

Title IX Policy Statement

Introduction

Under Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*) and its implementing regulations (34 C.F.R. § 106) sexual harassment is a form of prohibited sex discrimination. Title IX provides:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

In keeping with the Frontier Nursing University (“FNU”) mission to educate nurses to become competent, entrepreneurial, ethical, and compassionate nurse midwives and nurse practitioners who are leaders in the primary care of women and families our University expects all students, faculty, staff, visitors, guests, and personnel of vendors to act at all times with respect for the rights of each person, maintaining an environment free from harassment, intimidation, discrimination, sexual or other forms of assault or violence against persons in any form.

Individuals who engage in prohibited conduct may be subject to disciplinary action, up to and including dismissal from the University. Some forms of sexual harassment may also violate state and federal laws, and criminal prosecution may occur independently of any disciplinary action taken by the University.

The University will respond to reports about sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, stalking, conduct that creates a hostile environment, and/or discriminatory harassment with measures designed to increase awareness of such sexual harassment and sexual assault, eliminate its occurrence in University programs and activities, encourage reporting, provide support for survivors, promptly respond to all reports of sexual harassment and sexual assault, deal fairly with accused Respondents, and take appropriate action against those found responsible.

Scope, Applicability, and Jurisdiction

All students, faculty, staff, affiliates, and others participating in University programs and activities in the United States are subject to this Title IX Policy.

The Title IX regulations define “sexual harassment” to include three types of misconduct on the basis of sex which jeopardize the equal access to education that Title IX is designed to protect. These types of misconduct include: (1) any instance of quid pro quo harassment by a University employee or student; (2) any conduct on the basis of sex that in the view of a reasonable person is so severe and pervasive and objectively offensive that it effectively denies a person equal access to a University education

program or activity; and (3) any instance of sexual assault, dating violence, domestic violence, or stalking (collectively, "Title IX Prohibited Conduct").

Sexual harassment includes, but is not limited to, sexual assault (including rape, sodomy, sexual assault with an object, and fondling), nonforcible sexual violations (incest and statutory intercourse violations), dating violence, domestic violence, stalking, and hostile environment (including unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature).

To fall within the jurisdiction of Title IX, the alleged Title IX Prohibited Conduct must have taken place in a University Program or Activity, and against a person in the United States at the time the conduct occurred. A University Program or Activity includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by the University. Locations that are not within a University Program or Activity are not covered by the Title IX regulations.

Title IX Coordinator

The University has designated a Title IX Coordinator to handle all inquiries regarding its efforts to comply with and carry out its responsibilities under Title IX. This includes the handling of alleged violations of sexual harassment, sexual assault, sexual misconduct, dating violence, domestic violence, stalking, conduct that creates a hostile environment, and/or discriminatory harassment by FNU students or employees. The Title IX Coordinator may be contacted as follows:

LaToshia Daniel
Human Resources Director
Frontier Nursing University
2050 Lexington Rd.
Versailles, KY 41749
(859) 251-4740
latoshia.daniel@frontier.edu

Any person may report Title IX Prohibited Conduct (whether or not the individual reporting is the person alleged to have experienced the conduct), in person, by mail, by telephone, or by email, using the contact information listed above. Such a report may be made at any time, including during non-business hours, by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

Notice of allegations of Title IX Prohibited Conduct to the Title IX Coordinator or an official with authority to institute corrective measures on the University's behalf, triggers the University's response obligations under Title IX.

When to Report

There is no specific time frame for individuals who have experienced conduct that may constitute Title IX Prohibited Conduct to make an Initial Report pursuant to this Title IX Policy. Individuals are, however, encouraged to make a report soon after the incident in question in order to maximize the University's ability to investigate and reach a finding.

How to Report

To make an Initial Report of Title IX Prohibited Conduct, the Title IX Coordinator will ask for the following information, if known:

- Name of Complainant
- Complainant's role, if any, within the University
- Name of Respondent
- Respondent's role within the University
- Date of the incident
- Location of the incident
- Time of the incident
- Nature of the conduct
- Date of previous report (if any)
- To whom any previous report was made (if any)

Procedure: Initial Response, Formal Complaint, Investigation, Informal Resolution, Hearing, and Appeal

Initial Response

Upon receipt of notice of an Initial Report of Title IX Prohibited Conduct, the Title IX Coordinator will promptly contact the Complainant and inform the Complainant of the availability of supportive measures, confidential counseling resources, how to file a Formal Complaint or police report as well as privacy and confidentiality obligations under Title IX.

Formal Complaint

After the Initial Report, the Title IX Policy will not move forward until a Formal Complaint is filed. A Formal Complaint can be filed in one of two ways: (1) the Complainant submits a Formal Complaint; or (2) the Title IX Coordinator submits a Formal Complaint.

Upon receipt of a Formal Complaint, the University will provide a Notice of Formal Complaint to the Parties for whom the University knows their identity, including the following details

1. A description of the University's Title IX Policy, including any Informal Resolution process.

2. description of the allegations including the identities of the Parties involved in the incident, the conduct allegedly constituting Title IX Prohibited Conduct, and the date and location of the alleged incident.
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of a Hearing.
4. A statement that the Parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.

Rights and Responsibilities of Parties and Witnesses

During an Investigation and Hearing under this Title IX Policy, the Parties and Witnesses have the following responsibilities and rights.

- The responsibility not to Retaliate against or Intimidate any individual who has reported Title IX Prohibited Conduct or who has participated as a Party or Witness in the process;
- The responsibility to keep private documents, materials, and information received from the University during this process;
- The right to receive information regarding consequences for knowingly making false statements or knowingly submitting false information during the Title IX process;
- The right to review all evidence directly related to the allegations with at least ten (10) days for the Parties to inspect, review, and respond to the evidence;
- The right to receive an Investigative Report that fairly summarizes relevant evidence with at least ten (10) days for the Parties to respond;
- The right to have the matter heard at a live Hearing by a neutral Hearing Officer who will determine the matter using a Preponderance of the Evidence standard and who will not prejudge the outcome of a case;
- The right to Hearing Support Person who will conduct oral cross-examination at the live Hearing on behalf of the Party;
- The right to jointly agree with the other Party to waive cross-examination through the Hearing Support Person and instead submit written cross-examination questions to the Hearing Officer to conduct the examination;
- The right to receive a Written Determination Regarding Responsibility (if any);
- The right to appeal the Written Determination Regarding Responsibility to a neutral Appeal Officer;
- The right to receive a Notice of Outcome of Appeal;
- The right not to have any disciplinary sanctions imposed before a finding of responsibility in accordance with this Title IX Policy; and
- The right to be presumed not responsible for the alleged Title IX Prohibited Conduct until a determination regarding responsibility is made at the conclusion of the Hearing.

The Title IX Coordinator shall make an initial assessment as to whether the Formal Complaint on its face alleges an act of Title IX Prohibited Conduct is covered by this

Title IX Policy. If it does not, the University will dismiss the matter and send a Notice of Dismissal including the reason(s) therefore simultaneously to the Parties.

Informal Resolution

At any time after a Formal Complaint is filed, the Title IX Coordinator may, in their discretion, choose to offer and facilitate an Informal Resolution process, so long as both Parties give voluntary, informed, written consent to attempt Informal Resolution.

Investigation

For any allegations in any Formal Complaint not subject to dismissal under this Title IX Policy, the matter will proceed to an Investigation where the Investigator gathers information about the allegations.

- Investigator. The Title IX Coordinator will designate an individual to conduct the Investigation of a Formal Complaint.
- Notice of Interviews, Meetings or Hearings. The University will send the Parties advance written notice of any investigative interviews, meetings, or Hearings at which the Party is expected to be present.
- Method of Information Gathering. The Investigator may collect relevant documents and other information and may also interview Parties and/or Witnesses.
- Disclosure of information. After the Investigator has concluded the collection of evidence, the University will send the Parties evidence directly related to the allegations with at least ten (10) days for the Parties to inspect, review, and respond to the evidence.
- Investigative Report. After the Investigator has received the Parties' response to the evidence, the Investigator will complete the Investigative Report that fairly summarizes the relevant evidence. The Title IX Coordinator will make the Investigative Report available to the Parties and their Support Persons in electronic format or hard copy, with at least ten (10) days for the Parties to respond. In the event the determination is made to dismiss the Formal Complaint, that information will be included in the Investigative Report.

Post-Investigation Options

The University must dismiss the Formal Complaint if after the Investigation it is determined by the Title IX Coordinator that the conduct alleged in the Formal Complaint does not constitute Title IX Prohibited Conduct.

The Parties may appeal a Notice of Dismissal. Each Party may submit a written appeal which will be shared with the other Party. The Parties must submit the appeal by the

date determined by the Title IX Office. The appeal will be limited to the following grounds:

1. Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the Complainant?
2. Was there any substantive new evidence that was not available at the time of the decision that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
3. Is the decision one that a reasonable person might have made?

Upon receipt of a Party's appeal, the Hearing Coordinator will share it with the other Party. Each Party may submit a response to the other Party's appeal. Each Party must submit this response by the date determined by the Hearing Coordinator.

For any Formal Complaints not subject to Dismissal or Informal Resolution after Investigation, the matter will proceed to a Hearing. The Title IX Coordinator will notify both the Complainant and the Respondent in writing that the matter has been charged and referred to a Hearing Officer to decide the matter. The Hearing Coordinator will promptly set the Hearing based on the availability of the Parties and Witnesses.

Pre-Hearing Process

1. Creation of Hearing File

The Hearing Coordinator (working with the Investigator) will create the initial Hearing File within seven (7) calendar days after the issuance of the Notice of Charge. The Parties will receive electronic access to view the Hearing File. Parties will also receive a log describing gathered materials that were not included in the Hearing File.

2. Evidentiary Review Process

If a Party objects to evidence included or excluded from the Hearing File, or if a Party wants to submit New Evidence and/or Rebuttal Evidence after the Parties have viewed the file, the Party may make a written request to have evidentiary concerns considered by the Hearing Officer. The Parties must submit the objections by the date set by the Hearing Officer.

3. Response Statement to Hearing File

Each Party may submit a written statement of their position to the Hearing Coordinator.

4. Hearing Schedule

Within seven (7) days of when the Notice of Charge is issued, the Hearing Coordinator will reach out to all Parties, Witnesses, and the Hearing Officer to schedule key dates for the matter.

Hearings

1. Format of Hearing

Hearings may be conducted with all Parties physically present in the same geographic location or, at the University's discretion, any or all Parties, Witnesses, and other participants may appear at the live Hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either Party, the University will provide for the Hearing to occur with the Parties located in separate rooms with technology enabling the decision-maker(s) and Parties to simultaneously see and hear the Party or the Witness answering questions.

2. Recording of the Hearing

Hearings will be transcribed or recorded through audio or audiovisual means, and the University will make the transcript or recording available to the Parties for inspection and review upon request. The transcript and recording will be maintained in the University records for at least seven (7) years.

3. Role of Hearing Support Persons

If a Party does not have a Hearing Support Person present at the Hearing, the University will provide without fee or charge to that Party, a Hearing Support Person of the University's choice to conduct cross-examination on behalf of that Party.

4. Role of the Hearing Officer

The Hearing Officer will be a neutral decision-maker and will preside over the Hearing and will issue the Written Determination Regarding Responsibility.

The Hearing Officer will be identified to the Parties before the Hearing at least three days prior to the Hearing. The Hearing Officer will not have a current affiliation with FNU. Additionally, no person who has a conflict of interest may serve as the Hearing Officer. A conflict of interest exists if the Hearing Officer has prior involvement in or knowledge of the allegations at issue in the case, has a personal relationship with one of the Parties or Witnesses, or has some other source of bias.

At the Hearing, the Hearing Officer will:

- Permit Cross-examination. At the Hearing, the Hearing Officer will permit each Party's Hearing Support Person to ask the other Party and any Witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the Hearing must be conducted directly, orally, and in real time by the Party's Hearing Support Person of choice and never by a Party personally. The Parties may, however, jointly agree in advance to waive oral cross-examination and instead submit written cross-examination to the Hearing Officer to conduct the examination. Even if the Parties so agree, the Parties are still required to have a Hearing Support Person present at the Hearing.
- Provide Rape Shield Protections for Complainants. The Hearing Officer will prohibit any questions and evidence about the Complainant's sexual predisposition or prior sexual behavior as not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

5. Hearing Process

The Investigator will be available to answer any questions from the Hearing Officer about the Investigation. The Hearing Officer may meet with the Parties and Witnesses for the purpose of making findings of fact. The Parties and Witnesses may not speak to matters beyond the scope of the Hearing File. Parties and Witnesses must not disclose or reference information to the Hearing Officer that was excluded from the Hearing File. The Hearing Officer may ask questions of the Parties and/or Witnesses. Parties are permitted to listen to Witnesses as they are speaking to the Hearing Officer. The Hearing Officer is not obligated to speak to all Witnesses.

6. Written Determination Regarding Responsibility

The Hearing Officer shall issue a Written Determination Regarding Responsibility, applying the Preponderance of the Evidence standard, which shall include:

- Identification of the allegations potentially constituting Title IX Prohibited 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 Hearings held;

Findings of fact;

- Conclusions about whether the alleged Title IX Prohibited Conduct occurred, applying the definitions set forth in this Title IX Policy to the facts;
- The rationale for the result as to each allegation;
- Any disciplinary Sanctions imposed on the Respondent;
- Whether Remedies or Supportive Measures will be provided to the Complainant; and
- Information about how to file an appeal.

Any Sanction determination will be provided to the Title IX Coordinator who will be responsible for implementing the Supportive Measures and/or Remedies. The Title IX Coordinator will cause the Written Determination Regarding Responsibility to be sent to the Parties. The Title IX Coordinator will provide copies of the Written Determination Regarding Responsibility and Sanctions and/or Remedies (if any) for the purpose of maintaining records to the appropriate department.

The Hearing Officer must explain decisions on responsibility and Sanctions (if applicable) and Remedies with enough specificity for the Parties to be able to file meaningful appeals.

The Written Determination Regarding Responsibility becomes final:

- If an appeal is not filed, the date on which an appeal would no longer be considered timely; or
- If an appeal is filed, on the date that the University provides the Parties with the written determination of the result of the appeal.

7. Appeal of a Written Determination Regarding Responsibility

Both Parties have the right to an appeal from a Written Determination Regarding Responsibility on the bases set forth below. Appeals may be submitted by a Complainant or Respondent in writing to the Hearing Coordinator, who will forward the appeal to a designated Appeal Officer to decide the appeal. The Appeal Officer will be a professional neutral decision-maker. The Appeal Officer will not have a current affiliation with FNU. Each Party may submit a written appeal, which will be shared with the other Party. The Parties must submit the appeal by the date determined by the Title IX Office.

The grounds for appeal are limited to the following

- Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appealing Party?

- Was there any substantive new evidence that was not available at the time of the decision or Hearing and that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
- Did the Title IX Coordinator, Investigator(s), or Hearing Officer have a conflict of interest or bias for or against Complainants or Respondents that affected the outcome of the matter?
- For matters that proceeded to Sanctioning and imposition of Remedies, are the Sanction and/or Remedies ones that could have been issued by reasonable persons given the findings of the case?

Upon receipt of a Party's appeal, the Hearing Coordinator will share it with the other Party. Each Party may submit a response to the other Party's appeal. Each Party must submit this response by the date determined by the Hearing Coordinator. The appealing Party will have access to the other Party's response to the appeal.

The Appeal Officer will provide the Notice of Outcome of Appeal no later than ten (10) calendar days after receipt of all appeal documents. As needed, the Appeal Officer will consult with the Title IX Coordinator regarding the management of ongoing Remedies. The Appeal Officer may reject the appeal in whole or, in part, issue a new decision regarding responsibility, issue new or revised Sanctions and Remedies, or refer the matter to a new Hearing Officer.

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