

## **TITLE IX Frequently Asked Questions for Students**

### **What is Title IX?**

Title IX of the Education Amendments of 1972 is a federal law that protects individuals from sex discrimination in any education program or activity receiving federal financial assistance. A wide range of sexual misconduct behaviors can contribute to or result in sexual harassment, sexual assault, sexual violence, dating violence, domestic violence, stalking and other forms of prohibited conduct of a sexual nature. The University's Policy on Discrimination, Harassment and Sexual Misconduct contains definitions of these terms.

### **What is the Violence Against Women Act (VAWA)?**

In 2015, changes to the Violence Against Women Act and accompanying regulations (VAWA) amended the Clery Act. VAWA clarifies the duties of colleges and universities to investigate and respond to reports of sexual assault, stalking, and dating and domestic violence and to publish policies and procedures related to the handling of these cases. Under VAWA, colleges and universities also must provide training to their campus communities on issues related to sexual misconduct. Compliance with VAWA is required of universities, like Franciscan University, that participate in the federal student aid program. VAWA was enacted in response to violent crimes against women; however, its protections apply to males as well.

The VAWA amendments are also commonly referred to as the Campus SaVE Act.

### **What is the Clery Act?**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) and accompanying regulations require colleges and universities to disclose certain timely and annual information about campus crime, and security and safety policies. Compliance with the Clery Act is required of universities, like Franciscan University, that participate in the federal student aid program. As a part of its Clery compliance efforts, Franciscan University collects and publishes statistical information on crimes occurring on and around campus, as well as relevant crime and safety information, in its Annual Security and Fire Safety Report.

### **What is discrimination?**

Discrimination means differential treatment of a person or group on the basis of race, color, national or ethnic origin, sex, age, disability, or veteran's status or any other criteria protected by applicable law. Discrimination is prohibited conduct under the University's Policy on Discrimination, Harassment and Sexual Misconduct.

### **What is Franciscan University's policy related to Title IX and discrimination?**

The University has enacted a Policy on Discrimination, Harassment and Sexual Misconduct to prohibit discrimination, harassment and sexual misconduct so that all members of the University community can enjoy the full benefits of their work and learning experience. As a Catholic and Franciscan institution of higher education, Franciscan University stands with the Catholic Church in seeing "in men and women, in every person, the living image of God himself. This image finds, and must always find anew, an even deeper and fuller unfolding of itself in the mystery of Christ...and [the Church] invites all people to recognize in everyone...a brother or sister 'for whom Christ died.'" (Compendium of the Social Doctrine of the Church # 105). This understanding is the basis for the University's commitment to promote and to defend the human dignity of all persons as Franciscan University strives to provide a learning, working, and living environment free from all forms of unlawful discrimination, discriminatory or sexual harassment, and all forms of sexual misconduct. Unlawful discrimination, harassment and sexual misconduct

subvert the mission of our University, strike against the University's Catholic and Franciscan values, and threaten the careers, educational experience, and well-being of students, faculty, and staff. The University's policy applies to any student, employee (faculty and staff), appointee, Board of Trustee member, volunteer, vendor, contractor, visitor, third party, and any other affiliated person or entity of the University. A link to the full text of the policy can be found here: [Policy on Discrimination, Harassment and Sexual Misconduct](#).

### **What is a Title IX Coordinator?**

The Title IX Coordinator is the person designated by the University to monitor and ensure compliance by the University with Title IX. The duties of the Title IX Coordinator may also be performed by any Deputy Title IX Coordinator and/or any of their respective designees. For the names and contact information of the University's Title IX/EEO Coordinator and the Deputy Title IX/EEO Coordinators, see [Title IX/EEO Coordinators](#).

### **What is a sexual misconduct complaint?**

A sexual misconduct complaint is a document that details the ways in which you believe you have been a victim of sexual misconduct—such as sex discrimination, sexual harassment, or sexual violence. This document is generally the first step in the investigation process and informs the scope of the University's investigation.

### **Who can report sexual misconduct?**

A victim, witness, or a third party can file a complaint of sexual misconduct.

### **How do I report sexual misconduct?**

Sexual misconduct reports can be made directly to the Title IX/EEO Coordinator or a Deputy Title IX/EEO Coordinator. Individuals should also be aware that if they share information regarding sexual misconduct with any employee of the University who is not a designated confidential reporting option, that information will be shared with the Title IX/EEO Coordinator. Once information about sexual misconduct is received, the University is required to initiate a preliminary review once it receives a report regarding an incident that may have violated the University's Policy on Discrimination, Harassment and Sexual Misconduct.

The following are available reporting options at the University: Confidential Reporting, Reporting to the University, Reporting to Law Enforcement Authorities, Reporting to University Employees, Reporting Sexual Misconduct Involving a Child/Minor, and Anonymous Reporting.

### **What happens after I file a sexual misconduct or discrimination complaint?**

Upon receiving a report of a violation of the University's Policy on Discrimination, Harassment and Sexual Misconduct the Title IX/EEO Coordinator (or designee) will begin a preliminary review. Upon completion of the preliminary review, the Title IX/EEO Coordinator (or designee) will determine whether or not there is reasonable cause to initiate a formal investigation and whether or not there is cause to move toward adjudication through either the Informal Resolution Process or the Formal Resolution Process as described in the Resolution Process.

### **What if I make a report of sexual misconduct to the University but do not want my identity revealed or do not want an investigation to occur?**

These types of requests are evaluated by the Title IX/EEO Coordinator (or designee) in consideration of the circumstances, including, but not limited to, the risk of harm to the reporting individual and other members of the campus community. Though the University will strive to comply with such a request, the University cannot guarantee complete confidentiality or that a complaint will never be investigated against an individual's wishes.

### **Who should I talk to about an issue of sexual misconduct if I want the details to be kept confidential?**

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

- One of the advocates in the Office of Campus Safety and Compliance located at 1408 Parkview Circle (Assisi Heights) [Eileen Spencer, Tel. 740.283.4339 Email: [espencer@franciscan.edu](mailto:espencer@franciscan.edu) or Cynthia Welker Tel. 740.283.4337 Email: [clwelker@franciscan.edu](mailto:clwelker@franciscan.edu)]. Note: In addition to serving as a confidential resource, the advocates are also available, at a party's option, to serve as an "advisor" in the University's Informal Resolution Process or Formal Resolution Process.
- Ordained priests, ordained deacons, ordained ministers, and religious sisters and brothers who are operating in that role (or in their role at Franciscan University as a chaplain, pastoral minister or pastoral associate) and are recognized by a religious order or denomination as someone who provides confidential pastoral counseling or spiritual direction
- Certified spiritual directors located at Franciscan University who are operating in that role and are recognized by the University as someone who provides confidential spiritual direction
- Licensed professional counselors at the Franciscan University Counseling Center and counseling interns working under the supervision of a licensed professional counselor
- Health service providers at the Franciscan University Health Center
- Off-campus licensed professional counselors
- Off-campus sexual assault and domestic violence counselors, sexual assault centers, victim advocacy offices, women's centers, and health centers

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

### **Can I make a report anonymously?**

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

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

- Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply present or future consent.
- Coercion, force, or intimidation, or the threat or any of these, invalidates consent.
- Consent must be ongoing throughout a sexual encounter.
- Being in a romantic relationship with someone does not imply consent to any form of sexual activity.
- Effective consent may not exist when there is a disparity in power between the parties.
- Consent can be withdrawn by verbal or physical conduct that a reasonable person would understand to indicate a desire to stop or not engage in the sexual conduct at issue.

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

Incapacitation:

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

### **What should I do if I am uncertain about what I experienced constitutes sexual misconduct?**

If you believe that you have experienced non-consensual sexual contact, but are unsure of whether it was a violation the University's Policy on Discrimination, Harassment and Sexual Misconduct, you are encouraged to contact one of the advocates in the Office of Campus Safety and Compliance, Title IX/EEO Coordinator, or one of the Deputy Title IX/EEO Coordinators who can help you define and clarify the event(s) and advise you of your options.

### **What safety measures and accommodations are available to students when they report sexual misconduct?**

After a report has been made, the University may implement interim measures to protect the alleged victim and the campus community as necessary. The University may implement such measures on its own volition, but you may also request them from the Title IX/EEO Coordinator. Once implemented, these measures are maintained as confidential to the extent this does not impair the University's ability to provide them.

Examples of possible interim measures may include, but are not limited to:

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

- Change in campus housing as available and extracurricular activities
- Providing campus escorts and transportation accommodations
- Denying access to campus housing, facilities, events and/or activities
- Any other remedy that can be used to achieve the goals of the University's Policy on Discrimination, Harassment and Sexual Misconduct

**If an incident occurs off campus, can the University investigate?**

Yes. The University has jurisdiction to investigate any alleged violations of the University's Policy on Discrimination, Harassment and Sexual Misconduct regardless of whether that conduct happened on-campus or off-campus. The University reserves the right to take any action it deems appropriate to address a situation of misconduct under its policy and provide the necessary resources to those individuals impacted (or when necessary to the broader University community) even where one or more of the parties involved are not members of the University community.

**Do I have to report sexual misconduct to law enforcement authorities?**

No, you do not have to report incidents of sexual misconduct to law enforcement authorities. It is your choice whether you want to make such a report. However, you are encouraged to do when the conduct could constitute a crime.

On-campus incidents may be reported to any of the local law enforcement agencies listed under Section XI of the Policy on Discrimination, Harassment and Sexual Misconduct. For off-campus incidents, reports may be filed with the local law enforcement agency where the incident occurred. If requested, a University official will assist you in filing a police report.

Please keep in mind that the University's investigation process and a police agency's investigation process are separate. The University is obligated to follow its Policy on Discrimination, Harassment and Sexual Misconduct when it receives information about sexual misconduct even if a report has been made with the police as well.

**Will my parents be told about a reported incident?**

Franciscan University's primary relationship is with students and not with parents or guardians. University officials only speak with your parents/guardians at your request or when there is a significant threat to your health or safety.

**Can I be charged with sexual misconduct on and off campus?**

Yes. The University has jurisdiction to investigate and take any action it deems appropriate for any alleged violations of its policy regardless of whether that conduct happened on-campus or off-campus. Moreover, complainants have the right to pursue a campus resolution of a complaint and/or criminal resolution. Franciscan University's resolution process moves forward regardless of whether there is a criminal or civil legal action taken regarding the same incident.

**Can I have someone with me through the University's Resolution Process?**

Yes. Each party has the right to choose and consult with an advisor of their choice throughout the investigation and resolution process. The advisor may be any person who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any interview, meeting or proceeding related to the investigation and resolution process. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in such interviews, meetings or proceedings.

The advocates in the Office of Campus Safety and Compliance are available to serve as advisors to parties participating in the University's resolution process.

**If an incident occurred at a party and I was drinking or taking drugs, will I get in trouble?**

Franciscan University encourages the reporting of sexual misconduct and seeks to remove barriers to an individual student or group making a report. Sometimes, students are reluctant to report the occurrence of sexual misconduct to University officials because they fear that they themselves may be accused of policy violations due to their own minor, non-violent misconduct, such as the unauthorized use of alcoholic beverages or controlled substances related to the incident. While such behaviors are not condoned by the University, to encourage the reporting of sexual misconduct, the University will offer amnesty to reports of sexual misconduct in these situations and the University will not subject a student who reports sexual misconduct that was directed at them or another person to disciplinary action for their behavior at or near the time of the incident (as long as such violations did not place the health and safety of any other person at risk). However, the University may impose upon the student educational measures (e.g., counseling) rather than punishment regarding such behavior at the discretion of the Office of Student Life.

**If I file a complaint with the University, can someone retaliate against me?**

Any actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of discrimination, harassment or sexual misconduct is prohibited and is a separate policy violation. This includes but is not limited to retaliation against any individual who brings a complaint under this policy or who cooperates with or otherwise participates in the investigation or resolution of a complaint under this policy. The University will take steps to prevent retaliation and will also take responsive action if the University finds that retaliation has occurred. Individuals who engage in such retaliatory actions are subject to disciplinary action. An individual who is threatened in any way should immediately report these concerns to the Title IX/EEO Coordinator or one of the designated Deputy Title IX/EEO Coordinators.

**What should I do about preserving evidence?**

A person is strongly encouraged to preserve evidence to the greatest extent possible in cases of discrimination, harassment and sexual misconduct. Preservation of evidence may assist with the investigation and may be necessary for proof of the crime or in obtaining a protection order.

Because some evidence, particularly evidence that may be located on the body, dissipates quickly (within 48-96 hours), individuals who have been sexually assaulted and wish to preserve evidence should go to a local hospital immediately to seek a medical examination and/or evidence collection. An individual who has been sexually assaulted should not shower, bathe, douche, smoke, brush teeth, eat, drink, or change clothes or bedding before going to the hospital or seeking medical attention. When seeking medical attention at a hospital, you should, if possible, take a full change of clothing, including shoes, for use after a medical examination. If the individual who has been sexually assaulted decides to change clothes or bedding, they should not wash the clothes worn or bedding used during the assault, and should bring them to a hospital or the police in a non-plastic bag (e.g., paper bag).

It is also important to retain other types of evidence, such as those in electronic formats (e.g., text messages, emails, photos, social media posts, etc.). These types of evidence can be important, and they may be the only pieces of evidence available in some circumstances.

**What do I do if I am accused of sexual misconduct?**

- Do not contact the complainant.
- Do not ask anyone to intercede on your behalf and contact the complainant.
- The Advocates in the Office of Campus Safety and Compliance, the Title IX/EEO Coordinator, or a Deputy Title IX/EEO Coordinator can explain Franciscan University's Resolution Process addressing sexual misconduct.
- Students and employees may want to seek confidential counseling through Franciscan University's Counseling Center at 740-284-7217.
- Students are encouraged to contact their parents about the accusation.
- If the accusation involves criminal conduct, students and employees may want to contact a lawyer.
- Violations of University policy on sexual misconduct may result in sanctions up to and including dismissal from the University.

**What are the rights of the alleged victim and the accused?**

- The right to be treated with dignity and respect
- The right to receive information about this policy
- The right to a prompt and equitable investigation and resolution of allegations of prohibited conduct
- The right to be notified of available medical, counseling and pastoral services
- The right to be informed of options to notify law enforcement authorities and the option to be assisted by the University in notifying such authorities, if the individual so chooses. Filing a report with law enforcement does not prevent the University from proceeding under this policy
- The right to be informed of the option to seek a protection/restraining order from a court of law.
- The right to have this policy and the procedures set forth herein followed
- The right to protect confidentiality to the extent possible as allowed by the law and this policy
- The right to reasonably available interim measures, as described in these procedures
- The right to freedom from retaliation for making a good faith report of prohibited conduct or participating in any proceeding under the policy
- The responsibility to refrain from retaliation directed against any person for making a good faith report of prohibited conduct or participating in any proceeding under the Policy
- The responsibility to provide truthful information in connection with any report investigation, or resolution of prohibited conduct under the policy or these procedures
- The opportunity to articulate concerns or issues about proceedings under the policy and these procedures
- The right to timely notice of any meeting or proceeding at which the party's presence is contemplated by these procedures
- The opportunity to choose an advisor, including the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by these Procedures
- The right to written notice of an investigation, including notice of potential policy violations and the nature of the alleged prohibited conduct

- The opportunity to challenge the Investigator, any member of the Hearing Panel, and/or the person designated to adjudicate an Appeal for conflict of interest
- The opportunity to offer information, present evidence, and identify witnesses during an investigation
- The opportunity to be heard, orally and/or in writing, as to the determination of a policy violation and the imposition of any sanction(s)
- The right to review investigative documents
- The right to equal access to any information that will be used during Informal and/or Formal Resolution proceedings and related meetings
- The right to reasonable time to prepare any response contemplated by these procedures
- The right to written notice of any extension of timeframes for good cause
- The right to appeal a finding and/or sanction
- The right to written notice of the outcome of any Investigation, Informal and Formal Resolution Processes, and/or Request for Appeal

**What is the time frame for a resolution of a complaint?**

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