

TITLE IX POLICY STATEMENT

Falcon Institute of Health and Science's TITLE IX Officer

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Title IX of the Education Amendments of 1972 ("Title IX") protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states:

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 program or activity receiving Federal financial assistance.

Falcon Institute of Health and Science not only complies with the letter of Title IX's requirements but also endorses the law's intent and spirit. The Institution is committed to compliance in all areas addressed by Title IX, including access to higher education, career education, math and science, standardized testing, athletics, education for pregnant and parenting students, learning environment, and technology, as well as sexual harassment.

The purpose of this policy is to ensure that the Institution's policies are applied and interpreted in ways consistent with Title IX and other applicable law.

It is the policy of the Institution to provide educational, preventative and training programs regarding sexual or gender-based harassment; to encourage reporting of incidents; to prevent incidents of sexual and gender-based harassment from denying or limiting an individual's ability to participate in or benefit from the School's programs; to make available timely services for those who have been affected by discrimination; and to provide prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence.

Violations of this policy may result in the imposition of sanctions up to, and including, termination, dismissal, or expulsion, as determined by the appropriate officials at the School.

Discrimination

The Falcon Institute of Health and Science prohibits discrimination and harassment based on race, color, creed, religion, sex, gender, national origin, citizenship, ethnicity, marital status, age, disability, sexual orientation, gender identity and gender expression, genetic information, veteran status, or any other status protected by applicable law to the extent prohibited by law.

Sexual Harassment

The Falcon Institute of Health and Science defines sexual harassment as unwelcome behavior of a sexual nature that relates to the gender or sexual identity of an individual and that has the purpose or effect of creating an intimidating, offensive or hostile environment for study. This policy applies to all interactions between students and Falcon Institute of Health and Science's faculty members and other faculty, staff, and administrative personnel, and other students.

Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Repeated incidents or a pattern of harassing behavior may be cause for serious corrective action. However, a more serious incident, even if isolated, may be sufficient cause for action under this policy including referral to law enforcement when applicable.

Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the person submits and avoids the threatened harm. Both situations could constitute discrimination on the basis of sex. A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. Sexual violence, including rape, sexual assault, and domestic and dating violence, is a form of sexual harassment. In addition, the following conduct may violate this policy:

1. Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties.

2. Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipients.
3. Sexual advances, whether or not they involve physical touching.
4. Commenting about or inappropriately touching an individual's body.
5. Requests for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or continued employment.
6. Lewd or sexually suggestive comments, jokes, innuendoes, or gestures.
7. Stalking

Other verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently persistent, pervasive, or severe so as to deny a person equal access to the School's programs or activities. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred.

Unwelcome Conduct

Conduct is unwelcome if a person (1) did not request or invite it and (2) regarded the unrequested or uninvited conduct as undesirable or offensive. That a person welcomes some sexual contact does not necessarily mean that person welcomes other sexual contact. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion.

Whether conduct is unwelcome is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making that determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person's account; the absence of corroborating information where it should logically exist; information that the Respondent has been found to have harassed others; information that the Complainant has been found to have made false allegations against others; information about the Complainant's reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.

In addition, when a person is so impaired or incapacitated as to be incapable of requesting or inviting the conduct, conduct of a sexual nature is deemed unwelcome, provided that the Respondent knew or reasonably should have known of the person's impairment or incapacity. The person may be impaired or incapacitated as a result of drugs or alcohol or for some other reason, such as sleep or unconsciousness. A Respondent's impairment at the time of the incident as a result of drugs or alcohol does not, however, diminish the Respondent's responsibility for sexual or gender-based harassment under this policy.

Gender-Based Harassment

Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the School's education or work programs or activities. For example, persistent disparagement of a person based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or gender identity also may violate this policy.

Reporting Title IX complaints to the School Procedure:

Consistent with Supreme Court precedent and the text of title IX, the school will respond when:

1. The school has actual knowledge of sexual harassment
2. That occurred within the school's education program or activity
3. Against a person in the United States.

The alleged victim or any third party may report to the Title IX Coordinator, the Program Director, or the President of the school in person, by email, by phone or by mail. If the alleged victim or any third party is not able to locate or report to the Title IX Coordinator, the Program Director, or the President of the school, they may report to any employee of the school.

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The US Department of Education's Title IX Final Rule defines that, "actual knowledge" includes notice to any school employee and states that any person (e.g. the alleged victim or any third party) may report the complaint to a Title IX Coordinator in person or by email, phone, or mail.

The Final Rule also specifies that a school's "educational program or activity" includes situations over which the school exercised substantial control, and also buildings owned or controlled by student organizations officially recognized by a postsecondary institution such as many fraternity and sorority houses.

The school will offer supportive measures to every complainant with or without a formal complaint. The school will offer supportive measures to the complainant or respondent as appropriate as reasonably available, and without fee or charge before or after the filing of a formal complaint or where no formal complaint has been filed. Section 106.30 defines supportive measures as non-disciplinary, non-punitive, and individualized services designed to restore or preserve access to the recipients education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties and the recipient's educational environment or to deter sexual harassment.

The school will investigate every formal complaint (which may be filed by a complainant or by the school's Title IX Coordinator). If the alleged conduct does not fall under Title IX, then the school may address the allegations under the school's own code of conduct and provide supportive measures.

The School's Grievance Process to Investigate Title IX Complaints

The Final Rule requires schools to investigate and adjudicate formal complaints of sexual harassment, using a grievance process that incorporates due process principles, treats all parties fairly, and reaches reliable responsibility determinations.

The school's grievance process will

- Will give both parties written notice of the allegations, an equal opportunity to select an advisor of the party's choice (who may be, but does not need to be, an attorney) and an equal opportunity to submit and review evidence throughout the investigation.
- Will use trained Title IX personnel to objectively evaluate all relevant evidence without prejudice of the facts at issue and free from conflicts of interest or bias for or against either party. Investigators, complainants, respondents, witnesses and advisors will acknowledge that they have read and understand the training materials on the school's website. Title IX Coordinator Preet Chahal will assist with explanations or questions about the training.
- Will make all materials used to train Title IX personnel publicly available on the school's website or, available upon request for inspection by members of the public.
- Will protect parties' privacy by requiring a party's written consent before using the party's medical, psychological, or similar treatment records during a grievance process.
- Will obtain the parties' voluntary, written consent before using any kind of "informal resolution" process such as mediation or restorative justice, and not use an informal process where an employee allegedly sexually harassed a student.
- Will apply a presumption that the respondent is not responsible during the grievance process, (often called a "presumption of innocence"), so that the school bears the burden of proof and the standard of evidence is applied correctly.
- Will use the preponderance of the evidence standard and will use the same standard for formal complaints against students as for formal complaints against employees.
- **Will ensure the decision-maker is not the same person as the investigator or the Title IX Coordinator.**
- Will provide notice of the date, time, location, participants, purpose of the hearing, investigative interviews or other meetings to participants with time to prepare to participate. Proceedings will be recorded.
- Will provide an investigative summary to participants at least 10 days prior to a hearing so that written responses and written questions to be asked at the hearing will be presented to the Title IX Coordinator, three days prior to the hearing.
- Will hold a live hearing and allow cross-examination by party advisors (never by the parties personally).

- Will protect all complainants from inappropriately being asked about prior sexual history (“rape shield” protections).
- Will send both parties a written determination regarding responsibility explaining how and why the decision maker reached conclusions.
- Will effectively implement remedies for a complainant if a respondent is found responsible for sexual harassment.
- Will offer both parties an equal opportunity to appeal.
- Will protect any individual, including complainants, respondents, and witnesses, from retaliation for reporting sexual harassment or participating (or refusing to participate) in any Title IX grievance process.
- Will make all materials used to train Title IX personnel publicly available on the school’s website or, if the school does not maintain a website, make these materials available upon request for inspection by members of the public.
- Will document and keep records of all sexual harassment reports and investigations.

If the school believes safety is at risk at any time, it may execute an emergency removal of individual(s) from education or activities. This will be invoked if the school determines an immediate threat to the physical health or safety to any individual. Upon being informed of a notice of removal, an immediate challenge may be filed.

The school may place an individual on administrative leave during and pending the result of the investigative process.

In cases involving alleged criminal conduct, the complainant may file a criminal complaint with the local police department. A complainant need not pursue a criminal complaint in order to seek or to hold the accused responsible through the school’s Student Code of Conduct.

The institution uses a “preponderance of the evidence” standard when determining substantiated or unsubstantiated. The School may consider any evidence it deems relevant. A "preponderance of the evidence" means the evidence which is of greater weight or is more convincing than opposing evidence such that it is "more likely than not" that an act occurred.

In determining whether sex discrimination, sexual harassment or sexual misconduct occurred, the School does not apply the criminal standard of "beyond a reasonable doubt," nor do formal court rules of evidence apply in regard to the institution's investigation.

The exact nature of the responsive action depends on the circumstances but may include discipline up to and including suspension or dismissal from the Institution for a student, staff or faculty who is found to have violated Institutional policies.