

POLICY AGAINST SEXUAL HARASSMENT

I. Introduction

Franklin Pierce Law Center prohibits sexual harassment and harassment on the basis of race, creed, color, familial status, religion, national origin, age, sex, marital status, sexual orientation, physical or mental disability or veteran status. All students, employees, visitors and clients should have an environment at Franklin Pierce Law Center that is free from all forms of discrimination, intimidation and harassment, including sexual harassment. Employees are expected to treat each other with courtesy, consideration and professionalism.

To insure that the environment is free from sexual and other illegal harassment, the conduct that is described in this policy will not be tolerated and there is a procedure for dealing with allegations of inappropriate conduct. Where inappropriate conduct is found, steps will be taken to eliminate the conduct and impose such corrective actions as are appropriate.

Please note that while this policy sets forth the goals of promoting a school and workplace that is free of sexual or other illegal harassment, the policy is not designed or intended to limit the authority to discipline or take remedial action for conduct which is deemed unacceptable, regardless of whether that conduct satisfies the definition of illegal or sexual harassment.

II. Definitions Of Sexual & Other Illegal Harassment

Harassment refers to unreasonable conduct or behavior that is personally offensive or threatening, impairs morale, or interferes with the work effectiveness of employees and the academic performance of students. Examples of harassment include conduct or comments that threaten physical violence; offensive, unsolicited remarks; unwelcome gestures or physical contact; display or circulation of written materials, items or pictures degrading to any gender, racial, ethnic, religious, age, handicap or other group listed above; and verbal abuse or insults about or directed at any person or group of persons because of their relationship in any of the groups listed above.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

a. submission to, or rejection of, such advances, requests, or conduct is made either explicitly or implicitly as a term or condition of employment or as a basis for employment decisions or as a term or condition of academic evaluation or performance; or,

b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work or academic performance by creating an intimidating, hostile, humiliating or sexually offensive work/academic environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment. Likewise, direct or implied requests by a faculty member for sexual favors in exchange for actual or promised academic benefits constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and creates an environment that is hostile, offensive, intimidating, or humiliating may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

1. **Verbal:** sexual innuendoes, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;
2. **Visual/Non-verbal:** derogatory posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
3. **Physical:** unwanted physical contact including touching and interference with an individual's normal movement, or assault; and
4. **Retaliation:** making of threatening reprisals as a result of a negative response to harassment.

Each student, employee, visitor or clinical client must exercise his or her good judgment to avoid engaging in conduct that may be perceived by others as harassment.

Harassment can come from supervisors, fellow employees, fellow students, clinical clients, visitors or vendors.

All students, employees, visitors or clinical clients should take special note that retaliation against an individual who has complained about sexual or other harassment, and retaliation against individuals for cooperating with an investigation of a

sexual or other harassment complaint is prohibited.

III. Harassment Grievance Procedure

A. HARASSMENT COMMITTEE

1. The Harassment Committee shall be composed of two faculty members and two staff members, appointed by the Dean. Each year, the members shall select a Chair to serve for that year.

2. Members of the Harassment Committee shall receive annual training with respect to this policy and its procedures and the current legal issues regarding harassment. The Chair is responsible for arranging the training each fall.

3. Committee members shall serve three year terms. Initial appointments shall include one member with a one year term, two members with a two year term and one member with a three year term.

4. The members of the committee will treat each complaint confidentially, engaging other persons only as necessary to investigate and resolve the complaint.

5. Notwithstanding the foregoing, the Dean and the Chair of the Board (in cases of a complaint against a staff or faculty member) shall be given notice of any allegation of harassment that is brought to the Committee or a member thereof. Neither the Dean nor the Board Chair will be involved in the process and will treat any information received as confidential. In the most extreme cases, the Board Chair may consult with other members of the Board regarding a complaint and take steps to protect the interest of Pierce Law.

6. The Committee is responsible for educating the Community about harassment and this policy.

B. INITIATING A COMPLAINT

1. Individuals that believe they have been harassed in violation of this policy; should bring the complaint to the attention of the Dean or any Committee member. Complainants are encouraged to do this immediately. Any member of the community who is aware of harassment prohibited under this policy is expected to report the situation to a Committee member.

2. The Committee member receiving the complaint will counsel the complainant as to the options available and may assist the Complainant in (a) resolving the complaint informally and/or (b) drafting a written formal complaint.

3. Any complaint brought to the Dean directly shall be referred to a Committee member.

4. At any time, a student may bring a complaint to the Assistant Dean for Students.

C. HARASSMENT INQUIRY

An allegation of harassment will be promptly and thoroughly investigated by the Committee. Complaints will be kept confidential to the extent possible consistent with the obligation to resolve any allegations of harassment. For most matters, the inquiry will include interviews with the person filing the complaint, the person alleged to have committed the harassment, and to the extent necessary, with co-employees/students or other witnesses. All individuals are expected to be truthful, forthcoming and cooperative in connection with a complaint inquiry. The inquiry should be conducted as expeditiously as possible with a written report of Committee conclusions in no more than 30 days.

Possible outcomes of an inquiry are:

1. Negotiated settlement;
2. A conclusion that the nature of the allegation did not violate this policy;
3. Recommendation for formal action, Section D;
4. If the complaint is against a student, referral to the Assistant Dean of Students with recommendation for further proceedings under the Student Conduct Code;
5. Referral to the Dean for further proceedings under applicable rules; or
6. Any other recommendation deemed appropriate by the Committee.

Once the inquiry is complete, the person filing the complaint and the person alleged to have committed the harassment will be advised of the results.

There may be instances when, depending upon the nature of the allegations of harassment, an alleged harasser (if an employee) will be suspended, with pay, pending investigation. Suspension pending investigation should not be considered as a conclusion of wrongdoing.

D. DISCIPLINARY ACTION

Any employee who is found to have engaged in harassment or discrimination contrary to this policy will be subject to disciplinary action, up to and including suspension or termination, depending, among other things, on the nature of the harassment. Any student, visitor or clinical client who is found to have engaged in harassment contrary to this policy, will be subject to disciplinary action, up to, and including, expulsion.

E. PROTECTION OF THE PARTIES

1. The complainant may be informed of significant steps taken during the inquiry.

2. All reasonable action will be taken to make sure that the complainant and any witnesses do not suffer retaliation as a result of this process.

3. If a complainant is found to have intentionally made dishonest allegations or to have made them maliciously, he/she will be subject to appropriate discipline.

4. During the interviews, the complainant or the accused has the right to be accompanied by a representative of his/her choice, at his/her own expense.

IV. RETALIATION

Franklin Pierce Law Center also prohibits any form of retaliation against any individual for filing a good faith complaint under this policy or for assisting in a complaint inquiry. Anyone found to have engaged in such retaliation against a person who has registered a complaint under this policy or to have retaliated against anyone for assisting in the investigation of a complaint, will be subject to disciplinary action up to and including suspension and/or expulsion. Any individual who believes that he or she is being retaliated against should bring it to the attention of their supervisor, the Dean, Assistant Dean of Students, or the Vice President of Finance, so that appropriate action may be taken.



SEXUAL, ROMANTIC, AND FAMILIAL RELATIONSHIPS

A. NEW RELATIONSHIPS DISCOURAGED OR PROHIBITED; DISCLOSURE AND SUPERVISION REQUIREMENTS

1. This section does not apply to sexual, romantic, familial relationships in existence before one or both individuals joined the Pierce Law community.

2. **In General** – There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions. Such positions include (but are not limited to) faculty and student, supervisor and employee, senior faculty and junior faculty, advisor and advisee, teaching assistant and student, and the individuals who supervise the day-to-day student environment. Because of the potential for conflict of interest, abuse of power, exploitation, the appearance of favoritism, and bias, such relationships may undermine the real or perceived integrity of the supervision and evaluation provided, and the trust inherent particularly in the faculty-student context. They may, moreover, be less consensual than the individual whose position confers power or authority believes. The relationship is likely to be perceived in different ways by each of the parties to it, especially in retrospect.

Moreover, such relationships may harm or injure others in their academic or work environment. Relationships in which one party is in a position to review the work or influence the career of the other may provide grounds for complaint by third parties when that relationship gives undue access or advantage, restricts opportunities, or creates a perception of these problems. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic involvement, this past consent does not remove grounds for a charge based upon subsequent unwelcome conduct. A romantic relationship is defined as an interaction between a faculty member or staff member and a student which is characterized by physical or verbal intimacy or familiarity manifesting the existence of a sexual attraction between the two individuals

3. **Among Employees and Between Employees and Students** – Sexual or romantic relationships between employees are strongly discouraged where one employee has greater authority at Pierce Law than the other. Equally, such relationships between a non-faculty employee and a student are discouraged where the employee is in a position to exercise power or authority over the student. For this purpose Teaching or Research Assistants are considered employees. If a consensual sexual or romantic relationship involving an employee