

Felician University Title IX Policy Prohibiting Discrimination, Harassment, Sexual Misconduct and Retaliation

Purpose:

As a Catholic/Franciscan institution of higher education, Felician University abides by values that proclaim the dignity and rights of all people. Unwelcome sexual misconduct of any type is morally offensive to students, faculty, administrators, staff members, employees and guests of the University. When it occurs at a university or at a place of employment, it is also a form of unlawful sexual discrimination prohibited by Title IX of the Education Amendments of 1972, Title VII of the 1964 Civil Rights Act, and the New Jersey Law Against Discrimination. Felician University is committed to fostering an environment that protects the members of the University community from all forms of sexual misconduct. All members of the Felician University community, including students, faculty, staff, guests, and visitors have the right to be free from sexual discrimination, harassment and misconduct; therefore, all members of the campus community are expected to conduct themselves in a manner that respects and does not infringe upon the rights of others., as well as in upholding Federal laws and the laws of the State of New Jersey. All members of the University community have a responsibility to be aware of both the consequences of sexual misconduct and the rights and options available to those who are victims of such misconduct.

When an allegation of misconduct is brought to an appropriate administrator's attention, and a person is found to have violated this Policy, sanctions will be used to reasonably ensure that such actions are not repeated, and the victim of the misconduct is protected from further acts of misconduct. This Policy has been developed to reaffirm these principles and to provide direction for those individuals whose rights have been violated. This Policy is intended to define the University community's expectations and to establish a mechanism for determining when those expectations have been violated.

Applicability

This Policy applies to all Felician University students, faculty, administrators, staff members and employees, as well as vendors and guests, on and off campus. It is also applicable to those members of the University community who are involved in the University's extension programs, such as internships, clinical practical, student teaching, etc. This Policy does not replace or supersede an individual's rights and remedies under the law. It also applies to student-on-student sexual discrimination, including sexual assault, both on campus and University-sponsored and/or sanctioned off-campus activities.

Policy Statement:

Felician University considers sex discrimination in all its forms to be a serious offense. This Policy applies to and prohibits all forms of sexual misconduct, including but not limited to sexual harassment, sexual assault, sexual and gender discrimination, sexual violence, domestic violence, dating violence and stalking by employees, students, or third parties, and retaliation for objecting to, reporting, or complaining about sexual misconduct.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the University has developed policies and procedures that prohibit sex discrimination in all its forms.

Persons who experience discrimination, harassment, or sexual misconduct may respond to the experience in many different ways, including feeling confused, vulnerable, out of control, embarrassed, angry, or depressed. The University provides a variety of resources to assist individuals who have experienced discrimination, harassment, or sexual misconduct to address the effects of the incident and to help them determine whether and how to make a formal complaint about the incident.

All reports of discrimination, harassment, and/or retaliation shall be promptly made to the Title IX Officer. Onya Brown serves as the Title IX Officer.

Notice to the Title IX Coordinator or Deputy Coordinators constitutes “**actual knowledge**” to the University and will trigger a response to the victim on behalf of the University. In accordance with the Department of Education’s (the “DOE”) Title IX Regulations,

- **Actual knowledge** means notice of sexual harassment or allegations of sexual harassment to a Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University.
- **Imputation of knowledge** based solely on vicarious liability or constructive notice is sufficient to constitute actual knowledge.
- Notice includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

Reporting responsibilities are stated below for those individuals who become aware of incidents involving discrimination, harassment, sexual misconduct or retaliation.

Prohibited Conduct

Discrimination

Felician University adheres to all federal and state civil rights laws banning discrimination.

The University prohibits discrimination against any employee, student, applicant, visitor, guest, or applicant for admission on the basis of any protected class. Protected classes include: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, veteran or military status, or disability, or any other protected category under applicable federal, state, or local law, including protections for those opposing discrimination or participating in any complaint process on campus or with other human rights agencies.

This Policy covers discrimination in employment and in access to educational opportunities. Discrimination is defined as adverse treatment of an individual based on that individual's membership in one or more of the protected groups listed above. Therefore, any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, and/or social access, benefits, and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in one or more protected classes listed above is in violation of the University policy on discrimination.

Harassment

Felician University prohibits harassment against any employee, student, applicant, visitor, or guest on the basis of any class protected by University policy or law as identified above. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters. The sections below describe the specific forms of harassment prohibited under the Title IX policy.

Sexual Harassment

This Policy prohibits any form of sexual harassment. Sexual harassment consists of one or more of the following:

- (1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct, otherwise known as *quid pro quo* harassment by a University employee;
- (2) Any unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a University education program or activity; or
- (3) Any instance of sexual assault, dating violence, domestic violence, or stalking.

a. **Sexual assault** (as defined in the Clery Act): an offense that meets the definition of rape, fondling, incest, or statutory rape:

- 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 Complainant.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. In the State of New Jersey, a Complainant is unable to consent if they are:
 - I. Under the age of 13; or
 - II. At least 13, but less than 16 years old and the actor is at least four years older than the Complainant; or
 - III. At least 16, but less than 18 years old and
 1. The actor is related to the Complainant by blood or affinity to the third degree; or
 2. The actor has supervisory or disciplinary power over the Complainant by virtue of the actor's legal, professional or occupational status; or
 3. The actor is a resource family parent, a guardian, or stands in loco parentis within the household.

b. **Dating violence** (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act): 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 existence of such a relationship shall be determined based on a

consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

- c. **Domestic Violence** (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act): is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of New Jersey, or by 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 state of New Jersey.
- d. **Stalking** (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act): means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or cause a reasonable person to suffer substantial emotional distress.

Anyone experiencing sexual harassment or sex discrimination (regardless of whether the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment) in any University program or activity is encouraged to report it to Felician University's Title IX Coordinator or a Deputy Coordinator in person, by mail, by telephone or by email, using the contact information provided for the Title IX Coordinator. Such report may be made at any time (including non-business hours) by using the telephone number or email address provided, or by mail to the office address, as listed for the Title IX Coordinator.

A person who creates a hostile environment of sexual harassment may be disciplined when it is so severe, pervasive, and objectively offensive that this conduct:

- Has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile, or offensive environment for that individual's employment, education, or participation in a University activity; or social, and/or community programs, or
- Is based on power differentials (*quid pro quo*), or retaliation.
- Some examples of sexual harassment include:
 - A professor insists that a student have sex with him/her in exchange for a good grade. This act is harassment regardless of whether the student complies with the request or consents to the relationship, because the conduct is unwelcome.
 - A student repeatedly sends sexually oriented or explicit jokes on an e-mail list that he/she created, even when asked to stop, causing one recipient to avoid the sender on campus and stop attending a class in which they are both registered.
 - Two supervisors frequently rate several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.

Consensual Relationships

Felician University prohibits consensual relationships of a dating, romantic and/or intimate nature between faculty or staff and any student. This policy is rooted in the recognition that faculty-or staff-student relationships may be inherently unequal and contain an element of superiority or unequal

power. Consensual relationships between faculty or staff and students may give rise to the perception that there is favoritism or bias in educational decisions affecting students. These perceptions undermine the spirit of trust and mutual respect that is important to the Felician University community. This Policy further supports the provision of a learning environment free from intimate harassment.

On occasion, an employee will have a dating, romantic or intimate relationship with---or marriage to--- an individual who then becomes a student, or an individual with a pre-existing relationship with a student becomes an employee of the University. It is the obligation of the employee to disclose this relationship to the University's Department of Human Resources. It is the obligation of Human Resources, in consultation with appropriate academic or administrative personnel, to take the steps necessary to ensure that the educational experience of the respective student---as well as other students in the University---is not materially and adversely affected by the dating, or intimate relationship. Since individual cases may vary, Human Resources, in conjunction with the respective academic or administrative personnel, has discretion to consider specific circumstances---the nature of the relationship, the specifics of the student's academic program, the employee's duties, and constraints on the University---in fashioning these steps. The steps can range from no action, to the recusal of the employee from matters involving the student, to changes in the duties of the employee.

Employees who violate this Policy are subject to disciplinary action up to and including termination of employment. Complaints of violation of this Policy should be forwarded to the Department of Human Resources.

Felician University's Sexual Misconduct Policy

This policy prohibits any form of sexual misconduct. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. The definition of consent below will be used in the interpretation and application of this policy:

Consent and welcomeness. Consent and welcomeness are *knowing, voluntary, and clear permission by word or action* to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented and welcomes the interaction before engaging in the activity. For there to be consent and welcomeness, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct and welcomes it. Consent to a specific sexual contact (such as kissing or fondling) cannot be presumed to be consent to another specific sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent and welcomeness. Silence or the absence of resistance alone is not consent. The existence of consent and welcomeness is based on the totality of the circumstances, including the context in which the alleged incident occurred. An individual can withdraw consent and find the activity unwelcome at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

A person who is incapacitated cannot consent or welcome the activity. Under this Policy, a person is incapacitated if he or she is disabled or deprived of the ability to act or reason for oneself, is unable to understand what is happening, or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent and to welcome the activity (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from taking an incapacitating substance. A person is incapacitated if the person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance; if a person is unable

to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited; or if the person has a physical or mental disability that substantially limits the person's ability to resist or flee.

An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this Policy. Intoxication is not a defense to a claim of sexual misconduct.

Prohibited sexual misconduct under this Policy includes the following:

1. Sexual Harassment

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome written, verbal, or physical conduct of a sexual nature when:

- a. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile, or offensive environment for that individual's employment, education, or participation in a University program or activity; or
- b. Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting the individual's academic standing, employment status, or participation in a University program or activity; or
- c. Submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's education, employment, or participation in a University activity.

2. Sexual Assault

Sexual assault consists of non-consensual, unwelcome sexual contact which includes the following:

- a. Sexual penetration or intercourse (anal, oral, or vaginal) of any kind however slight, with any object, by a person upon another person that is without consent and/or by force.
- b. Any intentional sexual touching however slight with any object by a person upon another person that is without consent and/or by force.
- c. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual or any other bodily contact in a sexual manner.

3. Domestic and Dating Violence

- a. **Dating Violence** – Committed by a person who is or has been in a sexual relationship of a romantic or intimate nature with the complainant. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.
- b. **Domestic Violence** – A felony or misdemeanor crime of violence committed by the following:
 1. By a current or former spouse or intimate partner of the Complainant.
 2. By a person with whom the Complainant shares a child in common.
 3. By a person who cohabitates with, or has cohabited with, the Complainant as a spouse or intimate partner.

4. By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of NJ.
 5. By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence law
4. **Stalking** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others and suffer substantial emotional distress. The terms used in defining stalking are as follows:
- a. **Course of conduct** – Means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - b. **Reasonable Person** – Means a reasonable person under similar circumstances and with similar identities to and/or the same protected status as the Complainant.
 - c. **Substantial Emotional Distress** – Means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
5. **Bias-Related Harassment**---This policy prohibits any form of harassment on the basis of actual or perceived membership in a protected class, by any member or group of the campus community, which unreasonably interferes with an individual's work or academic environment.

Bias-related harassment may be evidenced by oral, written, graphic, threatening and/or physical conduct that is sufficiently severe, pervasive, and objectively offensive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities. Merely boorish or offensive conduct and/or harassment of a generic nature and not based on gender or membership in a protected class may not violate this Policy but may be addressed through education and/or another resolution method.

6. **Retaliation**

The University seeks to create and provide an environment where its students and employees are free, without fear of reprisal, to use its policies and procedures to determine if a violation of an individual's rights under this Policy has occurred. Any act of retaliation for using this Policy and these procedures will result in appropriate disciplinary action.

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of participation in that protected activity. This includes any individual's right to participate or refuse to participate in a Title IX complaint process. Examples include retaliation against the complainant by the respondent, the respondent's friends or co-workers, or a University supervisor, manager, or other representative of the University. Retaliation against an individual for reporting a violation of Policy rights, supporting a complainant, or assisting in providing information relevant to a claimed Policy violation is a serious violation of this Policy.

No employee of the University, student, applicant, third party or other person may intimidate, menace, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in any conduct prohibited by this Policy or in an investigation, proceeding, hearing relating to any Title IX claim or complaint.

Prohibited retaliation also includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment which is made for the purpose of interfering with any right or privilege secured by Title IX.

Felician University will make every effort to safeguard the identities of individuals who seek help and/or report a sexual assault or other sexual misconduct, discrimination, harassment, and/or retaliation. While the University takes steps to protect the privacy of victims, the University's ability to respond to a complaint may be limited in the event of a complainant's request for confidentiality. The University may need to investigate an incident and take corrective action once an allegation is known, regardless of whether the complainant chooses to make and pursue a complaint.

Acts of retaliation should be reported immediately to the Title IX Coordinator or Deputy Coordinators. Complaints alleging retaliation may be filed according to the complaint procedures for sex discrimination as provided herein.

7. Other Offenses

This Policy prohibits other offenses of a discriminatory, harassing, and/or retaliatory nature not included in the previous sections as follows:

- **Intimidation** is defined under this Policy as implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class;
- **Hazing** is defined under this Policy as an act or acts likely to cause physical or psychological harm or social ostracism to any person within the University community when related to the admission to, initiation into, or joining of any organization or group, or any other group-affiliation activity, on the basis of actual or perceived membership in a protected class;
- **Bullying/Cyberbullying** is defined under this Policy as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally, on the basis of actual or perceived membership in a protected class;
- **Violation** of any other University rule, when it is motivated by sex or gender or the actual or perceived membership of the victim in a protected class, which is prohibited by this Policy and may be reported using the Felician University sexual misconduct complaint process.

8. Sexual Exploitation

Sexual exploitation is defined as taking non-consensual or abusive sexual advantage of another for their own advantage or benefits, or to benefit or advantage anyone other than the one being exploited. As per the DOE's Title IX regulations and in compliance with such rules, the University finds that sexual exploitation constitutes sexual harassment. Such misconduct may be reported as a form of sexual harassment in the complaint process as provided herein. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed);
- Taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity;

- Exceeding the boundaries of consent and welcomeness (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent);
- Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;
- Sexually-based stalking and/or bullying;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection; and/or
- Administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge and consent.

Scope and Application

This Policy applies to allegations of discrimination, harassment, and retaliation that take place on Felician University property or at University-sponsored events, within the United States. This Policy may also apply to allegations of discrimination, harassment, and retaliatory actions online when the Title IX Coordinator or Deputy Coordinator determines that the online conduct could or did have an on-campus impact or general negative impact on the educational mission of the University. Such impact includes:

- An action that constitutes a criminal offense as defined by federal, state, or local law;
- Any situation where it appears that the actor may present a danger or threat to the health or safety of him/herself or others;
- Any situation that significantly impinges upon the rights, property, or achievements of others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests of the University.

Reporting Responsibilities

All University employees (faculty, staff, administrator) who are aware of or witness discrimination, harassment, sexual misconduct, or retaliation are required to promptly report the violation to the Title IX Coordinator, unless the employee is a confidential employee.

Any student who is aware of or witnesses discrimination, harassment, sexual misconduct, or retaliation is encouraged to promptly report the violation to the Title IX Coordinator or a Title IX Deputy Coordinator. All initial contacts will be treated with the maximum possible privacy and confidentiality; specific information on any complaint received by any party will be reported to the Title IX Coordinator, but, subject to the University's obligation to investigate and redress violations, every reasonable effort will be made to maintain the privacy of those reporting a violation of this Policy. In all cases, the University will give consideration to the complainant's preference as to how the complaint is pursued but reserves the right, when necessary to protect the University community, to investigate and pursue a complaint to resolution when an alleged victim chooses not to initiate or participate in an informal or formal complaint process.

When used in this Policy, the term **complainant** means any person who is a member of the University community who is the actual or intended victim or target of, or witness to any action that

is in violation of this Policy and reports the violation to the University; **complainant** includes the accuser. The term **respondent** means any person who is accused of any action that is in violation of this Policy, and refers to the accused, the actor, or the perpetrator, as applicable; a respondent can include persons who are not members of the University community.

Please note: This section addresses reporting obligations for members of the campus community who are made aware of potential violations of this Policy. Methods for filing a complaint and the Complaint Resolution Process are detailed in *Felician University Discrimination, Harassment, & Sexual Misconduct and Title IX Procedures*.

Onya Brown, Title IX Coordinator
Felician University
1 Felician Way
Rutherford, New Jersey 07070
brown@felician.edu
201-355-1464

Role of the Title IX Officer and Deputy Coordinators

The Title IX Coordinator and Deputy Coordinators are charged with coordinating the University's response to reports of misconduct under this Policy. The Title IX Coordinator and Deputy Coordinators do not serve as advocates for either the complainant or the respondent. The Title IX Coordinator or Deputy Coordinators will explain to both parties the informal and formal processes outlined below and the provisions for confidentiality. Where appropriate, the Title IX Coordinator or Deputy Coordinators will provide to both parties supportive measures on options for obtaining advocacy, medical and counseling services, and making criminal reports, and will assist with providing information on other resources. The Title IX Coordinator and Deputy Coordinators will coordinate with other campus officials to take appropriate interim actions such as no contact orders, academic accommodations, and rearrangement of academic and work assignments.

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University will maintain all supportive measures provided to a complainant or respondent as confidential, to the extent such confidentiality would not impair the ability of the University to provide the supportive measures.

The University will ensure that the Title IX Coordinator and Deputy Coordinators will not have a conflict of interest or bias for or against complainants or respondents generally or against an individual complainant or respondent. The Title IX Coordinator and Deputy Coordinators have received proper training on the definition of sexual harassment and how to properly conduct an investigation and grievance process regarding Title IX claims, which may include hearings, appeals, and informal resolution processes, as applicable, and the duty to serve impartially, including the avoidance of prejudgment of the facts at issue, conflicts of interest, and bias.

Employee Status

1. An “**official with authority**” is a University employee who is explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliatory conduct. When a complainant tells an Official with Authority about an incident of sexual misconduct, the complainant has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. Notice to a Title IX Coordinator or any Official with Authority conveys actual knowledge to the University. An Official with Authority must report to the Title IX Coordinator and/or Deputy Coordinator all relevant details about the alleged sexual misconduct shared by the complainant. The Title IX Coordinator and/or Deputy Coordinator is responsible to determine what happened – including the names of the complainant and the respondent(s) if known, any witnesses, and any other relevant facts, including the date, time and location.

To the extent possible, information reported to an Official with Authority will be shared only with other Officials with Authority, who should not share information with law enforcement:

- A. Without the complainant’s consent.
- B. Unless the complainant has also reported the incident to law enforcement.
- C. Unless otherwise required by the law.
- D. Unless certain information is required by the Clery Act to be provided to Campus and Security.

The following employees are the University’s officials with authority:

- A. Executive Team Members (President’s Cabinet and Council members)
- B. Title IX Coordinator and Deputy Coordinators
- C. All Human Resources staff – excluding student workers
- D. All Student Life professional and managerial staff– excluding graduate assistants and student workers
- E. Health and Wellness Counselors
- F. All Public Safety Staff – excluding graduate assistants and student workers

Before a complainant reveals any information to an official with authority, the official should ensure that the complainant understands the official’s reporting obligations – and, if the complainant does not want to report the matter to the University for investigation, the responsible official should direct the complainant to confidential resources.

2. A “**confidential employee**” is a University employee who is permitted by law to maintain confidentiality (except when there is a threat of harm, a minor involved, a weapon involved, or an unknown dangerous person on campus.) These sources may submit anonymous statistical information for timely warning and Clery Act purposes but are not authorized to share a confidential report with the University.

The following employees are the University’s confidential employees:

- A. Health and Wellness Counselors/Counseling Center
- B. Center for Health
- C. Clergy

3. A “**responsible employee**” is any University employee who is not a confidential employee. All responsible employees are also mandated reporters (see below). Reports made to University employees shall be treated with the maximum possible personal privacy. If a complainant is unsure of a resource's ability to maintain privacy, the complainant is advised to ask them before talking to them. The resource will be able to explain the resource's reporting obligations and help a complainant make decisions about who is in the best position to help. If personally identifiable information is shared, it will be shared with as few people as possible and only with persons with a need to know under the circumstances and the University will take steps to protect the complainant's privacy to the greatest extent reasonably possible.

Mandatory Reporting

A “**mandatory reporter**” is an employee of the University who is **obligated** by Policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator and/or their supervisor. Every University employee (including faculty, staff, and administrators) is deemed a Mandatory Reporter unless the employee is a designated Confidential Employee, or a student employee. A University employee/Mandatory Reporter who learns of an incident of sexual misconduct **MUST** report it to the Title IX Coordinator promptly. The report must include the name of the Complainant and Respondent, if known.

Police Reporting

In addition to required campus reporting, reports may also be made to the police and/or campus security, especially if criminal conduct is or may be involved, by calling the following numbers:

- A. Emergency - 911
- B. Campus Safety and Security
 - i. Rutherford Campus (24hrs): 201.559.3561
 - ii. The Healing Space (24 hrs.): 201-487-2227
 - iii. Rutherford Police Department: 201-939-6000
 - iv. Lodi Police Department: 973-473-7600
 - v. Bergen County Sherriff's Office (non-emergency number): 201-336-3500
10 Main Street, Hackensack, NJ 07601

Federal Timely Warning Obligations

Victims of sexual misconduct should be aware that University administrators must issue crime alerts for incidents reported to them that represent a serious or continuing threat to students or employees. The University will withhold a complainant's name and other identifying information while providing enough information for community members to make safety decisions in light of the potential danger.

Statement of Rights for Complainants and Respondents

Both complainants and respondents will be afforded the following rights under this policy:

1. To be treated with respect and non-judgmentally by University officials;
2. To take advantage of campus support resources (such as Counseling Services and

- University Health Services for students, or EAP services for employees);
3. To experience a safe educational and work environment;
 4. To have an advisor (students) or representative (employees) during this process;
 5. To refuse to have an allegation resolved through informal procedures;
 6. To be free from retaliation;
 7. To have complaints heard in substantial accordance with the University's procedures; and
 8. To participate in the process and to be informed of the result of the process.

Please also refer to the **NEW JERSEY CAMPUS SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS** (Appendix A)

Records

In implementing this Policy, records of all complaints, resolutions, and hearings will be kept by the Title IX Coordinator for **seven (7) years**, after which the records will be dispositioned in accordance with the University's records retention policy and procedures.

The University will maintain the following records:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript;
2. Any disciplinary sanctions imposed on the respondent,
3. Any remedies or corrective actions provided to or for the complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result thereof;
5. Any informal resolution and the result thereof;
6. All materials used to train the Title IX Coordinator and Deputy Coordinators.
 - a. The University will make such training materials publicly available on the University website.

Sexual Offense Prevention and Educational Programming

Felician University recognizes sex discrimination in all its forms as important issues; therefore, the University offers annual educational programming to a variety of groups such as: staff, security, faculty, incoming students, continuing students, student-athletes, and members of student organizations.

Sexual Misconduct educational programming may address matters such as: a definition of what constitutes sex discrimination, the causes of sex discrimination, myths involved with sex discrimination, prevention, the relationship between sex discrimination and alcohol use, what to do if you are assaulted, the nature of a rape examination, an explanation of the University sexual misconduct policy, how to make a report and file a complaint with the University, its conduct system, and/or with the local police department, men's issues and sexual assault, and campus community resources to assist both the complainant and the respondent.

Federal Enforcer

The U.S. Department of Education, Office for Civil Rights (OCR) is the federal agency charged with enforcing compliance with Title IX. Individuals with complaints of this nature always have the right to file a formal complaint with the United States Department of Education:

Office for Civil Rights (OCR)

400 Maryland Avenue, SW
Washington, DC 20202-1100

Customer Service Hotline Number:
800.421.3481

FAX: 202.453.6012

TDD#: 877.521.2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

APPENDIX A
FELICIAN UNIVERSITY
BILL OF RIGHTS OF VICTIMS OF SEXUAL ASSAULT

In a free society a University must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities' function to stimulate intellectual discourse and create an environment that values diverse ideas. Its rules must fundamentally further and protect the rights of all members of the University community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. In creating a community free from violence, sexual assault, and nonconsensual sexual contact, respect for the individual and human dignity are of paramount importance.

The state of New Jersey and Felician University recognize that the impact of violence on victims and the surrounding community can be severe and long lasting. Thus, this Bill of Rights has been established to articulate requirements for policies, procedures, and services designed to ensure that the needs of sexual assault victims are met and that the colleges and universities in New Jersey create and maintain communities and environments that support human dignity.

Bill of Rights

The following rights shall be accorded to victims of sexual assaults that occur:

- On the campus of any public or independent private institution of higher education in the State of New Jersey, and
- When the complainant or the respondent is a student at that institution; and/or
- When the victim is a student involved in an off-campus sexual assault.

Human Dignity Rights:

- To be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy.
- To have any report of sexual assault treated seriously; the right to be treated with dignity.
- To be free from any suggestion that victims are responsible for the commission of crimes against them.
- To be free from any pressure from campus personnel to:
 - Report crimes if the victim does not wish to do so;
 - Report crimes as lesser offenses than the victim perceives them to be;
 - Refrain from reporting crimes to avoid unwanted publicity; and/or
 - Report crimes as lesser offenses than the victim perceives them to be.

Rights to Resources On – and Off – Campus:

- To be notified of existing campus and community-based medical, counseling, mental health, and student services for victims of sexual assault regardless of whether the crime is formally reported to campus or to civil law enforcement authorities.
- To have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling.
- To be informed of and assisted in exercising any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus (HIV), and/or pregnancy.
- To be informed of and assisted in exercising any rights that may be provided by law to compel

and disclose the results of testing of sexual assault suspects for communicable diseases.

Campus Judicial Rights:

- To be afforded the same access to legal assistance as the accused.
- To be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed for the accused.
- To be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

Legal Rights:

- To have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported.
- To receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities, if this is the victim's decision.
- To receive full, prompt, and victim-sensitive cooperation of trained campus personnel with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of an assault.

Campus Intervention Rights:

- To require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants.
- To be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

Statutory Mandates:

- Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure complete implementation.
- Each campus shall make every reasonable effort to ensure that every student at the campus receives a copy of this document.
- Nothing in this policy or in any "Campus Assault Victim's Bill of Rights" developed in accordance with the provisions of Title IX shall be construed to preclude or in any way restrict any public or independent institution of higher education in the state from reporting any suspected crime or offense to the appropriate law enforcement authorities.

15804699 (667.001)