

SEXUAL AND OTHER UNLAWFUL HARASSMENT

PURPOSE: To inform the Franklin Pierce University community that the University prohibits sexual and other unlawful harassment and about how to report incidents of harassment.

DATE APPROVED: July 7, 1999

REVISED: April 3, 2007, August 5, 2005

REVIEWED: September 1, 2007

POLICY:

- I. Franklin Pierce seeks to maintain a learning and work environment free from unlawful discrimination, including sexual harassment that may render the educational and working environment hostile, intimidating, and offensive. In its misuse of power and authority, it subverts the mission of the University and may threaten the careers, educational experiences, and well being of faculty, staff and students. Therefore, the University will not tolerate the harassment of any or by any, faculty member, staff member, student or visitor on the basis of sex. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, physical, and nonphysical conduct of a sexual nature when:
 - A. Submission to such conduct is made explicitly or implicitly a term or condition of employment or status as a student;
 - B. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting that individual, or for awarding or withholding favorable employment or educational opportunity, evaluation or assistance; or
 - C. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work or in the classroom, and creates an intimidating, hostile or offensive environment in which to work or learn.
- II. Sexual harassment includes a wide range of behaviors from the actual coercion of sexual relations to unwelcome offensive comments, jokes, innuendoes and other sexually oriented statements and unwelcome emphasizing of sexual identity. Sexual harassment may be indirect and even unintentional. The definition of what constitutes sexual harassment will be applied and interpreted by the University consistent with accepted standards of reasonable judgment, mature behavior and academic freedom.
- III. This policy prohibits all of the aforementioned activities whether engaged in by a member of University administration, faculty, staff, co-worker, student or anyone who is on University premises or who comes in contact with University employees or students.
- IV. Faculty, administrators, supervisory staff, or others in positions of authority should be sensitive to the questions about mutuality of consent that may be raised, and to the conflicts of interest that are inherent in personal relationships where professional and educational relationships are involved.
- V. In addition, the University will not tolerate the harassment of any employee, student, visitor or other third party on the basis of race, color, religion, sex, national origin, age, disability sexual orientation or other unlawful reason.
- VI. Retaliation against faculty, staff or students who report incidents of sexual or other unlawful harassment and/or who are involved in an investigation is a violation of the University's policy and is prohibited by State and Federal law. Retaliation is a form of

unlawful harassment and will be handled in the same manner as other allegations of sexual and other unlawful harassment.

- VII. Experience has shown that a clear statement to the person engaging in the offensive behavior is often all that is necessary to stop the conduct. Faculty, staff or students who believe they are being harassed are encouraged to let the person engaging in the conduct know how they feel, but they are not required to do so.
- VIII. Individuals who believe they have been subjected to unlawful harassment should report it under the procedure outlined in this policy. In addition, managers and supervisors and others in position of authority should report any concerns of this nature that they become aware of in accordance with the reporting procedure outlined below.
- IX. All complaints of sexual and other unlawful harassment will be investigated promptly and appropriate action will be taken. The response of the University may include a range of sanctions up to and including immediate termination from employment and may also include counseling or mediation in the discretion of the University.

PRACTICES AND PROCEDURES:

I. REPORTING PROCEDURE

- A. Sexual and other unlawful harassment is unacceptable and will not be tolerated by the University, after persons who believe they are or have been subjected to such conduct or have witnessed such conduct are encouraged to make their concerns known.
 - 1. Faculty, staff, and visitors who believe that they have been subjected to sexual and/or other unlawful harassment should bring their complaints or concerns to any manager, supervisor, vice president and/or to the Manager of Human Resources. If the concern involves the Manager of Human Resources the complaint or concerns should be made to the Vice President of Finance and Administration.
 - 2. A manager, supervisor and/or vice president who receives a complaint/concern regarding possible harassment or who otherwise observes/receives information about possible harassment shall promptly notify the Manager of Human Resources. If the concern involves the Manager of Human Resources the report should be made to the Vice President of Finance and Administration or his/her designee.
 - 3. Students, including those at the Professional & Graduate Studies campuses, who believe they have been subjected to sexual harassment should bring their complaints or inquiries to one of the following individuals depending on the case:
 - a. If the complaint is against a faculty member or coach the student or former student should speak with to any manager, supervisor, vice president and/or to the Manager of Human Resources.
 - b. If the complaint is against any staff member, including but not limited to food service, health services or a visitor, the student should speak with any manager, supervisor, vice president and/or to the Manager of Human Resources.
 - c. If the complaint is against a student, the complainant should speak with to any manager, supervisor, vice president,

Manager of Human Resources and/or to the Vice President & Dean of Student Affairs. Such complaints will be handled through the procedures outlined in the Student Code of Conduct. (Professional & Graduate Studies students should speak to their respective Campus Manager.)

4. If unsure where to initiate a complaint, students may obtain further information from the Human Resources Office, the Student Affairs Office, or the Professional & Graduate Studies Campus Manager's Office.
 5. Students may designate a member of the University faculty or staff to act as a contact person/advocate in connection with a complaint of sexual or other unlawful harassment. The contact person/ advocate should support the student in the complaint and investigation process which can include accompanying the student making the initial report of harassment under the complaint procedure, and sitting in on meetings with the student, and others.
- B. Sexual and other unlawful harassment complaints will normally be investigated by the Vice President & Dean of Student Affairs, or the Manager of Human Resources. However, in certain circumstances if the accused harasser is in the investigator's chain of command or if the complaint involves the Chairman of the Board of Trustees, the President will appoint an investigator.

II. SANCTIONS

Sanctions for violations of this policy will be determined by the University in its discretion, and may include a written apology and/or other disciplinary action up to and/or including termination from the University and/or the sanctions described in the Student Code of Conduct depending on the circumstances of any proven incident.

III. APPEAL PROCESS

- A. If either party involved in a sexual or other unlawful harassment complaint is dissatisfied with the results of the investigation, the party may appeal the determination of the investigation within ten (10) calendar days from notice of the investigation determination. Appeals must be made in writing to the President. The President, working with an Ad Hoc Advisory Committee, will review the determination of the investigation together with the written appeal of the dissatisfied party, and conduct further inquiry and/or investigation as the President deems appropriate.
- B. The Ad Hoc Committee will be comprised of three (3) men and three (3) women of the Franklin Pierce University Community appointed by the President to serve in an advisory capacity to the President on all appeals. Alternates will also be named to the Ad Hoc Committee in the event a regular member is unavailable or disqualified (for example, if he/she is a party to the complaint). In the case of a student complaint against any faculty or staff member, a student representative will be appointed by the President to serve on the Ad Hoc Committee.
- C. The President will normally render a decision within thirty (30) calendar days in writing to both parties. If a decision cannot be rendered within thirty (30) days, the President will so notify the parties and will then render a decision as soon as possible. The President's decision shall be final.

- D. If a student is the accused wrongdoer in a sexual or other unlawful harassment complaint, the appeal process outlined in the Student Code of Conduct, Article IV: Judicial System and Process shall be followed.