



## **Equal Opportunity, Harassment and Nondiscrimination**

CIVIL RIGHTS EQUITY GRIEVANCE RESOLUTION FOR ALL  
STUDENTS, FACULTY, AND STAFF

Policy and Procedures  
Revised August 2016

## **POLICY AND PROCEDURES:**

### **Equal Opportunity, Harassment and Nondiscrimination**

Finlandia University affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the University's Equity Grievance Process, as detailed below. The Equity Grievance Process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators and/or staff. Finlandia University reserves the right to act on incidents occurring on-campus. The University also reserves the right to act on incidents occurring off-campus, when the off-campus conduct could have an on-campus impact or impact on the educational mission of Finlandia University.

The Chief Equity Coordinator oversees implementation of Finlandia University's Affirmative Action and Equal Opportunity plan and the University's policy on equal opportunity, harassment and nondiscrimination. Reports of discrimination, harassment and/or retaliation should be made to the Chief Equity Coordinator or Deputy Equity Coordinators promptly, but there is no time limitation on the filing of complaints. Note, however, that the institution's response may be more limited if the accused individual was a guest or is no longer subject to the University's jurisdiction. Reporting is addressed more specifically in Section 7: *Confidentiality and Reporting of Offenses Under This Policy*, below.

This policy applies to behaviors that take place on the campus, at Finlandia University-sponsored events and may also apply off-campus and to actions online when the Chief Equity Coordinator determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include, but is not limited to:

- a) Any action that constitutes criminal offense as defined by federal or state or local law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where the Finlandia University is located;
- b) Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the University.

- e) Any online postings or other electronic communication, including cyber-bullying, cyberstalking, cyber-harassment, etc. occurring completely outside of university control (e.g. not on Finlandia University networks, websites, or between Finlandia University email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial on-campus disruption.

Inquiries about this policy and procedure may be made internally to:

Karin Van Dyke  
VP University Relations  
Chief Equity Coordinator/Title IX Coordinator  
Jutila Center, Room 318  
906-487-7394  
[karin.vandyke@finlandia.edu](mailto:karin.vandyke@finlandia.edu)

Erin Barnett  
Director of Academic Success and Student Life  
Director Disability Student Services  
Deputy Equity Coordinator  
Mannerheim Hall, Room 114  
906-487-7324  
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Dr. Fredi de Yampert  
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## **1. Finlandia University Policy on Nondiscrimination**

Finlandia University adheres to all federal and state civil rights laws banning discrimination in private institutions of higher education. Finlandia University will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, hearing status, personal appearance, color, sex, pregnancy, political affiliation, source of income, place of business, residence, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, family responsibilities, sexual orientation, gender, gender identity, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any complaint process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, residential 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 the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, any such discrimination will be appropriately remedied by the University according to the procedures below.

## **2. Finlandia University Policy on Accommodation of Disabilities**

Finlandia University is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

The Director of Disability Student Services is responsible for coordinating efforts to comply with disability laws and needs of students. The Chief Equity Coordinator is responsible for coordinating efforts to comply with disability laws and needs of employees.

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Director of Academic Success and Student Life  
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The Chief Equity Coordinator is responsible for the investigation of any complaint alleging noncompliance with these disability laws.

Karin Van Dyke  
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Chief Equity Coordinator/Title IX Coordinator  
ADA-504 Coordinator  
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487-7344  
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**a. Students with Disabilities**

Finlandia University is committed to providing qualified students with disabilities with accommodations and support needed to ensure equal access to the academic programs and activities of the University.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Disability Student Services who coordinates services for students with disabilities. The director reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student’s particular needs and academic programs.

**b. Employees with Disabilities**

Pursuant to the ADA, Finlandia University will provide accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation, in writing, to the Chief Equity Coordinator or Human Resources (HR) and providing appropriate documentation. The Chief Equity Coordinator will work with Human Resources and the employee’s supervisor to identify which essential functions of the position are affected by the employee’s disability and what accommodations could enable the employee to perform those duties.

**3. Policy Expectations With Respect To Consensual Intimate Relationships**

There are inherent risks in any relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). It becomes even more complicated when the relationships are romantic or sexual in nature. These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. 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 or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy.

**i. Faculty-Student Relationships**

Personal relationships between faculty and students are at the heart of intellectual and professional development of well-rounded graduates. Finlandia University recognizes the benefits of and strongly encourages faculty to mentor students as part of their academic roles. However, certain relationships are unethical and can undermine the integrity of the pedagogical relationship between teacher and student.

The University's educational mission is promoted by ethics and professionalism in faculty-student relationships. In order to maintain mutual trust and respect within the faculty-student interactions, sexual or romantic relationships between student and faculty or staff members who function in an instructional context with the student are prohibited at Finlandia University.

#### **ii. Direct Supervisory/Evaluative Roles and Intimate Relationships**

Finlandia University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University. However, consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are or become involved in such relationships must bring those relationships to the timely attention of their supervisor so measures can be taken to protect both parties involved from any actual or perceived impropriety. This includes RAs and students over whom they have direct responsibility. While these relationships are not prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

### **4. Finlandia University Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Finlandia University's harassment 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 legally prohibited harassment that are also prohibited under University policy.

#### **a. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by law. Finlandia University's harassment policy explicitly prohibits any form of harassment on the basis of actual or perceived membership in a protected class, by any member or group of the community, which creates an objectively hostile environment.

A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent or pervasive 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.<sup>1</sup>

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<sup>1</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

Discriminatory harassment may include, but is not limited to, the following:

epithets or slurs; negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and display or circulation (including through electronic communications) of written or graphic material in the learning, living, or working environment.

Merely offensive conduct and/or harassment of a generic nature not on the basis of a protected status may not result in the imposition of discipline under University policy, but will be addressed through civil confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques/options, contact the Director of Institutional Equity and Diversity.

Finlandia University condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by university policy or law.

## **b. Sexual Harassment**

Both the Equal Employment Opportunity Commission and the State of Michigan regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Finlandia University has adopted an amended version of the EEOC definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.<sup>2</sup>

The amended definition is as follows:

Sexual harassment is:

- unwelcome, sexual or gender-based verbal, written or physical conduct that is,
- sufficiently severe, persistent or pervasive that it,
- has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the university's educational, social and/or residential program, and is
- based on power differentials (quid pro quo), the creation of a hostile environment or retaliation.

Examples of Sexual Harassment may include, but is not limited to, the following behaviors:

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<sup>2</sup> Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, "Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX," which can be found at <http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html>, as well as the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: [http://www.whitehouse.gov/sites/default/files/dear\\_colleague\\_sexual\\_violence.pdf](http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf)

sexual jokes and innuendo; obscene comments or gestures of a sexual nature; verbal abuse of a sexual nature, such as, leering or catcalls; commentary about an individual's body, sexual prowess or sexual deficiencies; physical sexual assault or coerced sexual intercourse; direct or implied threats that submission to sexual advances will or could be a condition of employment, work status, promotion, performance evaluation, grades, letters of recommendation, or other work or educational benefits; unwelcome physical contact, such as, hugging, patting or pinching; and the display or circulation (including through electronic communications) of sexually suggestive or explicit objects or pictures) in the learning, living, or working environment.

Sexual harassment may involve individuals of the same or different sex. The reporting party does not necessarily have to be the person sexually harassed, but could be anyone affected by the above described offensive conduct or behavior.

### **c. Sexual Misconduct**

State law defines various violent and/or non-consensual sexual acts as crimes. Additionally, Finlandia University has defined categories of sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Finlandia University considers Non-Consensual Sexual Intercourse violations to be the most serious, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, the University reserves the right to impose any level of sanction, up to and including suspension or expulsion/termination, for any act of sexual misconduct or other gender-based offenses based on the facts and circumstances of the particular complaint. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. Violations include:

#### **i. Sexual Harassment (as defined in section b above)**

#### **ii. Non-Consensual Sexual Intercourse**

Defined as:

- any sexual penetration or intercourse (anal, oral or vaginal)
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.



### **iii. Non-Consensual Sexual Contact**

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

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.

### **iv. Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of sexual harassment, non-consensual sexual intercourse or non-consensual sexual contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent)
- Prostitution
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent

### **v. Consent**

Consent is 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 before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. 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.

It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (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 the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent 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.

In Michigan State, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 17 years old is a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

**[See Appendix A for the state of Michigan’s definition of consent]**

The state of Michigan has its own definition of consent, which is applicable to criminal prosecutions for sex offenses, but may differ from the definition used on campus to address policy violations.

**4. Other Civil Rights Offenses, When the Act is Based Upon the Status of a Protected Class**

- Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class

- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a protected class
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the Finlandia University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the hazing policy) on the basis of actual or perceived membership in a protected class; hazing is also illegal under Michigan State law and prohibited by Finlandia University policy
- Bullying, defined 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
- Violence between those in an intimate relationship to each other on the basis of actual or perceived membership in a protected class (this includes romantic relationships, domestic and/or dating violence)
- Stalking, defined as a course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome and would cause a reasonable person to feel fear
- Any other Finlandia University rules, when a violation is motivated by the actual or perceived membership of the victim in a protected class, may be pursued using this policy and process

**[See Appendix B for the state of Michigan’s definition of domestic violence]**

The state of Michigan has its own definition of domestic violence, which is applicable to criminal prosecutions for domestic violence offenses, but may differ from the definition used on campus to address policy violations.

**[See Appendix C for the state of Michigan’s definition of stalking]**

The state of Michigan has its own definition of stalking, which is applicable to criminal prosecutions for stalking offenses, but may differ from the definition used on campus to address policy violations.

## **5. Retaliation**

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a complainant or for assisting in providing information relevant to a claim of harassment, is a serious violation of University policy and

will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Chief Equity Coordinator or to any of the Deputy Equity Coordinators (see below) and will be promptly investigated.

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VP Academic and Student Affairs (VPASA)  
Deputy Equity Coordinator  
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Finlandia University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

## **6. Remedial Action**

Finlandia University will implement initial remedial and responsive actions upon notice of alleged harassment, retaliation and/or discrimination, and will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described below. Deliberately false and/or malicious accusations of harassment, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

## **7. Confidentiality and Reporting of Offenses Under This Policy**

Finlandia University officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality,

offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for you to report crimes and policy violations and these resources will take action when you report victimization to them. Most resources on campus fall in the middle of these two extremes; neither the University, nor the law, requires them to divulge private information that is shared with them, except in rare circumstances. The following describes the three reporting options at Finlandia University:

### **a. Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus counselors or our campus chaplain, off-campus local rape crisis counselors, domestic violence resources, local and/or state assistance agencies who will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours.

#### **University Pastor**

Call 487-7239 or ext. (239) on-campus. Soren Schmidt, the University Pastor is available to give confidential support through any crisis or problem.

#### **Counseling Services**

Call 906-225-3145 or visit [www.northstareap.com](http://www.northstareap.com) to access free and confidential personal counseling to students going through any crisis or problem.

#### **Dial Help Rape Victim Support Team**

482-4357 and 1-800-562-7622: Dial Help provides 24 hour on-site support and assistance to sexual assault survivors, families and friends. Services include medical, legal, and personal support information. Referrals to other resources are available and many services are free of charge.

### **b. Private Reporting**

Those seeking to report misconduct may seek advice from certain resources who are not required to initially tell anyone else your private, personally identifiable information unless there is a pattern of abuse, cause for fear for your safety or the safety of others. These resources include employees without supervisory responsibility or remedial authority to address discrimination, harassment, retaliation and/or sexual misconduct, such as resident advisors (RAs), non-supervisory faculty members, advisors to student organizations, admissions officers, student activities personnel and many others. **If a reporting party is unsure of someone's duties and ability to maintain privacy, ask them before talking to them.** They will be able to explain and help a reporting party to make decisions about who is in the best position to help. All these resources, such as RAs, are instructed to share incident reports with their supervisors, but they do not share any personally identifiable information about the report unless the reporting party gives permission, except in the rare event that the incident reveals a need to protect the reporting party and/or other members of the

community. If personally identifiable information is shared, it will be shared with as few people as possible and all efforts will be made to protect privacy to the greatest possible extent.

**c. Formal Reporting Options**

Complainants are encouraged to speak to Finlandia University officials, such as the Chief Equity/Title IX Coordinator or Deputies, Human Resources, Student Conduct Officers, or Campus Security to make formal reports of incidents of sexual misconduct. Complainants have the right, and can expect, to have complaints taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through these procedures. **Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told.** Information will be shared as necessary with investigators, witnesses and the accused student/respondent. The circle of people with this knowledge will be kept as tight as possible to preserve a complainant’s rights and privacy.

**8. Federal Timely Warning Obligations**

Victims of sexual misconduct should be aware that Finlandia University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a victim’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

**EQUITY GRIEVANCE PROCESS FOR RESOLVING COMPLAINTS OF HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION**

Finlandia University will act on any formal or informal complaint or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination.

The procedures described below will apply to all complaints involving students, staff or faculty members.

Redress and requests for responsive actions for complaints brought against non-members of the community are also covered by these procedures.

## **1. Filing a complaint**

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated should contact the Chief Equity Coordinator or any Deputy Equity Coordinator. It is also possible for employees to notify Human Resources or a supervisor, or for students to notify an administrative advisor, faculty member or Student Conduct Officer, or any member of the community may contact Campus Security. These individuals will in turn notify the Chief Equity Coordinator. The University protects all persons who file a complaint, in any way, from retaliation.

All employees receiving reports of a potential violation of University policy are expected to promptly contact Human Resources or the Chief Equity Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy: specific information on any complaints received by any party will be reported to the Chief Equity Coordinator, but, subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating a report of a complaint. In all cases, Finlandia University will give consideration to the complainant with respect to how the complaint is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal complaint.

## **2. Complaint Intake**

Following receipt of notice or a complaint, the Chief Equity Coordinator<sup>3</sup> will, generally begin within two business days, an initial determination whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the complaint does not appear to allege a policy violation or if conflict resolution is desired by the complainant, and appears appropriate given the nature of the alleged behavior, then the complaint does not proceed to investigation.

## **3. Investigation<sup>4</sup>**

All complaints will be investigated. The investigation serves as a hearing for the parties involved. The University aims to complete all formal investigations within a 60 business

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<sup>3</sup> If circumstances require, the VP Academic and Student Affairs or Chief Equity Coordinator may designate another person to oversee the process below, should a complaint be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

<sup>4</sup> During the investigation, if any, both parties to a complaint related to sexual assault, dating violence, domestic violence and stalking may have an advisor of their choice present, however that advisor will not be allowed to participate in any meeting(s).

day time period, which can be extended as necessary for appropriate cause by the Chief Equity Coordinator with notice to the parties.

Investigation of complaints brought directly by those alleging harm should be completed expeditiously, generally within 10 business days of notice to the Chief Equity Coordinator. Investigation may take longer when initial complaints fail to provide direct first-hand information. The University may undertake a short delay (3-10 days, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. University action will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

#### **4. Interim Remedies**

The Chief Equity Coordinator (or designee) may provide interim remedies intended to address the short or long-term effects of harassment, discrimination and/or retaliation, ( i.e. No-Contact Order, interim suspension, etc.), to redress harm to the alleged victim and the community and to prevent further harassment or violations. Interim remedies may also be used when, in the judgment of the Chief Equity Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on campus of the accused individual or the ongoing activity of a student organization whose behavior is in question.

These remedies may include referral to counseling and health services or to the Employee Assistance Program, education to the community, altering the housing situation of an accused student or resident employee (or the alleged victim, if desired), altering work arrangements for employees, providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc.

The University may interim suspend a student, employee or organization pending the completion of the investigation. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Chief Equity Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Chief Equity Coordinator has sole discretion to implement or stay an interim suspension under the policy on Equal Opportunity, Harassment and Nondiscrimination, and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined



by the appropriate administrative officers and the Chief Equity Coordinator or designee, this restriction includes classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the VP Academic and Student Affairs and the Chief Equity Coordinator or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student.

## **5. Complaint Resolution**

During or upon the completion of the initial investigation, the Chief Equity Coordinator will make a decision on whether there is reasonable cause to proceed with the complaint. If the Chief Equity Coordinator decides that no policy violation has occurred or that the preponderance of evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation) does not support a finding of a policy violation, then the process will end unless the complainant requests that the Chief Equity Coordinator makes an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Chief Equity Coordinator. If there is reasonable cause, the Chief Equity Coordinator will direct the investigation to continue<sup>5</sup>, or if there is a preponderance of evidence of a violation, then the Chief Equity Coordinator may recommend conflict resolution, a resolution without a hearing or a formal hearing, based on the below criteria.

### **a. Conflict Resolution**

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Chief Equity Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained staff member or designee will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Chief Equity Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution **will not** be the primary resolution mechanism used to address complaints of sexual misconduct or violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Chief Equity Coordinator believe that it could be beneficial. It is not

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<sup>5</sup> In cases involving sexual assault, dating violence, domestic violence and stalking, both the respondent and the complainant will be given notice of the outcome of the investigation within the same 24-hour period.

necessary to pursue conflict resolution first in order to make a formal complaint, and anyone participating in conflict resolution can stop that process at any time and request a formal investigation.

### **b. Resolution Without an Investigation**

Resolution without an investigation can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the process. The Chief Equity Coordinator will provide written notification of a complaint to any member of the University community who is accused of an offense of harassment, discrimination, or retaliation. The respondent may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If so, the Chief Equity Coordinator will render a finding that the individual is in violation of University policy for the admitted conduct, and will normally proceed to convene an investigation on any remaining disputed violations. For admitted violations, the Chief Equity Coordinator (and appropriate administrative staff, when necessary) will determine an appropriate sanction or responsive action. If the sanction/responsive action is accepted by both the complainant and respondent, the Chief Equity Coordinator will ensure it is implemented, and act promptly and effectively to remedy the effects of the admitted conduct upon the victim and the community. If either party wishes to appeal the sanction/responsive action, the Equity Grievance Appeals Panel will convene to evaluate the sanction/responsive action only.

### **c. Sanctions**

Sanctions or responsive actions will be determined by the Chief Equity Coordinator. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous complaints or allegations involving similar conduct
- Any other information deemed relevant by the Chief Equity Coordinator
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the victim and the community

#### **i. Possible Student Sanctions**

The following are, but are not limited to, the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the behavior was unacceptable and a warning that further infractions of any Finlandia University policy, procedure or directive will result in more severe sanctions/responsive actions.
- *Probation*: A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any Finlandia University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at Finlandia University. This sanction will be noted as a Conduct Suspension on the student's official transcript.
- *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason or attend Finlandia University-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*. The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a complaint pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*. Finlandia University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*. Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

## **ii. Possible Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation may include, but is not limited to

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*,
- *Required Training or Education*
- *Probation*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*

- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions: In addition to or in place of the above sanctions, Finlandia University may assign any other sanctions as deemed appropriate.*

#### **d. Withdrawal or Resignation While Charges Pending**

Students: Finlandia University does not permit a student to withdraw if that student has a complaint pending for violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, or for charges under the Code of Student Conduct. Should a student decide to leave and not participate in the investigation, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Finlandia University unless all sanctions have been satisfied.

Employees: Should an employee resign while charges are pending, the records of the Chief Equity Coordinator will reflect that status, as will University responses to any future inquiries regarding employment references for that individual. The Chief Equity Coordinator will act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

#### **e. Appeals**

All parties must be notified in writing of their right to appeal any decisions and/or sanctions upon receipt of delivery of the final decision and/or sanction.

All requests for appeal considerations must be submitted in writing to the Chief Equity Coordinator within three business days of the delivery of the written finding of the investigation. Any party may appeal and can do so without fear of retaliation.

A three-member Equity Grievance Appeals Panel who was not involved in the complaint previously will consider all appeal requests. All appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed fall outside the range of sanctions the University has designated for this type of offense

The Equity Grievance Appeals Panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party

requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately.

Where the Equity Grievance Appeals Panel finds that at least one of the grounds is met, and proceeds, additional principles governing the hearing of appeals include the following:

- Appeals decisions by the Equity Grievance Appeals Panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-investigations of the complaint. In most cases, appeals are confined to a review of the written documentation of findings and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original investigators for reconsideration. Other appeals may be remanded at the discretion of the Chief Equity Coordinator or evaluated by the three-member Equity Grievance Appeals Panel.
- Sanctions imposed are implemented immediately unless the Chief Equity Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The Chief Equity Coordinator will normally, after conferring with the Equity Grievance Appeals Panel, finalize and render a written decision on the appeal to all parties within 2-3 business days from hearing of the appeal.
- All parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, the outcome is final: further appeals are not permitted.

#### **f. Failure to Complete Sanctions/Comply with Responsive Actions**

All respondents are expected to comply with conduct sanctions/responsive/corrective actions within the time frame specified by the Chief Equity Coordinator. Failure to follow through on conduct sanctions/responsive/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from Finlandia University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Chief Equity Coordinator.

#### **g. Records**

In implementing this policy, records of all complaints, resolutions, and hearings will be kept by the Chief Equity Coordinator.

#### **h. Statement of Complainant's Rights**

- To be treated with respect by Finlandia University officials.
- To take advantage of campus support resources (such as Counseling & Psychological Services, the Office of the Chaplain, or EAP services for employees).
- To experience a safe living, educational and work environment.
- To have an advocate during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have complaints heard in substantial accordance with these procedures.
- To full participation of the injured party in any Equity Grievance process whether the injured party is serving as the complainant or the University is serving as complainant.
- To be informed in writing of the outcome/resolution of the complaint, sanctions where permissible and the rationale for the outcome where permissible.

#### **i. Statement of Respondent's Rights**

- To be treated with respect by Finlandia University officials.
- To take advantage of campus support resources (such as Counseling & Psychological Services, the Office of the Chaplain, or EAP services for employees).
- To have an advocate during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To have complaints heard in substantial accordance with these procedures.
- To be informed of the outcome/resolution of the complaint and the rationale for the outcome, in writing.

### **6. Revision**

These policies and procedures will be reviewed and updated annually by the Chief Equity Coordinator. The Chief Equity Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. In addition, the Chief Equity Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

Procedures in effect at the time of its implementation will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy.

This policy and procedure was implemented in July 2014. (revised January, 2015; August 2016)

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**APPENDIX A:**

**State of Michigan Definition of Consent**

THE MICHIGAN PENAL CODE (EXCERPT)  
Act 328 of 1931

**750.520i Resistance by victim not required.**

Sec. 520i.

A victim need not resist the actor in prosecution under sections 520b to 520g.

**History:** Add. 1974, Act 266, Eff. Apr. 1, 1975

**Compiler's Notes:** Section 2 of Act 266 of 1974 provides: "Saving clause. "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

<http://www.legislature.mi.gov/%28S%28o55xmxntzf3kod45kgutes45%29%29/mileg.aspx?page=getObject&objectName=mcl-750-520i&highlight=rape>

## **APPENDIX B:**

### **State of Michigan Definition of Domestic Violence**

Defined in Criminal Laws

Citation: Comp. Laws §§ 750.81; 750.81a

An individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household is guilty of a misdemeanor.

An individual who commits an assault or an assault and battery and who has two or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household is guilty of a felony.

An individual who assaults his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of the same household without a weapon and inflicts serious or aggravated injury upon that individual without intending to commit murder or to inflict great bodily harm less than murder is guilty of a misdemeanor.

An individual who commits an aggravated assault and battery and who has one or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of the same household is guilty of a felony.

#### **Persons Included in the Definition**

**Citation: Comp. Laws § 400.1501**

'Family or household member' includes any of the following:

- A spouse or former spouse
- An individual with whom the person resides or has resided
- An individual with whom the person has or had a dating relationship
- An individual with whom the person is or has engaged in a sexual relationship
- An individual to whom the person is related or was formerly related by marriage
- An individual with whom the person has a child in common
- The minor child of an individual described above

'Dating relationship' means frequent, intimate associations primarily characterized by the expectation of affectional involvement. 'Dating relationship' does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

[https://www.childwelfare.gov/systemwide/laws\\_policies/state/index.cfm?event=stateStatutes.processSearch](https://www.childwelfare.gov/systemwide/laws_policies/state/index.cfm?event=stateStatutes.processSearch)



## **APPENDIX C:**

### **State of Michigan Definition of Stalking**

MCLS § 750.411h. Stalking; definitions; violation as misdemeanor; penalties; probation; conditions; evidence of continued conduct as rebuttable presumption; additional penalties. (1998)

(1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate non-continuous acts evidencing a continuity of purpose.

(b) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(d) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

(i) Following or appearing within the sight of that individual.

(ii) Approaching or confronting that individual in a public place or on private property.

(iii) Appearing at the individual's workplace or residence.

(iv) Entering onto or remaining on property owned, leased, or occupied by that individual.

(v) Contacting that individual by telephone.

(vi) Sending mail or electronic communications to that individual.

(vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(f) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

<http://www.victimsofcrime.org/our-programs/stalking-resource-center/stalking-laws/criminal-stalking-laws-by-state/michigan>