



## **Policy Against Discriminatory and Sexual Harassment, Sexual Assault and Other Forms of Sexual Abuse, Dating Abuse, Domestic Abuse and Stalking**

### **I. Introduction and Statement of Policy**

As a Catholic and Franciscan institution of higher education, The Franciscan School of Theology (hereafter “FST”) 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 School’s commitment to promote and to defend the human dignity of all persons as FST strives to provide a learning, working, and living environment free from all forms of unlawful discrimination, discriminatory or sexual harassment, sexual assault and other forms of sexual abuse. Unlawful discrimination, harassment and sexual abuse subvert the mission of our School, strike against the School’s Catholic and Franciscan values, and threaten the careers, educational experience, and well-being of students, faculty, and staff.

All students, faculty and staff at the School have the right to expect an environment that allows them to enjoy the full benefits of their work or learning experience. It is, therefore, the policy of FST that no member of the FST community may engage in conduct which discriminates against or harasses another individual or group on the basis of race, color, national or ethnic origin, sex, age, disability, veteran’s status or any other criteria protected by applicable law. Likewise, FST prohibits conduct which constitutes sexual harassment, sexual assault and other forms of sexual abuse, dating abuse, domestic abuse and stalking as those terms are defined below.

This policy shall apply equally to all employees and students of the School and to all programs, activities and functions of the School. Visitors to and guests of the School are also expected to abide by this policy. All members of the FST community, especially faculty, staff managers and other individuals who exercise supervisory authority, have an obligation to promote an environment free from conduct which conflicts with this policy. Members of the FST community who are aware of conduct that violates this policy, whether they observe the conduct directly or otherwise learn about it, are expected to report it to one of the individuals listed under Section VII below (“Prompt Reporting”). Any faculty member, student, staff employee, vendor or visitor found to have violated this policy will be subject to appropriate disciplinary and/or corrective action. The corrective and/or disciplinary action will depend on the circumstances and the gravity of the violation, and may range from reprimand to dismissal, or termination. The School will also take steps, if and as appropriate, to remedy the effects of the violation for the complainant and the FST community as may be necessary, and to prevent recurrence of the violation.

The intent of this policy is to prohibit unlawful discrimination, discriminatory and sexual harassment, sexual assault and abuse, dating abuse, domestic abuse and stalking, and to promote the full realization of equal opportunity while preserving the religious nature of FST as Catholic and Franciscan as prescribed in the School’s By-Laws and Mission Statement. It is understood that nothing in this policy will undermine the integrity of FST as a Catholic School. Therefore, no oral or written statement that is in conformity with the teaching of the Roman Catholic Church shall be deemed as violating this policy, and no absence of a statement, oral or written, when such silence is again in accord with Catholic



teaching, shall be deemed a violation of this policy. Finally, the approved policies of academic freedom shall be respected and are understood to be consistent with the implementation of this policy.

## II. Title IX Coordinators

The Title IX Coordinator and Deputy Coordinators are responsible for, among other things, overseeing complaints brought forward under this policy to assure that these matters are being handled appropriately and effectively, and for identifying and addressing patterns of misconduct and systemic problems. They also serve as resources available to anyone seeking additional information about the processes under this policy, about other resources that may be available to victims of misconduct covered by this policy, or who wish to file a complaint of an alleged violation of this policy.

The Vice President for Academic Affairs (VPAA), Juliet Mousseau, RSCJ, serves as the Title IX Coordinator:

Email: [jmousseau@fst.edu](mailto:jmousseau@fst.edu)  
Phone: (619) 574-5802  
Address: 5998 Alcalá Park, San Diego, CA 92110  
Office Location: FST Office at USD

The Vice President for Student Affairs, Kathleen M. Flood, OSF, serves as Title IX Deputy Coordinator:

Email: [kflood@fst.edu](mailto:kflood@fst.edu)  
Phone: (619) 574-5805  
Address: 5998 Alcalá Park, San Diego, CA 92110  
Office Location: FST Office at USD

The Title IX Coordinators also coordinate the School's compliance efforts and carry out its responsibilities under this policy and under Title IX of the Education Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, as well as all their applicable non-discrimination laws and regulations.

Inquiries may also be directed to the Assistant Secretary for Civil Rights, U.S. Department of Education.

## III. Definitions

***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).

***Discriminatory Harassment*** means conduct which creates an intimidating or hostile living, learning or working environment at FST 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). It includes oral, written, physical, or graphic conduct which substantially interferes with an individual's work, education, or participation in School programs or activities.

***Sexual Harassment:*** For purposes of this policy, sexual harassment may include any unwelcome sexual advances, requests for sexual favors or other unwelcome visual, physical, verbal or written conduct of a



sexual nature. Sexual harassment may be found in a single episode as well as in persistent behavior. Sexual harassment includes, but is not limited to, unwelcome sexual conduct when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in School programs or activities, or
- submission to or rejection of such conduct by an individual is used as the basis for decisions pertaining to an individual's employment, education, or participation in School programs or activities; or
- such conduct has the purpose or effect of interfering with an individual's work or educational performance; or creating an intimidating, hostile or offensive working and/or learning environment; or interfering with one's ability to participate in or benefit from an educational program or activity.

***Sexual Abuse*** is a form of sexual harassment and it includes rape, sexual assault, sexual battery, and sexual coercion. Sexual coercion is the act of using pressure or force to have sexual contact with someone who has already refused.

***Sexual Assault*** is also a form of sexual harassment, and it includes any type of sexual activity perpetrated against a person's will, where that person does not give clear and voluntary consent or where the person is incapable of giving consent due to drug or alcohol use or due to intellectual or other disabilities.

***Dating abuse*** is abuse committed by a person who is or has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

***Domestic Abuse*** includes felony or misdemeanor crimes of abuse 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 cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic or family abuse laws of the state.

***Stalking:*** The term "stalking" means 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 to suffer substantial emotional distress.

***Consent:*** Sexual activity requires consent, which is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred from the absence of a "no"; a clear "yes," verbal or otherwise, is necessary. Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply present or future consent. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition. 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 activity with a person whom you know – or reasonably should know – to be incapacitated constitutes sexual misconduct.

Consensual sexual activity that is lewd, indecent, obscene or otherwise immoral, while not necessarily a violation of this policy is contrary to Catholic moral teaching.

#### **IV. Rights and Responsibilities Under this Policy**

Violations of this policy can occur between members of opposite sexes and/or members of the same sex. Although sexual harassment often involves a supervisory employment relationship or teacher/student relationship, it can also be committed by a student against a faculty member, by an employee against a supervisor, by a member of one's peer group, or by a contractor, vendor or other visitor to the FST community. A hostile environment can also be created by the actions of more than one person or a group. Every member of the FST community has both rights and responsibilities under this Policy.

A Students reporting incidents of alleged sexual abuse sometimes ask that the students' names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged sexual abuse. In such cases, the Title IX Coordinator will inform the student that honoring the request may limit the School's ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator, and will explain that this Policy and the law include protections against retaliation. If the student still requests that his or her name not be disclosed to the alleged perpetrator or that the School not investigate or seek action against the alleged perpetrator, the Title IX Coordinator will determine whether or not the School can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the incident of alleged sexual abuse.

#### **V. Retaliation Prohibited**

It is a violation of this policy and the law to retaliate 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. FST will take steps to prevent retaliation and will also take strong responsive action if the School finds that retaliation has occurred.

#### **VI. Statement on Consensual Relationships**

A consensual romantic and/or sexual relationship between an employee (including faculty and staff) and a student with whom they also have an academic, supervisory or evaluative relationship or between an employee and his or her subordinate are prohibited at FST. Such relationships present the potential for exploitation. Employees must be mindful that the authority that they exercise in their interactions with students and subordinates may affect the decision of a student or a subordinate to enter into or end a romantic or sexual relationship. Even when both parties initially have consented, the development of a romantic or sexual relationship renders both the employee and the institution vulnerable to possible later allegations of sexual harassment or other forms of sexual misconduct in light of the significant power differential that exists between faculty members and students, and between supervisors and subordinates.



## VII. Prompt Reporting

Prompt reporting of incidents enhances the ability of the School to promptly remedy violations of this policy and to prevent their recurrence.

- Alleged violations of this policy should be reported directly to one of the following:
  - Juliet Mousseau, RSCJ, Title IX Coordinator, at (619) 574-5802, FST Offices at USD
  - Kathleen M. Flood, OSF, Deputy Title IX Coordinator, at (619) 574-5805, FST Offices at USD

Individuals receiving a complaint or report of an alleged violation of this policy shall forward the complaint or report to the Title IX Coordinator (619) 574-5802 FST Faculty Offices, as promptly as possible for oversight and appropriate handling.

Except for the situations described in Section IV. A above, the Title IX Coordinator or designee will notify the relevant President of the School as soon as possible after receiving the complaint or other form of report and will provide the alleged perpetrator (hereafter referred to as “respondent”), the complainant, and the relevant division vice president with a copy of the complaint along with a copy of this policy.

## VIII. Interim Measures

At any time after receiving notice of an allegation of sexual abuse, sexual assault, dating abuse, domestic abuse or other forms of sexual misconduct, the School will take steps to ensure equal access to its education programs and activities and to protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The Title IX Coordinator will notify the complainant of his/her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or his/her living, transportation, dining, and working situation as appropriate. The Title IX Coordinator will also notify the complainant of available resources (such as counseling services, medical and mental health services, victim advocacy services) and of the right to report a crime to local law enforcement.

## IX. Other Available Resources

An individual who has experienced sexual abuse, sexual assault, dating abuse, domestic abuse or other forms of sexual misconduct is encouraged to:

- Notify local law enforcement officials:
  - USD Campus Safety  
5998 Alcalá Park  
San Diego, CA 92110  
Emergency calls: 7777  
Non-Emergency calls:(619) 260-7777



- Seek medical attention:
  - Nearest healthcare facility
  - Seek confidential counseling and/or support

Franciscan School of Theology  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 574-5800

- Seek other sources of counseling:

Campus Assault Resources and Education (CARE)  
5998 Alcalá Park San Diego, CA 92110  
Phone: (619)260-2396

## **X. Preservation of Evidence**

An individual who has been sexually or physically assaulted should do everything possible to preserve any evidence of the incident as the evidence may assist with the investigation and/or serve as proof of a crime.

## **XI. Options/Processes for Resolution**

Individuals who believe that they have been subjected to alleged violations of this policy will be informed about options for resolving potential violations. These options include informal dispute resolution, referral to other School offices (where appropriate), and formal resolution pursuant to this policy.

Where the individual against whom an allegation is made is a student of FST, cases will be referred to the Title IX Coordinator. The general principles described in numbered paragraphs 1 through 7 and 10-11 in Subpart C below shall also apply to student cases. Where the respondent is a faculty or staff member, cases are handled through the process described below. Where the respondent is a vendor/contractor or visitor, the School is not required to follow the process described below. In such cases, the School reserves the right to take summary action.

Certain forms of sexual assault and abuse, dating abuse, domestic abuse, and stalking may constitute criminal conduct. Whether or not someone who has been subjected to such conduct chooses to pursue criminal charges externally, they have the right to pursue an internal complaint under this policy, regardless of the status of any external proceedings. Further, the School may have an obligation to pursue an investigation, or make a complaint and/or take remedial action directly even if a victim chooses not to pursue the matter internally at the School and/or requests that his/her name not be disclosed to the alleged perpetrator. See Section IV-A above.

### **A. Initiation of the Process under this Policy**



The Title IX Coordinator (or deputy coordinator) will initiate the process under this policy by notifying the respondent that a complaint has been filed against him/her and inform the respondent of the nature of the complaint, providing a written copy or a summary of the complaint to the respondent.

The Title IX Coordinator (or deputy coordinator) shall explain to both parties the avenues for informal and formal action, including a description of the process and the relevant avenues of redress to the complainant and the respondent and provide each of them with a copy of this policy.

The Title IX Coordinator (or deputy coordinator) shall have the authority to take all reasonable and prudent interim measures to protect the parties pending completion of the investigation and during the informal or formal procedures to resolve the complaint, including interim disciplinary measures if necessary and appropriate. See Section VIII above for a more detailed discussion of interim measures. In the handling of inquiries and complaints under this policy, the School will protect confidentiality to the extent consistent with the School's legal obligations to take all reasonable steps to protect the welfare of the FST community. See also Section IV-A above.

#### **B. Procedures for Informal Resolution:**

The School encourages informal resolution when the parties desire to resolve the situation cooperatively. Informal resolution may include inquiries into the facts, but does not typically rise to the level of a formal investigation. The informal resolution process is designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow, the informal process will be initiated as soon as possible after the filing of the complaint or receipt of a report of an alleged violation, absent any unusual circumstances.

Informal resolution includes, but is not limited to, options such as referral to another campus office or program, mediation, separation of the parties, referral of the parties to counseling programs, conducting educational and/or training programs, or other remedial measures. Situations that are resolved through informal resolution are usually subject to follow up after a period of time. Steps taken by the office of the Title IX Coordinator to help the parties achieve informal resolution will be documented.

Some reports of alleged violations of this policy may not be appropriate for informal resolution, but may require a formal investigation at the discretion of the Title IX Coordinator. The Office for Civil Rights of the U.S. Department of Education has taken the position that face-to-face mediation is not an appropriate mechanism for resolution in cases of alleged sexual assault/sexual abuse.

Both the complainant and the respondent have the right to bypass or end the informal complaint process at any time in order to begin the formal complaint process.

#### **C. Procedures for Formal Complaint Process:**

If the allegation of alleged violation of this policy has not been resolved as a result of the informal process or is not suited for informal efforts, or if either the complainant or the respondent request to invoke the formal complaint process, a formal investigation will be initiated.



In such cases, unless a written complaint has already been submitted, the individual making the report (the “complainant”) should file a written, signed complaint containing the relevant allegations against a person (the “respondent”). The complaint shall be submitted to the Title IX Coordinator (or deputy coordinator) who will manage the formal process.

The following general principles and procedures shall govern this process:

1. All persons concerned are to be treated with respect and impartiality.
2. Procedures are to be fair, both in substance and in perception, to all persons concerned and to the FST community.
3. The Title IX Coordinator (or deputy coordinator) shall provide the respondent with a copy of the written complaint.
4. The investigation of all formal complaints generally includes interviews of (i) the complainant, (ii) the respondent, and (iii) any witnesses as needed; and (iv) review of relevant documents as appropriate. Disclosure of facts to non-party witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation.
5. Both the complainant and respondent will be given an opportunity to be heard, to provide documentation and other evidence, and to suggest the names of other persons who they believe might have relevant information.
6. At any time during the investigation, the Title IX Coordinator may recommend interim protections or remedies be provided by School officials. These protections and remedies may include (but are not limited to) separating the parties, placing limitations on contact between the parties, or making alternative workplace, housing, extracurricular or academic arrangements where reasonable and feasible. See Section VIII above regarding Interim Measures. Failure to comply with the terms of interim protections may be considered a separate violation of this policy.
7. The investigation shall be completed as promptly as possible and in most cases within 60 working days of the original complaint. In the event that the investigation cannot be completed within 60 days, the parties shall be notified in writing.
8. After concluding the investigation, the Title IX Coordinator (or designee) will record findings and recommendations in a written report. In making findings, the “preponderance of the evidence standard” (i.e., more likely than not) will be used. The complainant and respondent will be informed that the investigation has been completed and will receive a copy of the written report.
9. The Title IX Coordinator shall recommend appropriate remedial action (which may include disciplinary action against the respondent) in accordance with the provisions of this policy and other applicable School policies and procedures. The Title IX Coordinator’s findings and recommendations shall be submitted to the President of the School. Final decisions in cases where a staff employee is the respondent shall be made by the President of FST. In cases where a faculty



member or other instructional employee is the respondent, final decisions shall be made by the Vice President for Academic Affairs (VPAA). If the proposed action by the VPAA includes suspension or dismissal of a tenured faculty member, the matter will be referred to the President, who will decide whether to initiate the process set forth in the Faculty Handbook for imposition of such a sanction. The decisions and recommended actions of the President or VPAA, where applicable, will be communicated in writing to the Title IX Coordinator and to the complainant and respondent.

10. Appropriate disciplinary and remedial actions will be implemented on a case-by-case basis for violations of this policy. The School will take appropriate steps to prevent recurrence of any violations of this policy and to remediate the effects on the complainant and the campus community, if appropriate.
11. No person shall make an allegation that he/she knows to be untrue or knowingly provide false information during the course of an investigation. Making a false complaint or knowingly giving false information is a violation of this policy and may be a basis for discipline, up to and including termination from employment or dismissal from school.

## **XII. Education, Awareness and Prevention**

Educational efforts are essential to maintaining a campus environment that is free of the forms of misconduct addressed by this policy. There are multiple goals to be achieved through education, awareness and prevention programs: (i) ensuring that all employees and students are aware of and understand their rights and responsibilities under this policy, (ii) notifying members of the FST community of the types of conduct forbidden by this policy and how to reduce the risk of exposure to such conduct; (iii) informing administrators, faculty and staff about their obligations when they receive a report and/or observe conduct that may be in violation of this policy. The Title IX Coordinator, Assistant to the President and VPAA, and the Director of Student Services offer a variety of programs on sexual harassment, sexual assault and other forms of sexual abuse, domestic abuse, dating abuse and stalking and awareness and prevention with respect to such misconduct.

## **XII. Policy Dissemination**

The Title IX Coordinator is responsible for distributing copies of this policy to all employees and students of the School. In addition, this policy will be placed on the School website.

## **XIV. Recordkeeping**

The Title IX Coordinator is responsible for maintaining records relating to reports, investigations, and resolutions of all alleged violations of this policy.

Requests for information about this policy should be directed to the Title IX Coordinator.