect a student's status with the College include the following:

**Dismissal**, which must be approved by the President, means that a student is removed from the College permanently and may not be admitted to the College unless and until the President who imposed or approved the sanction (or the President's successor) concludes on the basis of the former student's petition and any supportive documentation that the individual should be given a new opportunity to pursue higher education with the College. The College will not refund tuition or fees paid by the student. Parents of a dependent student, as determined by the Office of Financial Aid, will be notified when a student is dismissed.

**Permanent Suspension**, which must be approved by the President, means that the student is removed from good standing and must leave the College permanently without an expectation that the student may eventually return to the campus. Permanent suspension from the College will remain in effect until the President who imposed or approved the sanction (or the President's successor) concludes on the basis of the former student's petition and any supportive documentation that the individual should be given a new opportunity to pursue higher education at the College. The College will not refund tuition or fees paid by the student. Parents of a dependent student, as determined by the Office of Financial Aid, will be notified when a student is suspended permanently.

**Suspension for a Definite or Indefinite Period**, which must be approved by the President, means that the student is removed from good standing and must leave the College for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied. Academic work completed at another institution during a period in which a student is under suspension from the College may not be transferred toward the degree, but applicable health care or insurance benefits may be continued if the health insurance premium has already been paid. The College will not refund tuition or fees paid by the student. Parents of a dependent student, as determined by the Office of Financial Aid, will be notified when a student is suspended.



**Probation**, for a Definite or Indefinite Period, including probation with associated conditions or requirements as set by the Decision Maker, means that a student may remain at the College but may be required to satisfy specified conditions or requirements, report regularly to a designated administrator, and be barred from holding any office or participating in any activity in which the student represents the College, including athletics or other competitive teams, or from participating in any College- recognized student organizations either within or outside the College community. The sanction of probation prohibits graduation until the period of probation has ended and the student has complied with all requirements.

Dismissal, permanent suspension, suspension for a definite or indefinite period, and probation will be noted on a student's file.

## 2. Sanctions that Do Not Impact a Student's Status

Sanctions which do not affect a student's good standing status with the College include, but are not limited to:

**Educational Requirements.** Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate.

**"No Contact" Orders.** Compliance with orders of no contact that limit access to specific College areas or forms of contact with particular persons.

**Housing Restrictions.** Exclusion from College housing or change in housing arrangements.

**Compulsory Service.** Completion of compulsory service under guidelines established by the Decision Maker in consultation with the appropriate College individuals in order to determine the corrective actions and/or sanctions to resolve the case. Completion of compulsory service will be monitored by the Title IX Coordinator.

**Written Warning.** Written warning in the form of an official reprimand that is formally communicated by a letter giving the student notice that any subsequent Prohibited Conduct violation will carry more serious sanctions.

**Monetary Fines.** – For any single or combination of infractions related to a single incident, Monetary Fines shall range from \$25–\$200, at the discretion of the Decision Maker.

## 3. Sanctions that Impact an Employee's Status

Sanctions may be imposed individually or in combination. Sanctions that affect an employee's status with the College include the following:

1. Termination of employment that must be approved by the President;
2. Probation for a Definite or Indefinite Period, including probation with associated conditions or requirements that must be approved by the President.

## G. Remedies

The Decision Maker will seek to identify long-term or permanent remedies to address the effects of the conduct on the Complainant, restore the Complainant's safety and well-being, and maximize the Complainant's educational and employment opportunities. Such remedies should seek to restore to the Complainant, to the extent possible, all benefits and opportunities lost as a result of

the Prohibited Conduct. The Decision Maker will also identify remedies to address the effects of the conduct on the College community.

The Decision Maker will consider the appropriateness of remedies, including Protective Measures, on an ongoing basis to assure the safety and well-being of the parties throughout the process. Long-term remedies may include extending or making permanent any Interim Protective Measures or implementing additional measures tailored to achieve the goals of the Procedures. Many of the remedies and supports that a Complainant might need after a finding of responsibility will have already been provided as Interim Protective Measures, including but not limited to academic accommodations, short term counseling, and housing arrangements. The Decision Maker will, in all cases, consider whether there is a need for additional remedies. Additional remedies or supports may be included in the sanctions, such as reassignment or removal of the Respondent from a class or a campus residence.

## **H. Hearing Process**

The Hearing Process will generally be completed within ten (10) days from the date of the Notice of Hearing. As with all time frames in the Procedures, this time frame may be extended for good cause with notice to the parties in writing.

### **1. Decision Maker**

Upon receipt of a Notice of Hearing, a Decision Maker will be designated to review all relevant information gathered in the Investigation and from a pool of trained individuals by the President of the College. Any individual designated by the College to serve on a Decision Maker must have sufficient training or experience to serve in this capacity. A College student may not serve as a Decision Maker. A Decision Maker may decline to participate on the basis of an actual conflict of interest, bias, or lack of impartiality. In addition to the Decision Maker, a Hearing Chair, selected by the Decision Maker, will conduct and preside over the hearings. The Hearing Chair is not the Decision Maker, but is available to provide consistency in process, informed understanding of definitions, and guidance as to available sanctions and assist the Decision Maker.

### **2. Pre-Hearing Meeting**

As a first step, the Hearing Chair will meet separately with the Investigator and each party and their Advisors to resolve pre-hearing concerns. At this pre-hearing meeting, the parties will each have the opportunity to identify the witnesses (who have already been identified to and interviewed by the Investigator) they wish to call at the hearing; raise any challenge to the Decision Maker based on bias, conflict of interest or lack of impartiality; and identify any evolving or new information not previously identified through the Investigation or available through the exercise of due diligence. The parties will also have the opportunity to address questions about the process. If the Complainant and/ or the Respondent do not participate in the hearing, then they are not required to attend the pre-hearing.

Both parties have the ability to challenge a Decision Maker on the basis of an actual conflict of interest, bias, or lack of impartiality. The request must be submitted in writing or raised no later than the date of the pre-hearing meeting and must clearly state the grounds to support a claim of bias, conflict of interest, or an inability to be fair and impartial. Failure to object prior to the date of the pre-hearing meeting eliminates the possibility of appealing the outcome of the hearing based

on the assertion that a Decision Maker had a conflict of interest, was biased, or lacked impartiality. The Hearing Chair shall decide if the Decision Maker is excused.

### **3. Hearing Procedures**

The Hearing will take place in a closed live session at the College. At the Hearing, the Investigator and or Complainant will be responsible for presenting the evidence and Decision Maker will make his/her own determination by a preponderance of the evidence whether Prohibited Conduct occurred. In reaching a determination, the Decision Maker will solicit information from the Investigator, the Complainant, the Respondent, and any witnesses as appropriate to ensure a full assessment of the relevant facts. This information shall be provided in the presence of the parties, unless a party waives their right to participate. The Decision Maker will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived it. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness. Hearings are not legal proceedings and do not follow courtroom procedure or the formal rules of evidence. During any hearings, each party must have an Advisor present to ask questions to the other party. This Advisor does not need to be licensed to practice law and may be a person of the party's choice. If a party does not have an Advisor, the College will provide an Advisor for them.

The Decision Maker may question individual parties and witnesses. Parties will have the opportunity to cross-examine the party or witness. Parties may never ask questions directly, and questions must be asked to the other party through the use of a party's advisor. All questions asked must be relevant. Any questions determined not to be relevant by the Decision Maker are not required to be answered. If a party or witness is absent from the live hearing or refuses to answer cross-examination or other questions, the Decision Maker may not rely on any statement of that person in reaching a determination of responsibility. The Decision Maker may not draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions. If, at any point during the hearing, the Decision Maker determines that unresolved issues exist that could be clarified through additional investigation time, the Decision Maker may suspend the hearing and reconvene it in a timely manner that accommodates further investigation.

Hearings may be conducted virtually through the use of technology at the College's discretion. However, if either the Complainant or Respondent asks to be in separate rooms, the College must grant this request and provide appropriate technology to allow for simultaneous participation. All hearings will be memorialized through an audio or audiovisual record of the live hearing. The recording will be made available for parties to inspect and review following their completion.

After a consideration of all of the relevant information, the Decision Maker will decide by a preponderance of the evidence whether Prohibited Conduct occurred. Preponderance of the evidence means that it is more likely than not that the conduct occurred. If, there is a finding of Prohibited Conduct the Decision Maker will also impose sanction(s).

#### **I. Notice of Hearing Outcome**

Within ten (10) days of the conclusion of the Hearing, the Decision Maker will provide a written Notice of Hearing Outcome to the Complainant and Respondent at the same time. The Notice of

Hearing Outcome will include the finding by the Decision Maker as to whether there is Prohibited Conduct, identification of the allegations potentially constituting violation of the Code of Conduct; a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and findings of fact supporting the determination; conclusions regarding the application of the College's Code of Conduct to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctioned imposed upon the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided.

Where there is a finding of Prohibited Conduct, the Decision Maker will consult with appropriate College individuals in order to determine the corrective actions and/or sanctions to resolve the case. Any such corrective actions and/or sanctions will be outlined in the Decision Maker's written decision.

Respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The Complainant will be informed of any sanctions and remedies that directly relate to the Complainant, including information about the Respondent's presence on campus (or in a shared class or residence hall), that may help a Complainant make informed decisions or work with the College to eliminate Prohibited Conduct and prevent its recurrence.

The Notice of Hearing Outcome will also include information about the appeal process, including the available grounds for an appeal, the time frame for submitting an appeal, and the name of the Appeals Officer who will be assigned to review any appeal filed. If neither party seeks an appeal within ten (10) days of the Notice of Outcome, any sanction imposed by the Decision Maker will take effect immediately.

## **J. Appeal/Review of Hearing Outcome**

### **1. Appeal to the College**

The Appeals Officer is an impartial decision-maker who selected by the President. Either party may appeal the Hearing Outcome or a dismissal of the Formal Complaint, only on the following grounds:

- procedural irregularity that affected the outcome of the matter,
- newly discovered evidence that could affect the outcome of the matter,
- A conflict of interest or bias for or against generally or the individual complainant or respondent that affected the outcome of the matter of the Investigator or Decision Maker.

The appeal must be submitted in writing to the Appeals Officer within ten (10) days of the Notice of Hearing Outcome or the Dismissal. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal. Receipt of the written appeal will be acknowledged in writing.

The Appeals Officer will assess the written appeal to determine whether the appeal is timely filed and, if so, whether the appeal is properly framed based on the two permissible grounds. If the

Appeals Officer determines that the appeal does not properly fit within one of the two grounds, the appeal will be denied.

If the appeal is properly filed, each party will be given the opportunity to review the written appeal and respond to it in writing to the Appeals Officer. Any response by the opposing party must be submitted to the Appeals Officer within three (3) days from being provided the appeal. If both parties file an appeal, the appeal documents from each party will be considered together in one appeal review process.

In any request for an appeal, the burden of proof lies with the party requesting the appeal, because the Hearing Outcome or Dismissal will be presumed to have been decided reasonably and appropriately. Appeals are not intended to be a rehearing of the matter. The scope of the appeal will be limited only to the three (3) permissible grounds that have been accepted for review. Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal. The Appeals Officer will defer to the original Decision Maker or the Investigator in case of a dismissal, making changes to findings only where there is clear error.

Depending on the basis of the requested appeal, the Appeals Officer may:

- Affirm the Outcome;
- Alter the Outcome;
- Return the matter to the Decision Maker or Investigator in case of a dismissal of a Formal Complaint with instructions to reconvene to cure a procedural error or to assess the weight and impact of newly discovered information;
- Where the procedural error cannot be cured by returning the matter to the original Decision Maker or Investigator, convene a hearing before a newly constituted Decision Maker or has a new Investigator assigned by the Title IX Coordinator.

The Appeals Officer will render a written decision on the appeal to both parties within ten (10) days from the date of the submission of all appeal documents. Appeal decisions by the Appeals Officer are final with the exception of cases involving suspension or dismissal that allow for further appeal on specified grounds.

## **2. Further Review/Appeal in Matters of Suspension or Dismissal**

Where the Appeal to the College affirms a Hearing Outcome that includes suspension or dismissal, either party may further appeal the Hearing Outcome to the President on the following grounds:

1. Violation of due process; and,
2. Material deviation from Policies adopted by the Board of Trustees.

If the President decides to review, a written decision will be made within fifteen (15) days from the date of the decision to review. The President may:

1. Affirm the decision;
2. Alter the decision;
3. Return the matter with instructions.

Any decision by the President is final.

## **K. Post-Resolution Follow Up**

After a sanction or remedy is issued, the Title IX Coordinator will periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine if additional remedies are necessary and will contact the Respondent to assure compliance with any sanctions that have been imposed. The Complainant may decline future contact with the Respondent. Any violation by a Respondent of a sanction or protective measure imposed under the Procedures or a failure by a College employee to provide a specified remedy should be reported to the Title IX Coordinator

The Complainant and Respondent are encouraged to provide the Title IX Coordinator with feedback about their experience with the process and recommendations regarding ways to improve the effectiveness of the campus' implementation of the Procedures.

## **L. ADDITIONAL CONSIDERATIONS**

### **1. Role of Advisor**

The Advisor, selected by Complainant or Respondent, may accompany the party to any investigative, administrative, or adjudicative meeting or proceeding under the Procedures that requires the presence of the party including the hearing before the Decision Maker.

The Advisor, who may be, but does not need to be, an attorney, and must not be a potential witness in the investigation or could otherwise compromise the investigation. The parties must provide three (3) days advance notice to the staff member hosting the meeting (unless the meeting is called on shorter notice) of the name and relationship of any individual who will accompany them to a meeting, so that all parties are aware of who will be present at any meeting. If a party does not have an Advisor present at the live Hearing, the school must provide, without fee or charge to that party, an Advisor of the College's choice who may be, but is not required to be, an attorney to conduct cross examination on behalf of that party.

Advisor must meet with the Decision Maker in advance of any participation in the proceedings to understand the expectations of the role, privacy, and appropriate decorum.

In order for an Advisor to participate in a Hearing, the Complainant and/or Respondent must complete and submit an informational form to the Hearing Chair no later than three (3) days prior to the Hearing. Even if a party submits this form authorizing the Advisor to receive information or documents regarding the party, the College, its officials, and the Decision Maker will at all times communicate and correspond directly with the party. It is the party's responsibility to communicate and share information with the Advisor.

Throughout the Investigation and Grievance Process, the Advisor may fully participate in the proceeding to the same extent afforded to the party the Advisor represents. A party's Advisor may not delay, disrupt, or otherwise interfere with the hearing procedures.

Unless the Advisor is appointed by the College, a party's inclusion of an Advisor is at the sole expense of the party.

### **2. External Agreements**



The College will not recognize or enforce agreements between the parties outside of these procedures. The College will recognize, however, a lawfully issued protective order under Indiana law.

### **3. Records of Discipline and Effect of Withdrawal**

The existence of a pending Investigation or Grievance Process under the Procedures will be noted as part of a student or employee's file. In addition, currently active sanctions of probation, suspension, or dismissal will be noted as part of a student or employee's file. In the event that a Respondent chooses to withdraw from the College or terminate their employment, prior to the resolution of disciplinary charges under the Procedures, the Respondent's file will be marked with the notation "Student Withdrew with Disciplinary Charges Pending or Employee terminated their employment with Disciplinary Charges Pending". In the event of a withdrawal or termination, or where the Respondent declines to participate in proceedings under the Procedures, the Investigation and Hearing may proceed without the Respondent. After withdrawing, the Respondent will not be eligible to return to the College until the proceedings under the Procedures have been finally concluded.

Records documenting disciplinary actions brought against students or employees for Prohibited Conduct shall be maintained by appropriate offices, including the Title IX Coordinator, as part of a student or employee's disciplinary record separate from the transcript. Records will be retained for a period of seven (7) years from the date on which all appeal rights have expired or have been exhausted. In the event that a student or employee remains at the College for longer than the seven (7)-year retention date, the Title IX Coordinator will maintain relevant records of the report and resolution for as long as the student or employee remains at the College.

Thereafter, the records will be destroyed, unless destruction at the end of a lesser period shall be permitted in accordance with a disciplinary records retention policy adopted by the President. Disciplinary action involving dismissal, degree revocation, and negative notation on student or employee's file will be retained for a period of seven (7) years from the date on which all appeal rights have expired or have been exhausted, and thereafter destroyed, unless destruction at the end of a lesser period shall be permitted in accordance with a disciplinary records retention policy adopted by the President.

#### **Definition of Key Terms**

##### **Actual Knowledge**

Notice of Sexual Harassment or allegations of Sexual Harassment to the College's Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute Actual Knowledge. This standard is not met when the only official of the College with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a Student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the College. "Notice" includes, but is not limited to, a report Title IX Coordinator.

##### **Coercion**

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 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.

### **College Community**

Employees, Students, student employees, graduate associates, Appointees, volunteers, suppliers/contractors, and visitors.

### **Complicity**

Any act that knowingly aids, facilitates, promotes, or encourages the commission of prohibited conduct by another person.

### **Consent**

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 Prohibited Conduct. 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 Prohibited Conduct.

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.

Also see Incapacitation and the discussion of intoxication in the Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment, Sexual Violence, Interpersonal Violence and Stalking.

### **Discrimination**

Any unlawful 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 state and federal law, to a qualified person with a disability.

### **Formal Complaint**

Formal complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of Sexual Harassment

### **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 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.

### **Harassment**

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.

### **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.

### **Incapacitation**

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.

### **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 Complainant (of the same or different sex);
- The Complainant’s spouse or partner (of the same or different sex);
- The Complainant’s family member; or
- The Complainant’s cohabitant or household member, including a roommate.

Whether there was such 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 addressed through the student code of conduct.

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.

### **Protected Status**

Consistent with federal and state law, the College prohibits Discrimination and Harassment based on age, color, creed, disability, gender, gender expression, gender identity, genetic information, national origin, 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.

### **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.

**Complainant**

Complainant means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

**Respondent**

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

**Retaliation**

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 Prohibited Conduct; (ii) opposition to policies, practices, or actions that the individual reasonably believes are in violation of Prohibited Conduct; 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 Respondent, the Complainant, or any other individual or group of individuals.

**Sexual Assault**

A form of Sexual or Gender-Based Harassment that involves having or attempting to have Sexual Contact with another individual without Consent.

**Student**

An individual to whom an offer of admission has been extended, paid an acceptance fee, registered for classes, or otherwise entered into another agreement with the College to take instruction. Student status lasts until an individual graduates, is permanently dismissed, or is not in attendance for two complete, consecutive terms, and includes those with a continuing educational relationship with the College; "Student" also includes registered Student organizations. A Student organization remains a "Student" for purposes of Procedures for one calendar year following the expiration of the organization's most recent registration.

The College reserves the right to administer the Procedures and proceed with any process provided by Procedures even if the Student withdraws from the College, is no longer enrolled in classes, or subsequently fails to meet the definition of a Student while a disciplinary matter is pending.

**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.

**Sexual Harassment**

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

- An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- 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 that is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or
- 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;
- "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

### **Sexual Violence**

A form of Sexual or Gender-Based Harassment that involves having or attempting to have Sexual Contact with another individual without Consent.

### **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.

### **Title IX Coordinator**

The designated College official with primary responsibility for coordinating the College's compliance with Title IX. This individual provides leadership for Title IX activities; offers consultation, education, and training; and helps to ensure that the College responds appropriately, effectively, and equitably to all Title IX issues.