

# Sexual Assault and Sex Crimes Prevention

## Campus Sex Crimes Prevention Act

In compliance with the “Campus Sex Crimes Prevention Act” (section 1601 of Public Law 106-386) and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, all persons required to register as part of the State of Texas’s Sex Offender Registration Program are required to provide notice of their presence on campus. This information is available at the local police department or at <http://www.txdps.state.tx.us> .

## Policy Statement

Frank Phillips College is committed to a positive and productive learning environment in which students, employees, and visitors are free from any form of sexual misconduct. Sexual assault, dating violence, domestic violence, stalking, and any unwelcome physical conduct is prohibited. Frank Phillips College’s policies regarding inappropriate conduct extend to all members of the community including students, employees, community members, children, vendors, and all other parties visiting any of the college campuses. The policies apply regardless of gender, sexual orientation, gender identity, age, or ethnicity. FPC seeks to eliminate sexual violence and sex crimes through providing adequate resources for all stakeholders. These resources include information on prevention and actions in the event of an incident, support for the victim, a comprehensive investigation, and a fair disciplinary action.

## Definitions

**Assault:** Intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative (Texas Penal Code Sec. 22.01)

**Sexual Assault:** An offense if committed by a person that intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person’s consent; or causes the penetration of the mouth of another person by the sexual organ of the actor, without that person’s consent; or causes the sexual organ of another person, without that person’s consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor. (Texas Penal Code Sec. 22.011)

### Without Consent:

- The actor compels the other person to submit by the use of violence;
- the actor compels the other person to submit by threatening to use violence against the victim or against any other person;
- the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;
- the actor knows that as a result of mental disease the other person is at the time of the sexual assault incapable of appraising the nature of the act;
- the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;
- the actor has intentionally impaired the other person’s power to appraise the victim’s conduct by administering any substance without the victim’s knowledge. (Texas Penal Code Sec. 22.011)

## **Prohibited Conduct**

FPC prohibits sexual assaults including rape, fondling, dating and/or domestic violence, and stalking. Such behavior interferes with the productive learning and working environment valued by FPC and endangers the welfare of students, employees, and community members. Attempting to engage in sexual assault, encouraging sexual assault, or sexually assaulting a person on the Frank Phillips College property is a violation of college standards of conduct.

## **Retaliation**

All persons are free from retaliation for reporting sexual assault or unwanted sexual aggression against themselves or others.

## **Reporting Sexual Misconduct and Assault**

Any person who has experienced an incident of sexual assault, dating or domestic violence, or stalking should consider reporting the incident to law enforcement and seeking medical assistance. Seeking law enforcement and medical assistance as soon as possible may help preserve any important evidence to be used in a legal investigation. FPC encourages any victim of sexual assault, dating or domestic violence, or stalking to report the incident to college officials. **Employees of Frank Phillips College are required to report sexual misconduct to the President or Vice President of Academic Affairs unless the employee has legal authority of confidentiality.**

Victims of sexual assault should consider the following medical treatments:

- **Get Medical Care as soon as possible after the assault.**
- **Do not shower, douche, or change clothes prior to a medical exam in order to preserve valuable evidence and prohibit contamination of the evidence, which can potentially nullify it as legal evidence at a later time.**
- **If you have changed clothing, place the clothing worn at the time of assault in a plastic bag and take it to the hospital with you.**
- **A specially trained sexual assault nurse examiner (SANE) or other approved medical personnel will usually perform an examination in which the information and documentation of evidence will be collected to be used in a possible prosecution case.**
- **Testing and treatment for possible sexually transmitted diseases may be conducted.**

Victims may notify any local law enforcement authorities and receive assistance from FPC personnel in reporting the incident to an officer of the law. A victim may also file a formal complaint with the Vice President for Academic Affairs. Any instance of sexual harassment or discrimination may also be filed with the Vice President for Academic Affairs or the Title IX Coordinator or campus contacts:

Dr. Shannon Carroll, Vice President for Academic Affairs  
Classroom Learning Complex, Borger Campus  
(806) 457-4200, extension 732  
[scarroll@fpctx.edu](mailto:scarroll@fpctx.edu)

Dr. Jud Hicks, President  
Title IX Coordinator  
Library Building, Borger Campus  
(806) 457-4200, extension 717  
[jhicks@fpctx.edu](mailto:jhicks@fpctx.edu)

Cassie Laxton, Title IX Contact  
Perryton Campus  
(806) 648-1450  
[claxton@fpctx.edu](mailto:claxton@fpctx.edu)

Ilene Walton, Title IX Contact  
Dalhart Campus  
(806) 244-7669  
[iwalton@fpctx.edu](mailto:iwalton@fpctx.edu)

Yvette Hill, Title IX Contact  
Hereford Campus  
(806) 36-3688  
[ydelcarpio@fpctx.edu](mailto:ydelcarpio@fpctx.edu)

Jodie Gandy, Title IX Contact  
Dumas Campus  
(806) 934-9494  
[jgandy@fpctx.edu](mailto:jgandy@fpctx.edu)

A victim may seek immediate assistance at any time by dialing 911 or the police department at the following numbers:

**Borger Police Department:**  
**611 North Weatherly Street**  
**PO Box 5250**  
**Borger, TX 79007**  
**(806) 273-0930**

**Perryton Police Department:**  
**21 SE 2nd Ave**  
**Perryton, TX 79070-2610**  
**(806) 435-4002**

**Dalhart Police Department:**  
**202 Rock Island**  
**Dalhart, TX**  
**(806) 244-5546**

**Hereford Police Department:**  
212 Lee Ave  
Hereford, TX 79045  
(806) 363-7120

**Dumas Police Department:**  
124 E 7<sup>th</sup> Street  
Dumas, Texas  
(806) 935-2151

### **Student Grievances**

The College views certain individual rights as fundamental in its commitment to provide an atmosphere that enhances the opportunities for success of all students. Serious consideration is given in instances where these rights may have been violated. A procedure has been established to address all complaints brought by students *alleging discrimination* on the basis of race, color, creed, sex, age, national origin, religion, or disability.

The steps involved in the Student Grievance Procedure are as follows:

1. The student must file a written complaint with the Vice President for Academic Affairs or his or her designee.
2. The Vice President for Academic Affairs or his or her designee will convene the Student Grievance Committee, which consists of two faculty members, two students who are appointed by the president of the Student Government Association with the approval of the Vice President for Academic Affairs or his or her designee. If any of the committee members are named in the allegation of discrimination, an alternate member will be appointed. The committee will choose a chairperson from its membership, and the chairperson will vote only in the case of a tie. If a student can present reasons why any regular member would be biased, the chairperson may choose an alternate.
3. The student will be notified in writing of the time and place of the formal hearing.
4. The Student Grievance Committee will convene for the formal hearing within 14 business days following the receipt of the written complaint. The student will testify and may present evidence or call witnesses to support the allegations. Neither the student nor the institution is allowed to have an attorney present during the proceeding. No electronic recording or participation is permitted.
5. The committee will make a decision based on a majority vote. The decision will be given in writing to the Vice President for Academic Affairs, who will notify the student.
6. The student has the right to appeal the decision to the Vice President for Academic Affairs by submitting a written request within 72 hours.
7. The Vice President for Academic Affairs will act on the request within 10 days. The Vice President for Academic Affairs may affirm or overrule the decision in its entirety or may affirm or overrule the decision in part. The Vice President for Academic Affairs may elect to have a hearing to receive oral arguments of the parties prior to rendering a decision. The student will be notified of the decision in writing.

## **Student Complaints**

A student may wish to make a complaint without going through an official grievance process. A student complaint form is available in the Office of Educational Services and through directors at Dalhart, Dumas, Hereford, and Perryton.

A student may choose to make the complaint anonymous to the person(s) about whom the complaint is lodged. However, the student will not remain anonymous to the Vice President for Academic Affairs who will handle the complaint on behalf of the student. If a student wishes to remain anonymous to anyone else, he or she will note this desire on the form. However, students must realize that, in order to address a complaint, the Vice President for Academic Affairs may have to convey information that makes the identity of the student clear. Before discussing the complaint with anyone, however, the Vice President for Academic Affairs will speak to the student who has made the complaint.

Because of the possibility of disciplinary action being taken on the alleged violator, the actions taken to resolve the complaint may not be shared with the student, but if a student feels the situation is not resolved, he or she may speak further with the Vice President for Academic Affairs.

## **Personnel Reporting Procedures**

Grievances and Complaints (See also, Board Policy Manual DGBA/LOCAL)

- A. Employees who feel they have been discriminated against or who have been asked to perform an illegal act are encouraged to report such incidents immediately.
- B. All complaints will be taken seriously.
- C. All reasonable effort will be made to protect the employee's right to confidentiality.
- D. No reprisals or retaliation of any kind shall be taken at any level against an employee for bringing a complaint. Complaints shall not be referred to in an employee's personnel file unless so requested by the employee.
- E. Representation. The employee filing a complaint or any employee who is the subject of a complaint may be represented at his/her own expense by a fellow employee, attorney, or other person or organization that does not claim the right to strike. The College may be assisted in processing complaints, as it deems appropriate.
- F. Time Limits. In resolving complaints, time is of the essence. All time limits shall be strictly complied with, unless extended by mutual consent. All references are to calendar days. The complaint shall be considered concluded if the employee does not appeal within the stated time limits.
- G. Informal Presentation. Employees shall be entitled to administrative review conferences as outlined in Level One, Level Two, and Level Three sections below and to an informal presentation of the complaint to the Board as specified in the Level Four section, unless the Board grants a hearing.
- H. Hearing. If an employee alleges in writing specific facts that, if true, would constitute a violation of the employee's common law, statutory, or constitutional rights, the College President or designee shall investigate the allegations. If the employee does not accept the College President's resolution at Level Three and

requests a Board hearing, the College President shall schedule a hearing as specified in the Level Four section below.

- I. Level One. An employee who has a complaint shall meet with his/her immediate supervisor within 15 days of the time the employee first knew or should have known of the event or series of events causing the complaint. At this meeting, the employee shall submit the complaint in writing on a form provided by the College. The immediate supervisor shall respond in writing within seven days of the complaint conference. If the complaint is against the immediate supervisor, the employee shall bring the matter to the attention of the authorized administrator.
- J. Level Two. If the outcome of the complaint conference at Level One is not to the employee's satisfaction, the employee may meet with the authorized administrator or designee to discuss the complaint within 14 calendar days after the Level One conference. At or prior to the conference, the employee shall submit the original complaint, the supervisor's response, and, if desired, written comments regarding the supervisor's response. The authorized administrator or designee shall respond in writing to the employee within seven days of the complaint conference.
- K. Level Three. If the outcome of the complaint conference at Level Two is not to the employee's satisfaction, the employee may meet with the College President or a designee to discuss the complaint within 14 calendar days after the Level Two conference. At or prior to the conference, the employee shall submit the complete written documentation of the complaint and, if desired, written comments regarding the authorized administrator or designee's response. The College President or designee shall respond in writing to the employee within seven days of the complaint conference.
- L. Level Four. If the outcome at Level Three is not to the employee's satisfaction, the employee may submit a written request to place the matter on the agenda of a future Board meeting within 14 calendar days after the Level Three conference. The employee shall also submit the complete written documentation of the complaint. The College President shall inform the employee of the date, time, and place of the meeting. The Board Chair may set reasonable time limits on complaint presentations. The Board shall listen to the complaint, but is not required to respond or take any action on the matter, unless in its sole discretion it determines some response is warranted.
- M. Hearing. Employees who are granted a hearing shall be afforded that hearing either with the Board in a meeting that includes the hearing as an item in the posted agenda or with the Board's designee. If the Board conducts the hearing, it shall make and communicate its decision at any time up to and including the next regularly scheduled Board meeting. If the Board's designee conducts the hearing, he or she shall make a recommendation to the Board at the first regular meeting following the hearing that affords adequate time to prepare a written recommendation. The employee shall be provided a copy of the recommendation before the meeting and shall be given an opportunity at the meeting to respond to the recommendation either orally or in writing. The Board shall then make and communicate its decision at any time up to and including the next regularly scheduled Board meeting.

- N. Executive Session. If the complaint involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee, it will be heard in executive session unless the employee requests it to be public. If the complaint involves complaints or charges about another employee, it will be heard in executive session unless the employee complained about requests it to be heard in public. Employees who fail to abide by the employment policies may be subject to disciplinary procedures.

Non-student and non-personnel citizens who have experienced sexual misconduct, assault, or discrimination may file a complaint with the Vice President of Academic Affairs or the College President.

Dr. Shannon Carroll, Vice President for Academic Affairs  
Classroom Learning Complex, Borger Campus  
(806) 457-4200, extension 732  
[scarroll@fpctx.edu](mailto:scarroll@fpctx.edu)

Dr. Jud Hicks, President  
President's Office, Library Building, Borger Campus  
(806) 457-4200, extension 717  
[jhicks@fpctx.edu](mailto:jhicks@fpctx.edu)

## **Confidentiality**

While it is possible that a victim of sexual assault or harassment might wish to remain anonymous, anonymity may not be guaranteed when the investigation would be impeded by keeping the complainant anonymous. In order to investigate a complaint or a discrimination notification, it may be necessary to divulge information that might clearly indicate the victim. FPC personnel assisting the victim in the complaint process will strive to retain confidentiality but will notify the victim if retaining such confidentiality proves to be impossible in moving forward with the investigation.

As in all other instances, Frank Phillips College strives to respect and protect the privacy of students, employees, and community members. However, if a situation of sexual misconduct requires notification of law enforcement or any kind of disciplinary action, the privacy and identity of the accused and the victim

## **Sanctions**

Students of Frank Phillips College are entitled to certain rights while held to a conduct of behavior that includes responsibilities.

## **Student Rights and Responsibilities**

### ***Rights:***

- Students shall have the right to participate in a free exchange of ideas, speech, expression, petition, and peaceful assembly as set forth in the United States Constitution.
- Students have the right to equal treatment in all aspects of college life regardless of race, color, religion, sex, age, national origin, sexual orientation, or educational disabilities.
- Students have the right to privacy according to the law and the right to give access to

personal information to a third party upon the written and documented request of the student.

- Students have the right to appeal disciplinary action through judicial hearings.
- Students have the right to a quality education through competent instruction, fair assessment, and prompt feedback.
- Students have the right to be free from ridicule, discrimination, and harassment and the right to express concerns regarding violations of these freedoms to the Vice President for Academic Affairs or his/her designee.
- Students have the right to appeal course grades through a fair and timely process.

***Responsibilities:***

- Students have the responsibility of respecting the rights, freedoms, and property of other students, faculty, staff, and administration.
- Students have the responsibility to comply with College policies and local, state, and federal laws.
- Students have the responsibility to abstain from any activities that are disruptive to the learning of other students.

**Student Discipline**

Every student is responsible to the College for his or her actions. In cases where a student's actions violate college policy, the Vice President for Academic Affairs or his or her designee will administer student discipline. Students are subject to such reasonable disciplinary action as considered appropriate. Disciplinary action may include a verbal warning, probation, dismissal from college housing, enforced withdrawal, suspension, or expulsion from the College. When flagrant violations of policy cause major disruption, tension, or danger to the order, safety, or well-being of the institution or other persons, students may be suspended immediately pending formal investigation and hearing to determine final action. Any student who is suspended will forfeit any refunds or deposits. A student who is suspended may not attend classes or use College resources. However, if the disciplinary action is overturned, the student will be allowed to complete all missed assignments with no penalty and will be provided adequate instruction for the missed class days.

If a student is asked to leave the college due to disciplinary action, the student forfeits the right to a refund of the dorm and key deposit. The student has twenty-four hours in which to remove all personal belongings from college property and vacate the premises. In cases in which the students may be a threat to others, he or she will be asked to vacate immediately and will be given assistance in packing and arranging to leave campus. Students who are engaged in an appeal process have the right to remain in residential housing during the appeal, **provided that they do not pose any kind of threat to others**. Students who are removed from residential housing due to discipline may be subject to complete withdrawal from all courses.

The steps involved in the Disciplinary Procedure are as follows:

1. The Vice President for Academic Affairs or his or her designee will advise the student of the charges verbally and/or in writing. Information supporting the charges may be verbal or written and the student will be advised of the information.
2. The student may present information in his or her defense and request witnesses are heard in his or her behalf concerning the charges.



3. The Vice President for Academic Affairs or his or her designee will take appropriate disciplinary action, if required. A disciplinary report will be completed and filed as deemed appropriate.
4. The student has the right to appeal decisions resulting in suspension or expulsion to the Disciplinary Committee. The committee is comprised of the Vice President for Academic Affairs or his or her designate, two to three faculty members, one to two staff members and the president of the Student Senate or his/her designee. The committee members may be changed prior to the hearing if membership on the committee presents a conflict of interest with the involved student(s). The student must file a written request for a hearing within 48 business hours to the Vice President for Academic Affairs or his or her designee.
5. The Vice President for Academic Affairs will review the appeal and determine whether there is sufficient reason for a hearing.
6. If there is sufficient reason, the committee will be convened as soon as administratively possible, but no later than two weeks after receipt of the student's written appeal.
7. The student will be notified by the Vice President for Academic Affairs of the date, location and time set for the hearing.
8. The student must provide the names of any witnesses who will appear on his or her behalf at least 24 hours prior to the hearing. Neither the student nor the institution is allowed to have an attorney present during the proceeding. No electronic recording or participation is permitted.
9. During the hearing, the Vice President for Academic Affairs or his or her designee will present charges and supporting information. The student and the Vice President for Academic Affairs may each call witnesses and cross-examine witnesses.
10. The committee will review the information in closed session and make a final determination of the action to be taken. The decision of the committee will be verbally presented to the student with a written decision available within two weeks of the hearing.

### **Personnel Sanctions**

Employees of the college are also governed by a set of standards to which they are expected to adhere. Among those standards are included the following, which have a direct implication on the behavior related to refraining from inappropriate sexual aggression or harassment:

Texas Community College Teachers Association  
Code of Professional Ethics  
Adopted April 20, 1998  
Frank Phillips College  
Board of Regents

Professional Educators affirm the inherent worth and dignity of all persons and the right of all persons to learn. Learning best occurs in an environment devoted to the pursuit of truth, excellence, and liberty. These flourish where both freedom and responsibility are esteemed. In order to express more adequately the affirmation of our professional responsibilities, we, the members of the Texas Community College Teachers Association, do adopt, and hold ourselves and each other subject to, the following Code of Professional Ethics:

- The Professional Educator shall treat all persons with respect, dignity, and justice, discriminating against no one on any arbitrary basis such as ethnicity, creed, gender, disability, or age.
  - The professional Educator shall strive to help each student realize his or her full potential as a learner and as a human being.
  - The Professional Educator shall by example and action encourage and defend the unfettered pursuit of truth by both colleagues\* and students, supporting the free exchange of ideas, observing the highest standards of academic honesty and integrity, and seeking always an attitude of scholarly objectivity and tolerance of other viewpoints.
  - The Professional Educator shall work to enhance cooperation and collegiality among students, faculty, administrators, and other personnel.
  - The Professional Educator shall recognize and preserve the confidential nature of professional relationships, neither disclosing nor encouraging the disclosure of information or rumor, which might damage or embarrass or violate the privacy of any other person.
  - The Professional Educator shall support the goals and ideals of the college and shall act in public and private affairs in such a manner as to bring credit to the college.
  - The Professional Educator shall not engage in sexual harassment of students or colleagues and shall adhere to the college's policy on sexual conduct.
  - The Professional Educator shall observe the stated policies and procedures of the college, reserving the right to seek revision in a judicious and appropriate manner.
  - The Professional Educator shall support the right of all colleagues to academic freedom and due process and defend and assist a professional colleague accused of wrongdoing, incompetence, or other serious offence so long as the colleague's innocence may reasonably be maintained.
  - The Professional Educator shall not support a colleague whose persistently unethical conduct or professional incompetence has been demonstrated through due process.
  - The Professional Educator shall accept all rights and responsibilities of citizenship, always avoiding use of the privileges of his or her public position for private or partisan advantage.\*
- In this Code the term "colleague" refers to all persons employed by colleges in the educational enterprise.

**The following policies apply to all employees of Frank Phillips College:**

**Termination**

Employees who fail to abide by the Employee Handbook may be subject to disciplinary procedures or dismissal.

**Sexual Harassment (See also, Board Policy Manual DHA-LOCAL)**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other sexual conduct, either verbal or physical, or any conduct or other offensive unequal treatment of an employee, or group of employees that would not occur but for their sex, when:

- (1)The advances, requests, or conduct have the effect of interfering with performance of duties or creating an intimidating, hostile, or otherwise offensive work environment; or
- (2)Submission to such advances, requests, or conduct is explicitly or implicitly a term or condition of an individual's employment or advancement, or

(3) Submission to or rejection of such advances, requests, or conduct is used as a basis for employment decisions.

### **Prohibited Conduct.**

Employees shall not engage in conduct constituting sexual harassment. The District shall investigate all allegations of such harassment and shall take appropriate disciplinary action against employees found to engage in such harassment.

### **Complaint Procedure.**

An employee who believes he/she has been or is being subjected to any form of sexual harassment as defined above shall bring the matter to the attention of the immediate supervisor in accordance with the Grievance Policy. If the complaint is against the immediate supervisor, the employee shall bring the matter to the attention of the authorized administrator.

All complaints will be taken seriously.

All reasonable effort will be made to protect the employee's right to confidentiality.

### **Harassment Prevention Training:**

Section 21.010 of the Texas Labor Code requires employment discrimination prevention training (including sexual harassment training) every two years for state employees and within 30 days for any new hire. The on-line course, called "Preventing Workplace Harassment" is located at <https://elearning.ue.org>. Frank Phillips College employees will view the on-line course within 30 days of employment and again in each odd-numbered year.

### **Non-Student/Non-Personnel Sanctions**

Disciplinary action against a community member who is neither an enrolled student nor an employee of Frank Phillips College will be at the discretion of law enforcement and applicable laws. A community member may be barred from using or participating in an activity conducted on a Frank Phillips College campus and may be subject to criminal trespass.

In all cases of sexual assault that violate any local, state, or federal law, the accused will be reported to local law enforcement, regardless of the accused's connection to Frank Phillips College.

### **What is the Clery Act?**

The Jeanne Clery Disclosure of Campus Policy and Campus Crime Statistics Act is the landmark federal law, originally known as the Campus Security Act, that requires colleges and universities throughout the United States to disclose information about crime on and around their respective campus.

Because the law is directly tied to participation in federal student financial aid programs, it applies to most institutions of higher education, both public and private. The act is enforced by the U.S. Department of Education.

By October 1 of each year, institutions must publish and distribute their Annual Campus Security Report to current and prospective students and employees. Institutions are also allowed to provide notice of the report, a URL if available, and how to obtain a paper copy if desired.

This report is required to provide crime statistics for the prior three years, policy statements regarding various safety and security measures, campus crime prevention program descriptions, and procedures to be followed in the investigation and prosecution of alleged sex offenses.

The "Clery Act" is named in memory of 19 year-old Lehigh University freshman Jeanne Ann Clery, who was raped and murdered on April 5, 1986 while asleep in her residence hall room. Jeanne's parents, Connie and Howard discovered that students hadn't been told about 38 violent crimes on the Lehigh campus in the three years before Jeanne's murder. They joined with other campus crime victims and persuaded Congress to enact this law, which was originally known as the "Crime Awareness and Campus Security Act of 1990."

The law was amended in 1992 to add a requirement that schools afford the victims of campus sexual assault certain basic rights. It was amended again in 1998 to expand the reporting requirements. The 1998 amendments also formally named the law in memory of Jeanne Clery.

The law was most recently amended in 2000 to require schools, beginning in 2003, to notify the campus community of where the public "Megan's Law" information regarding registered sex offenders on campus could be obtained.