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Responsible Office	General Counsel	Effective Date	07/01/2015
Responsible Official	University Title IX and Anti-Discrimination Coordinator	Last Revision	08/20/2024

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## **NON-TITLE IX PROHIBITED DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT POLICY AND PROCEDURES**

### **I. POLICY STATEMENT**

Fairleigh Dickinson University (“FDU” or the “University”) is committed to fostering a living, learning and working environment free of discrimination and harassment. The FDU *Non-Title IX Prohibited Discrimination, Harassment and Related Misconduct Policy and Procedures* (this “Policy”) prohibits all forms of Discrimination and Harassment based on Protected Status (each term as defined below). Further, this Policy sets forth the procedures that the University will follow when such conduct occurs.

### **II. SCOPE OF POLICY**

This Policy excludes violations covered by the University’s [Title IX Sex Discrimination Policy and Grievance Procedures](#) (the “Title IX Sex Discrimination Policy”).

In addition to conduct that is not sex-based, this Policy covers, without limitation, conduct that falls outside the jurisdiction of the Title IX Sex Discrimination Policy but that otherwise constitutes Sex Discrimination, Sex-Based Harassment, Sexual Assault, Sexual Exploitation, Stalking, and Interpersonal Violence on the basis of sex (as such terms are defined in the Title IX Sex Discrimination Policy). This policy also expressly prohibits related conduct, including, but not limited to, Interpersonal Violence, which need not be based on the individual’s Protected Status.

Further, this Policy prohibits Complicity for knowingly assisting in an act that violates this Policy; and also prohibits Retaliation against an individual because of their good faith participation in the reporting, investigation, or adjudication of violations of this Policy.

University students and employees who violate this Policy will be met with appropriate disciplinary action, up to and including dismissal or termination from the University. Third parties who violate this Policy may have their relationship with the University terminated and their access to campus restricted or prohibited.

## **A. Individuals Covered by this Policy**

This Policy applies to the conduct of, and protection of, University faculty, staff, administrators, supervisors, employees, students, volunteers, guests, patrons, independent contractors, or clients and visitors of the University regarding prohibited discrimination, harassment, and related misconduct (as described more fully below, “Prohibited Conduct”) that is not covered under the University’s Title IX Sex Discrimination Policy. This Policy provides for the prompt and equitable resolution of reports of Prohibited Conduct.

When used in this Policy, Complainant refers to any individual who may have been the subject of any Prohibited Conduct by an individual covered under this Policy regardless of whether the Complainant makes a report or seeks action under this Policy. Responding Party refers to any individual who has been accused of violating this Policy.

## **B. Jurisdiction**

This Policy applies to all Prohibited Conduct that occurs on any FDU campus. It also applies to Prohibited Conduct that occurs off-campus, including on-line or electronic conduct, if: the conduct occurred in the context of an employment or education program or activity of the University, or had continuing adverse effects on campus, or had continuing adverse effects in an off-campus employment or education program or activity. Examples of covered off-campus conduct include University-sponsored study abroad, research, or internship programs.

The University Title IX and Anti-Discrimination Coordinator (“Coordinator”) will determine whether the University has jurisdiction over off-campus conduct that is not part of an employment or educational program or activity of the University, considering the facts and circumstances of each report, the nature of the alleged conduct, the risk of harm to any University community member, whether both parties are members of the campus community, and whether the off-campus conduct is part of a series of actions that occurred both on and off campus.

Regardless of where the conduct occurred and with whom, the University will offer resources and assistance to the Complainant. If the Respondent is not a member of the University community or the University does not have jurisdiction over the conduct, the University will also assist the Complainant in identifying and contacting external law enforcement agencies and community resources.

## **C. Incidents Involving Minors**

Individuals who suspect that a minor (under the age of 18) is being harmed or observe a child being harmed should contact law enforcement by dialing 911, in the United States and in British Columbia, or 999 in England. The Coordinator should also be informed if related to conduct under the possible jurisdiction of this Policy or the Title IX Sex Discrimination Policy.

In addition, New Jersey Law requires that any person having reasonable cause to believe that a minor has been subjected to child abuse in the State of New Jersey must immediately make a report to the Division of Youth and Family Services by telephone at (877) NJ ABUSE (877-652-2873).

### III. NOTICES

#### A. Notice of Non-Discrimination Based on Protected Status

Fairleigh Dickinson University is committed to maintaining a fair and respectful environment for living, working, and learning. To that end, and in accordance with federal and state law, the University prohibits any student, employee or third party from harassing and/or discriminating against any other member of the University community because of that person's sex, race, creed, color, religion, handicap/disability, gender, gender expression, gender identity, genetic information, age, marital status, sexual orientation, veteran status, pregnancy status, ancestry, national origin, or other status protected by applicable law (collectively referred to as "Protected Status"). The University's protection of these statuses and response to the other forms of Prohibited Conduct covered by this Policy is grounded in federal and state law, including:

- i. Age Discrimination Act of 1973
- ii. Age Discrimination in Employment Act of 1967
- iii. Americans with Disabilities Act of 1990
- iv. Title VI of the Civil Rights Act of 1964
- v. Title VII of the Civil Rights Act of 1964
- vi. Education Amendments of 1972
- vii. Equal Pay Act of 1963
- viii. Executive Order 11246
- ix. Executive Order 13672
- x. Title II of the Genetic Information Nondiscrimination Act of 2008
- xi. Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act ("Clery Act")
- xii. New Jersey Civil Union Act
- xiii. New Jersey Domestic Partnership Act
- xiv. New Jersey Equal Pay Act
- xv. New Jersey Law Against Discrimination
- xvi. Section 504 of the Rehabilitation Act of 1973
- xvii. Vietnam Era Veterans Readjustment Act
- xviii. Violence Against Women Reauthorization Act of 2013 ("VAWA")

## B. Protected Status Definitions

- i. **Age:** The number of years from the date of a person's birth. With respect to employment, individuals who are forty (40) years of age or older are protected from Discrimination and Harassment (as defined below). There is no age threshold for students or other participants in educational programs or activities.
- ii. **Color:** An individual's skin pigmentation, complexion, shade, or tone.
- iii. **Creed:** A well-formed and thought-out set of beliefs held by more than one individual, which may not necessarily involve belief in a supreme being. Subject to applicable law, the University will accommodate an individual's observance and practices required by their creed, unless it is unable to reasonably accommodate an individual's creed-required observance or practice without undue hardship.
- iv. **Disability:** A person with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such impairment. Subject to applicable law, a qualified person with a disability must be able to perform the essential functions of the employment or volunteer position or the academic athletic or extra-curricular program, with or without reasonable accommodation.
- v. **Gender:** An individual's socially constructed status based on the behavioral, cultural, or psychological traits typically associated with societal attribution of masculinity and femininity, typically related to one's assigned sex at birth.
- vi. **Gender Expression:** How someone expresses gender through appearance, behavior, or mannerisms. A person's gender expression may or may not be the same as the gender identity or assigned sex at birth.
- vii. **Gender Identity:** The gender with which an individual identifies psychologically, regardless of what gender was assigned at birth.
- viii. **Genetic Information:** Information about (i) an individual's genetic tests, (ii) the genetic tests of family members of such individuals, and (iii) the manifestation of a disease or disorder in family members of such individual. Genetic information includes, with respect to any individual, any requests for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.
- ix. **National Origin:** An individual's actual or perceived country or ethnicity of origin.
- x. **Race:** An individual's actual or perceived racial or ethnic ancestry or physical characteristics associated with a person's race, such as a person's skin color, hair, facial features, height, and weight.
- xi. **Religion:** All aspects of religious observance and practice, as well as belief.
- xii. **Sex:** An individual's biological status of male or female, including pregnancy. Conduct of a sexual nature is by definition based on sex as a protected status.
- xiii. **Sexual Orientation:** The inclination or capacity to develop intimate emotional, spiritual, physical, and/or sexual relationships with people of the same sex or gender, a different sex or gender, or irrespective of sex or gender.

- xiv. **Veteran Status:** Covered Veterans include Disabled Veterans, Special Disabled Veterans, Veterans of the Vietnam era, and other protected Veterans as defined by federal and state law.

### **C. Notice of Non-Discrimination Based on Sex or Gender**

The University does not discriminate on the basis of sex or gender. Under the Education Amendments of 1972:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

The University's response to Sex-Based Discrimination, Sexual Assault, Interpersonal Violence (including domestic and dating violence) and Stalking is also governed by the Clery Act and VAWA, and, as applicable, the University's Title IX Sex Discrimination Policy. Such acts violate the essential dignity of our community members and are contrary to our institutional values.

The University is committed to taking all appropriate steps to eliminate these forms of Prohibited Conduct, prevent the recurrence of such acts, and address their effects, both for the Complainant and the University community.

The University recognizes that Sex-Based Discrimination, Sexual Assault, Interpersonal Violence and Stalking encompass a broad spectrum of conduct and will respond according to both the severity of the offense and the threat it poses to the University community.

## **IV. PROHIBITED CONDUCT**

### **A. Discrimination**

This Policy prohibits Discrimination, meaning any unlawful distinction, preference, or detriment to an individual, as compared to others, that is based on an individual's Protected Status and that is sufficiently severe, persistent or pervasive that it unreasonably interferes with or limits:

- i. An employee's or applicant for employment's access to employment or conditions and benefits of employment (e.g., hiring, advancement, assignment);
- ii. A student's or accepted student applicant's ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignment, campus housing);
- iii. An authorized volunteer's ability to participate in a volunteer activity; or

- iv. A guest's or visitor's ability to participate in, access, or benefit from the University's programs.

Discrimination includes failing to provide reasonable accommodations, consistent with state and federal law, to a qualified person with a disability. Students with questions about their Section 504 Academic Adjustments may also use the resources on their campus by contacting a Disability Coordinator on either campus or the Deputy Campus Executive (or equivalent successor position) on the Vancouver Campus.

## **B. Harassment**

This Policy prohibits harassment which is a type of Discrimination that occurs when unwelcome conduct may include verbal abuse, graphic or written statements, physical assault, or other conduct based on an individual's Protected Status that may be threatening, harmful, or humiliating and is not covered in the University's Title IX Sex Discrimination Policy. Conduct may constitute Harassment if:

- i. It interferes with that individual's:
  - a. Educational environment (e.g., admission, academic standing, grades, assignment);
  - b. Work environment (e.g. hiring, advancement, assignment);
  - c. Participation in a University program or activity (e.g., campus housing); or
  - d. Receipt of legitimately requested services (e.g., disability or religious accommodations), thereby creating a hostile work environment or quid pro quo harassment, as defined below; and
- ii. Is so severe, persistent or pervasive that it alters the condition of education, employment or participation in a University program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive (hostile environment harassment); or
- iii. Submission to or rejection of such conduct is made, explicitly or implicitly, a term or condition of, or is used as the basis for decisions affecting the individual's education, employment, or participation in a University program or activity (quid pro quo harassment).

Specific categories of Harassment are as follows:

### **i. Sexual Harassment**

Sexual Harassment may include unwelcome sexual advances, requests for sexual favors and other verbal, physical or electronic conduct of a sexual nature under circumstances that meet the definition of hostile environment or quid pro quo harassment as described above.

## **ii. Sex-Based Harassment**

Sex-Based Harassment may include 1) verbal, physical, or electronic conduct based on sex, gender, sexual orientation, sex characteristics, or sex-stereotyping, even if those acts do not involve conduct of a sexual nature; or 2) harassment for exhibiting what is perceived as stereotypical notions of masculinity and femininity, regardless of the actual or perceived, sex, gender, sexual orientation, gender identity, or gender expression of the individuals involved, under circumstances that meet the definition of hostile environment or quid pro quo harassment as described above.

## **iii. Additional Guidance about Harassment**

Consistent with the definitions provided above, conduct that constitutes Harassment:

- a. May be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect, with a coercive aspect that is unstated but implied;
- b. May or may not include intent to harm;
- c. May not always be directed at a specific target;
- d. May be committed by anyone, regardless of Protected Status, position or authority. While there may be a power differential between the Complainant and the Respondent, perhaps due to a difference in age or education, employment or social status, harassment can occur in any context;
- e. May be committed by a stranger, an acquaintance, or someone with whom the Complainant has a current or previous relationship, including a romantic or sexual relationship;
- f. May be committed by or against an individual or by or against an organization or group;
- g. May occur in the classroom, in the workplace, in residential settings, or in any other setting;
- h. May be a pattern of behavior or, if sufficiently severe, a one-time event;
- i. May be committed in the presence of others, when the Complainant and Respondent are alone, or through remote communications, including email, text messages, or social media;
- j. May take the form of threats, assault, property damage, economic abuse, and violence or threat of violence; or
- k. May include harassing or retaliatory behavior directed to a sexual or romantic partner, family member, friend, or pet of the Complainant.

## **C. Sexual Assault**

Sexual Assault includes sexual contact or sexual intercourse without Consent, by Force or Coercion, or by taking advantage of the Incapacitation of another person.

Sexual Contact includes any intentional sexual touching of or contact with the breasts, buttocks, groin, or another intimate part of the body; touching another with any of these body parts; or making another person touch any of these body parts.

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

#### **i. Consent**

Consent is the communication of an affirmative, conscious and freely made decision by each participant to engage in agreed upon forms of sexual activity. Consent requires an outward demonstration, through understandable words or actions that convey a clear willingness to engage in a specific form of sexual activity. Consent to sexual activity on one occasion is not Consent to engage in sexual activity on another occasion. A person who has given Consent to engage in sexual activity may withdraw Consent, through understandable words or actions that clearly convey a party is no longer willing to engage in sexual activity, at any time. Once Consent is withdrawn, the sexual activity must cease immediately.

Consent is not to be inferred from silence, passivity, or a lack of resistance. Relying on nonverbal communication alone may result in a violation of this Policy. For example, a person who does not physically resist or verbally refuse sexual activity may not necessarily be giving Consent. There is no requirement that an individual verbally or physically resist unwelcome sexual activity for there to be a violation of this Policy.

Consent is not to be inferred from an existing or previous dating or sexual relationship. Even in the context of a relationship, there must be mutual Consent to engage in sexual activity. Consent to one form of sexual activity does not constitute Consent to any other form of sexual activity, nor does Consent to sexual activity with one person constitute Consent to sexual activity with any other person.

Consent cannot be obtained by Coercion or Force or by taking advantage of the Incapacitation of another person. Coercion or Force and Incapacitation are described in more detail below.

#### **ii. Coercion or Force**

Coercion or Force includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual activity. Examples of Coercion or Force include conditioning an academic benefit or employment advantage on submission to the sexual activity; threatening to harm oneself if the other party does not engage in sexual activity; or



threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personal sensitive information if the other party does not engage in the sexual activity.

### **iii. Incapacitation:**

An individual who is incapacitated is unable to give Consent to sexual activity. States of Incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual activity is occurring.

Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to sexual activity. Alcohol or drug use is one of the prime causes of Incapacitation. Where alcohol or drug use is involved, Incapacitation is a state beyond intoxication, impairment in judgment, or "drunkenness". Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is Incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- a. Making decisions about the potential consequences of sexual activity;
- b. Appraising the nature of one's own conduct;
- c. Communicating Consent to sexual activity; or
- d. Communicating unwillingness to engage in sexual activity.

In evaluating Incapacitation, FDU will consider whether the Respondent knew that the Complainant was incapacitated based on articulable and objective facts and circumstances, and if not, whether a sober, reasonable person in the same position and under the same circumstances would have known that the Complainant was Incapacitated.

### **iv. Additional Guidance about the Impact of Alcohol or Other Drugs on Consent**

Where an individual's level of impairment does not rise to Incapacitation, FDU will still consider the impact of intoxication on Consent. In evaluating whether Consent was sought or given, the following factors may be relevant:

- a. Intoxication may impact one's ability to give Consent and may lead to Incapacitation (the inability to give Consent);
- b. A person's level of intoxication is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness or emotional volatility;
- c. An individual's level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism.

No matter the level of an individual's intoxication, if that individual has not affirmatively agreed to engage in sexual activity, there is no Consent. Anyone engaging in sexual activity must be aware of both their own and the other person's level of intoxication and capacity to give Consent. The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether Consent is effectively sought and freely given. If there is any doubt as to the level or extent of one's own or the other individual's intoxication or Incapacitation, the safest course of action is to forgo or cease any sexual activity. A Respondent's intoxication is never an excuse for or a defense to committing prohibited conduct and it does not diminish one's responsibility to obtain Consent.

#### **D. Sexual Exploitation**

Sexual Exploitation involves purposefully taking advantage of another person's sexuality without consent, or extending the bounds of consensual sexual contact without the knowledge and consent of the other individual.

Examples of Sexual Exploitation include, but are not limited to:

- i. Providing alcohol or other drugs to another person for the purpose of inducing incapacitation or compromising that person's ability to consent to sexual contact;
- ii. Observing another person's nudity or sexual contact, or allowing another to observe the same, without the knowledge and consent of all parties involved;
- iii. Non-consensual online posting or streaming of images, photography, video, or audio recording of sexual contact or nudity, or distribution of such without the knowledge and consent of all parties involved;
- iv. Prostituting another person;
- v. Knowingly exposing another person to a sexually transmitted infection, without the person's knowledge; and
- vi. Knowingly failing to use contraception without the other person's knowledge.

#### **E. Interpersonal Violence**

Interpersonal Violence (commonly referred to as intimate partner violence, dating violence, domestic violence and relationship violence) includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship.

Interpersonal Violence includes "dating violence" and "domestic violence" as defined by VAWA. Consistent with VAWA, the University will evaluate the existence of an intimate relationship based upon the Complainant's statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Interpersonal Violence includes Physical Assault, Sexual Assault, Stalking or any form of Prohibited Conduct under this Policy. Physical Assault includes threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical Assault will be addressed under the Policy if it is committed on the basis of a Protected Status, involves Interpersonal Violence, or is part of a course of conduct that comprises Stalking.

## **F. Stalking**

Stalking occurs when a person engages in a course of conduct directed at another person under circumstances that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress.

Course of conduct means two or more acts, including but not limited to acts in which the person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property. Substantial emotional distress means significant mental suffering or anguish which may, but does not necessarily require medical or other professional treatment or counseling.

Stalking includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

## **G. Complicity**

Complicity includes any act taken with the purpose to aid, facilitate, promote, or encourage the commission of Prohibited Conduct by another person.

## **H. Retaliation**

Retaliation includes acts or words taken against a person because of that person's good faith participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including:

- i. Participation in the reporting, investigation, or resolution of an alleged violation of this Policy;
- ii. Opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy; or
- iii. Requests for accommodations on the basis of religion or disability.

Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated.

Retaliation may be committed by the Respondent, the Complainant, or any other individual or group of individuals.

## **V. CONSENSUAL RELATIONSHIPS IN REGARD TO PROHIBITED CONDUCT**

When one party has a professional relationship with another, or stands in a position of authority over another, even an apparently consensual relationship may lead to concerns about sexual harassment or other breaches of professional obligations.

The University prohibits all faculty and staff, including graduate assistants, from pursuing or engaging in dating or sexual relationships with students whom they are currently supervising, teaching, mentoring, coaching or evaluating in any way.

The University also prohibits all staff from pursuing or engaging in dating or sexual relationships with other staff that they are currently supervising.

Anyone involved in or who commences a dating or sexual relationship with someone over whom they have supervisory power (employment or academic) must immediately disclose the existence of the relationship to their immediate supervisor and the Coordinator. The Coordinator shall then inform the Vice President for Human Resources..

Anyone involved in or who commences a dating or sexual relationship with someone over whom they have supervisory power (employment or academic) cannot participate in any decisions that affect the compensation, evaluation, employment conditions, instruction, and/or the academic status of the subordinate involved. The Vice President for Human Resources shall create an alternate mechanism for such decisions. If it is not feasible to create such an alternate mechanism, one or both of the employees may be reassigned. These measures are without limitation of other sanctions that may be imposed for violation of this Policy.

These restrictions are in addition to those contained in the University's [\*Policy on Conflicts of Interest And Nepotism\*](#).

## **VI. PRIVACY AND CONFIDENTIALITY**

For any report under this Policy, every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Privacy and confidentiality have distinct meanings under this Policy.

## **A. Privacy**

Privacy generally means that information related to a report under this Policy will only be shared with those University employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. If the decision is made to pursue disciplinary action or interim measures against a Respondent, information related to the report will be shared with the Respondent. Information regarding a report will not be shared with either party’s parents or guardians unless the party is a minor (and sharing is permissible under the Family Education Rights and Privacy Act (FERPA)); the party has signed a waiver that is compliant with FERPA; or, in accordance with FERPA, the University has determined that the disclosure is necessary to protect the health or safety of the party or other individuals.

## **B. Confidentiality**

Confidentiality means that information shared with designated campus or community professionals will only be disclosed with the individual’s express written permission, unless there is a legal obligation to reveal such information (e.g. where there is suspected abuse or neglect of a minor) or where applicable professional standards otherwise permit disclosure (e.g., where there is a serious and imminent threat of harm to an individual). An individual can seek confidential assistance and support by speaking with specially designated confidential resources (Listed in Appendix I: Campus and Community Resources).

## **C. Release of Information**

If a report of Prohibited Conduct meets the definition of a Clery crime and meets certain geographical requirements, the University is required to include the report in the Daily Crime Log and Annual Security Report. Reports captured in the Daily Crime Log and Annual Security Report do not include personally identifying information.

The University may also share aggregate and not personally identifiable data about the reports, outcomes, and sanctions.

All University proceedings are conducted in accordance with the requirements of Human Resources, Student Affairs, the Clery Act, VAWA, FERPA, state and local law, and University policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or University policy.

## **VII. ACADEMIC FREEDOM AND INTEGRITY**

The University is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service and research. However, these

freedoms come with a responsibility that all members of the educational community benefit from these freedoms without intimidation. In recognition and support of academic freedom for faculty in the pursuit of teaching, academic freedom and freedom of expression shall be considered in investigating and reviewing complaints and reports of discrimination and/or harassment. However, raising issues of academic freedom and freedom of expression will not excuse behavior that constitutes a violation of the law or this Policy.

## **VIII. RECORDKEEPING**

The Vice President of Human Resources and their designee will maintain records of all reports involving employees or other non-student individuals under this Policy and their outcomes in order to track patterns and systemic behaviors and assure compliance with Human Resources policy and related federal laws.

The University Associate Dean of Students and Director of Student Rights and Responsibilities/Deputy Title IX Coordinator will maintain records of all reports involving only students under this policy and their outcomes in order to track patterns and systemic behaviors and assure compliance with Student Affairs policy and related federal laws.

## **IX. EDUCATION AND PREVENTION PROGRAMS**

The University is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the University's policy and procedures; relevant definitions, including Prohibited Conduct, discussions of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction.

Incoming first year students, faculty, and staff will receive primary prevention and awareness programming as part of their orientations. Returning students and employees will also have ongoing opportunities for training and education.

As part of the University's commitment to provide an educational and work environment free from Prohibited Conduct, this Policy will be disseminated widely to the University community through email communication, websites, new employee training, and other appropriate channels of communication.

## PROCEDURES

FDU has adopted procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals. These procedures address all forms of Prohibited Conduct as defined in this Policy.

### X. REPORTING

#### A. Filing a Complaint

Anyone who has experienced Prohibited Conduct is urged to immediately seek help. Help includes seeking medical assistance, seeking confidential counseling or crisis response, filing a report with law enforcement, and making a report to FDU. FDU's Department of Public Safety will help any individual on the New Jersey campuses get to a safe place, provide transportation to the hospital, contact another law enforcement agency, and offer information about the University's resources and processes. On the Vancouver campus, this help is available from the Student Services Department and on the Wroxtton campus, it is available by contacting any member of the College Administrative Authority.

All violations of this policy, regardless of type, who was involved, or where the violation occurred, may be reported directly to the Coordinator in person, by mail, by telephone, or by email. Violations reported through other university reporting options as described below will be delivered to the Coordinator. The Coordinator is supported by an interdepartmental team, which may include a member of Public Safety and administrators from Student Affairs or Human Resources, as appropriate. The Coordinator, in consultation with members of this interdepartmental team, is responsible for assessing the alleged conduct and ensuring that the proper department is given the authority to investigate and take further action as appropriate.

Anyone may contact the Coordinator at:

Steve Nelson, AVP, Administrative Operations and  
University Title IX and Anti-Discrimination Coordinator  
1000 River Road, H-DH-311, Teaneck, NJ 07666  
201-692-2466  
snelson@fdu.edu

This use of a central integrated and coordinated approach will allow the University to respond promptly and equitably to eliminate the conduct, prevent its recurrence, and address its effects. Centralized reporting and recordkeeping will also ensure consistent processes and allow the University to track patterns and monitor climate and culture.

The Coordinator can help any University community member understand the Policy and options for resolving concerns raised under this Policy in academic or work settings at the

University. The Coordinator will seek to protect and safeguard the privacy of all individuals involved in a manner consistent with the need for a careful assessment of and response to the report.

## **B. Employee Reporting Responsibilities**

For the purposes of reporting responsibilities under this Policy, there are two classes of University employees:

- i. Confidential Employees
  - a. An employee of FDU whose communications are privileged or confidential under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which the privilege or confidentiality applies. Examples of these employees include members of the clergy and mental health counselors when acting in the capacity of an individual's counselor; and
  - b. An employee of FDU whom FDU has designated as exempt from internal reporting for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services. An example of this type of employee is a nurse who works for the Office of Health Wellness when acting in the capacity of a nurse in that setting.
- ii. Non-Confidential Employees
  - a. All employees of FDU who do not qualify as Confidential employees.
  - b. This category includes all student workers when working in the capacity of an employee of FDU, including but not limited to Resident Assistants, Graduate Assistants, Teaching Assistants and Administrative personnel.

If conduct that may reasonably constitute Prohibited Conduct is disclosed to any non-confidential employee, or confidential employee when acting outside the scope of their confidential status, of FDU, that employee must report the conduct to the Coordinator by any of the following methods: phone, email, or in-person.

## **C. Reporting Options**

There are many options for reporting Prohibited Conduct. A Complainant may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive.

Complainants may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue University disciplinary action and a criminal investigation). The University will support Complainants in understanding and assessing these options.



i. Law Enforcement

Although Complainants have the right to notify or decline to notify law enforcement, the University encourages Complainants to promptly report Prohibited Conduct to law enforcement. Complainants can report Prohibited Conduct to local law enforcement by contacting:

- a. 911 (for United States & British Columbia emergencies)
- b. 999 (For England emergencies)
- c. FDU Department of Public Safety – New Jersey Campuses 24 Hours a day, 7 days a week
  1. Florham Campus: 973-443-8888
  2. Metropolitan Campus: 201-692-2222

Police have unique legal authority, including the power to request and execute search warrants, collect forensic evidence, make arrests, and assist in seeking civil protection orders. The University will assist Complainants in notifying law enforcement if they choose to do so.

ii. Reporting to the University

The University encourages prompt reporting and has designated multiple contact points across campuses that are accessible to all University community members.

Making a report to the University means telling a designated Reporting Option what happened, in person, by telephone, in writing, by e-mail, electronically, or anonymously. The University encourages a reporting party to make a report directly to one of these designated Reporting Options.

Designated Reporting Options are as follows:

- a. Any **student vs. student** report of Prohibited Conduct:

Metropolitan Campus:  
Dr. Juhi Bhatt  
University Associate Dean of Students and Director of Student Rights and Responsibilities/Deputy Title IX Coordinator  
[bhattj@fdu.edu](mailto:bhattj@fdu.edu)  
201-692-2190

Florham Campus:  
Frank Fabiano  
Assistant Director of Student Rights & Responsibilities  
[f.fabiano@fdu.edu](mailto:f.fabiano@fdu.edu)  
973-443-8010

Vancouver Campus:  
Jobin Mojtabavi  
Director of Student Services  
[jobin@fdu.edu](mailto:jobin@fdu.edu)  
604-648-4465

- b. Any individual may make a report of Prohibited Conduct involving the above student vs. student conduct and all other community members, including all members of the Wroxtton campus, to:

Steve Nelson, AVP, Administrative Operations and  
University Title IX and Anti-Discrimination Coordinator  
1000 River Road, H-DH-311, Teaneck, NJ 07666  
201-692-2466  
[snelson@fdu.edu](mailto:snelson@fdu.edu)

In turn, these Reporting Options will immediately refer the report to the Coordinator to assure consistent application of this Policy. Similarly, when an individual chooses to share information with a non-confidential University employee, the report will be shared with the Coordinator.

Typically, reports will be first directed to the University Director of Public Safety to ensure the University's prompt response to all reports under this Policy. This is not counted as a report to law enforcement, but may trigger Clery obligations. Reports are directed to Public Safety as this Office provides 24-hour support to the entire University community and can immediately provide information about supports, resources, policy and procedures. The University Director of Public Safety works closely with the Coordinator, and the Vice President of Human Resources or campus Reporting Option, as appropriate.

The University recognizes that deciding whether to make a report and choosing how to proceed are personal decisions. At the time a report is made, a Complainant does not have to decide whether to request any particular course of action. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The University will make every effort to respect an individual's autonomy in making the determination as to how to proceed. Resources are always available to support a Complainant regardless of the course of action chosen. All individuals are encouraged to make a report, regardless of when or where the incident occurred, and to seek any necessary help from campus or community resources.

### iii. Anonymous Reporting

Any individual may make an anonymous report concerning an act of Prohibited Conduct. A report can be made without disclosing one's own name, identifying the Responding Party, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact the University's ability to respond or take further action.

Anonymous reports for the Metropolitan and Florham campuses can be made online at: [Metropolitan Campus](#), [Florham Campus](#).

Anonymous reports can also be made through the United States Postal Service mail, or by utilizing any reputable overnight courier, without providing identifying information. Mail should be sent to the Coordinator at the address listed above.

As with all other reports, all anonymous reports of Prohibited Conduct will go to the Coordinator for review in consultation with the appropriate Response team members for possible action. Where there is sufficient information, the University will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

## **D. Time Frame for Reporting**

There is no time limit on reporting violations of this Policy, although the University's ability to respond may diminish over time. If the Complainant is not affiliated with the University (e.g., the report is made after a student has left or graduated, an employee no longer works for the University, or the report involves a third party), the University will still provide reasonably available supportive measures, assist the Complainant in identifying external reporting options, and take other appropriate action, which may include barring an individual from campus.

## **E. Amnesty**

The University encourages the reporting of violations of this Policy by persons who believe they have been victimized by the violation. The University recognizes that students may be hesitant to report incidents to University offices because they fear facing repercussions of policy violations such as underage drinking at the time of the incident. In the interest of the larger University community, and to promote reporting incidents to the University, the University will consider offering amnesty to persons who report being victims of severe conduct offenses from policy violations related to that incident. The determination of amnesty will be made on a case-by-case basis depending on the individual circumstances.

## **XI. INITIAL ASSESSMENT**

Upon receipt of a report, the Coordinator, in consultation with the appropriate Response Team members, will conduct an Initial Assessment of the following: the Complainant's immediate and

ongoing safety and well-being; the incident or conduct at issue; any risk of harm to the parties, any other individuals, or the broader campus community; the existence of severe, persistent or pervasive conduct, including evidence of a pattern, use of a weapon or other predatory conduct; and the necessity for any Supportive Measures or accommodations.

The first step of the Initial Assessment will usually be a preliminary meeting between the Complainant and the Coordinator or a member of the Response Team. The Coordinator or member of the Response Team will offer appropriate resources to support the Complainant; inform the Complainant of the importance of seeking medical treatment and emotional support; explain the importance of obtaining and preserving forensic and other evidence; inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order; inform the Complainant about University and community resources, the right to seek appropriate and available supportive measures, and how to request those resources and measures; explain the University's prohibition against Retaliation; and inform the Complainant of the right to file a formal complaint to initiate an investigation and/or disciplinary action.

In the course of the Initial Assessment, the Coordinator and Response Team will consider the interest of the Complainant and the Complainant's expressed preference for manner of resolution, which may include Informal Resolution or the initiation of an investigation to determine if disciplinary action is warranted. The Coordinator, in consultation with the Response Team members, will also determine whether the alleged conduct presents a potential violation of this Policy, or another University Policy, and whether further action is warranted based on the alleged conduct and the Complainant's requested course of action.

At the conclusion of the Initial Assessment, the Complainant will receive a written notice of the determination and how to proceed. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. A Respondent will be notified when the University seeks action that would impact a Respondent, such as Supportive Measures that restrict the Respondent's movement on campus, the initiation of an investigation, or the decision to request the Respondent's involvement in informal resolution.

At any time during the process, after the conclusion of the Initial Assessment, the Coordinator may make a determination that a claim/allegation does not contain any elements that would constitute a violation of this Policy. In order to make such a determination, the Coordinator must view all evidence and all factual inferences reasonably drawn from the evidence. In such event, the Coordinator shall communicate that determination to the Investigator, the Complainant and, if applicable, the Respondent within five (5) business days of making such determination. Such determination shall not preclude a subsequent investigation and possible adjudication of violation of the Employee Handbook or Student Code of Conduct, as appropriate.

## **XII. SUPPORTIVE MEASURES**

Supportive Measures are non-disciplinary, non-punitive individualized services that may be provided to Complainants or Respondents upon request, when deemed by the Coordinator to be appropriate and reasonably available. Supportive Measures may also be imposed at the initiative and in the sole discretion of the Coordinator. Supportive Measures are available beginning at any time after reporting prohibited conduct under this Policy.

Supportive Measures are designed to restore or preserve equal access to FDU's education program or activity or provide support during formal procedures being conducted under this Policy or during the informal resolution process, without unreasonably burdening the other party. Supportive Measures may be of any duration and may be modified at the discretion of the Coordinator, as circumstances warrant. Supportive Measures will be kept confidential to the extent that doing so does not impair FDU's ability to provide them.

Supportive Measures may include, but are not limited to, the following:

- i. Access to counseling services;
- ii. Course-related adjustments;
- iii. Modification of work or class schedules;
- iv. Restrictions on contact (i.e., Disengagement notice/"no contact" orders)
- v. Changes in work or housing location;
- vi. Leaves of absence;
- vii. Increased security and monitoring of certain areas; or
- viii. Any other measures deemed appropriate by the Coordinator to preserve equal access to FDU's program or activities.

A student or employee's failure to abide by the terms of any Supportive Measure may result in discipline and, depending on the circumstances, could be deemed to constitute Retaliation.

## **XIII. BALANCING AGENCY AND AUTONOMY WITH CAMPUS SAFETY OBLIGATIONS**

Where the Complainant requests that their identity not be shared with the Respondent or that the University not pursue an investigation, the University must balance this request with the University's responsibility to provide a safe and non-discriminatory environment for all University community members. The University, through the Coordinator and Response Team, will take all reasonable steps to evaluate and respond to the complaint consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited by the request. Under these circumstances, the Complainant's request will be balanced against the following factors:

- i. The seriousness of the conduct;
- ii. The respective ages and roles of the Complainant and Respondent;
- iii. Whether there have been other complaints or reports of discrimination, harassment or violence under this Policy involving either the Respondent or the Complainant;
- iv. Whether the circumstances suggest there is a risk of the Respondent committing additional acts of Prohibited Conduct;
- v. Whether the Respondent has a history of arrests or records indicating a history of violence;
- vi. Whether the report indicates the Respondent threatened further sexual violence or other violence against the Complainant and other individuals involved;
- vii. Whether the reported conduct was committed by multiple individuals;
- viii. Whether the circumstances suggest there is a risk of future acts of Prohibited Conduct under similar circumstances;
- ix. Whether the reported conduct was perpetrated with a weapon;
- x. Whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and,
- xi. The Respondent's right to receive information if such information is maintained in an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 C.F.R. Part 99.

Where the University is unable to take action consistent with the request of the Complainant, the Coordinator or a member of the Response Team will inform the Complainant about the chosen course of action, which may include the University seeking disciplinary action against a Respondent. Alternatively, the course of action may also include steps to eliminate the effects of the harassment and prevent its recurrence that do not involve formal disciplinary action against a Respondent or reveal the identity of the Complainant.

#### **XIV. SUPPORT PERSON AND ADVISOR**

##### **A. Support Person**

The Complainant and Respondent may be assisted by a support person of their choice. The support person cannot be a witness in the investigation. The support person may accompany the Complainant and Respondent to any meeting or related proceeding with the Investigating Officer or a University employee. The support person is a silent and non-participating presence who is there solely to observe and provide emotional support during the investigative and resolution process.

With the exception of a support person participating in the initial report, any individual who wishes to serve as a support person will be required to meet with the Coordinator or designee; such meeting shall be in advance of participating in the meetings and procedures under this Policy. The Coordinator or designee has the right at all times to determine what constitutes

appropriate behavior on the part of a support person. No copies of written materials or any other evidence will be given to a support person, although the parties may share such information with the support person as necessary to assist them in the proceedings.

## **B. Advisor**

In addition, with respect to reports of Sexual Assault, Interpersonal Violence or Stalking only, during any investigation and resolution of a report under this Policy, the Complainant and Respondent have the right to be assisted by an advisor of their choice. The advisor cannot be a witness in the investigation. The advisor may accompany the Complainant and Respondent to any meeting or related proceeding with the Investigating Officer or a University employee. The advisor may be an attorney. The advisor is a silent and non-participating presence who is there to provide advice and guidance to the Complainant and Respondent but may not directly address the official conducting the meeting.

To serve as an advisor, the individual will be required to meet with the Coordinator or designee in advance of participating in a meeting to understand the expectations of the role, privacy, and appropriate decorum. The Coordinator or designee has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. No copies of written materials or any other evidence will be given to an advisor, although the parties may share such information with an advisor as necessary to assist them in the proceedings.

## **XV. INFORMAL RESOLUTION**

Informal Resolution is a voluntary and alternative approach designed to eliminate a hostile environment without taking disciplinary action against a Respondent. Where the Initial Assessment concludes that Informal Resolution may be appropriate, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational, extracurricular and employment activities at the University and to eliminate a hostile environment. Examples of potential remedies are provided in the section on Supportive Measures. Other remedies may include targeted or broad-based educational programming or training, supported direct confrontation of the Respondent and/or indirect action by the Coordinator or designee, or the University. Depending on the form of Informal Resolution used, it may be possible for a Complainant to maintain anonymity.

The decision to pursue Informal Resolution will be made when the Coordinator and Response Team has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation is voluntary, and a Complainant or Respondent can request to end Informal Resolution at any time prior to a final written resolution. Pursuing Informal Resolution does not preclude later use of Formal Resolution if the Informal Resolution fails to achieve a resolution acceptable to the parties and the University. The University may refer a report for Formal

Resolution at any time and retains the discretion to determine the type of Informal Resolution that may be appropriate in a specific case.

The University will offer mediation for appropriate cases but will not compel a Complainant to engage in mediation, to directly confront the Respondent, or to participate in any particular form of Informal Resolution. The University will not offer mediation to resolve a complaint when such a process would conflict with Federal, State, or local law, or which includes allegations of sex-based harassment of an elementary or secondary school student.

The Coordinator will maintain records of all reports and conduct referred for Informal Resolution, which will typically be completed within thirty (30) business days of the conclusion of the Initial Assessment.

## **XVI. INVESTIGATION AND FORMAL RESOLUTION**

Where the Initial Assessment concludes that disciplinary action may be appropriate, based on the request of the Complainant or the Coordinator's and Response Team's determination that an investigation should be pursued based on the potential risk of harm or threat to public safety, the Coordinator or designee will initiate an investigation.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns consistent with this Policy and its section on Privacy and Confidentiality.

### **A. Investigating Officer**

The Coordinator or designee is authorized to designate appropriately trained individuals to receive reports and investigate allegations of Prohibited Conduct ("Investigating Officer"). The Investigating Officer may be a University employee or an external professional engaged to assist the University in conducting a reliable, thorough and impartial investigation. Any Investigating Officer chosen to conduct the investigation must be impartial and free of any actual conflict of interest. The Investigating Officer may work alone or appoint a "designee" to assist in conducting the investigation.

### **B. Notice of Investigation**

The Coordinator or designee will notify the Complainant and Respondent in writing, of the commencement of an investigation. Such notice will (1) identify the parties by name; (2) specify the date, time (if known), location, and nature of the alleged Prohibited Conduct; (3) identify the potential Policy violation(s); (4) identify the Investigating Officer; (5) include information about the parties' respective rights and responsibilities under the Policy; (6) explain the prohibition against Retaliation; (7) instruct the parties to preserve any potentially



relevant evidence in any format; (8) inform the parties how to challenge participation by the Investigating Officer on the basis of actual bias or conflict of interest; and (9) provide a copy of this Policy.

### **C. Investigative Steps**

The Investigating Officer will conduct the investigation in an appropriate manner in light of the circumstances of the case. The Investigating Officer will interview the Complainant and the Respondent to understand the details of the report. The Investigating Officer, in their discretion, will conduct other fact finding and/or discussions with any other individuals who may have information relevant to the determination. All investigative interviews will be documented and maintained by the University for inclusion in the investigation report. The Investigating Officer will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate.

The Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot participate solely to speak about an individual's character.

The Coordinator or designee may consolidate multiple reports against a Respondent into one investigation if the evidence related to each incident would be relevant in reaching a determination on the other incident.

### **D. Prior Sexual History**

The sexual history of the Complainant or Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a Policy violation and will only be considered in very limited circumstances. For example, if the existence of Consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether Consent was sought and given during the incident in question. However, even in the context of a relationship, Consent to one sexual act does not, by itself, constitute Consent to another sexual act, and Consent on one occasion does not, by itself, constitute Consent on a subsequent occasion. In addition, under very limited circumstances, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the complaint.

While the Investigating Officer may explore areas of inquiry relevant to questions of Consent, the Adjudicator has the discretion to make the final determination whether evidence of prior sexual history is relevant to the determination of responsibility.

## **E. Coordination with Law Enforcement**

The Investigating Officer will contact any law enforcement agency that is conducting its own investigation to inform that agency that a University investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation. At the request of law enforcement, the Investigating Officer may delay the University investigation temporarily while an external law enforcement agency is gathering evidence. The Investigating Officer will promptly resume the University investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation. In the event that the evidence-gathering stage of a criminal investigation becomes unreasonably long, the University may decide to move forward to facilitate a prompt campus resolution.

## **F. Review of Investigation Report**

At the conclusion of the investigation, the Investigating Officer will prepare a preliminary written Investigation Report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the Investigating Officer will review and include all facts and evidence gathered during the investigation. The Adjudicator will make the determination of relevance and permissibility for all facts and evidence. The Investigating Officer may redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

Before the investigative report is finalized, the Complainant and Respondent will be given the opportunity to review all information that will be submitted to the Coordinator or designee in the final Investigation Report. The Complainant and Respondent may submit any additional comment or evidence to the Investigating Officer within five (5) business days of being provided the opportunity to review the report.

Upon receipt of any additional information by the Complainant and Respondent, or after the five (5) business day comment period has lapsed without comment, the Investigating Officer will submit a final Investigation Report to the Coordinator or designee. The Investigating Officer will not make any credibility assessments, findings of fact, or determination of whether this Policy has been violated. The final Investigation Report will include all investigation materials that will be used by the Coordinator or designee to determine whether a violation has occurred.

## **G. Referral of Report to Appropriate Office for Review and Adjudication**

### **i. Adjudicator**

If the report involves potential Prohibited Conduct by a student, the Coordinator will refer the Investigation Report to the appropriate Student Affairs administrator to serve as the Adjudicator.

If the report involves potential Prohibited Conduct by an employee, the appropriate Human Resources administrator will be the Adjudicator.

The Coordinator or appropriate official, where appropriate, may, in their discretion, determine that, in the interest of fairness to the parties and the process, an external professional will serve as the Adjudicator. Any external adjudicator will have appropriate training and experience adjudicating reports of Prohibited Conduct.

ii. Initial Review by the Adjudicator

The Adjudicator may request that additional investigative steps be taken. The Adjudicator will review the report and make a determination whether there has been a violation of this Policy, based on a preponderance of the evidence standard. In order to make such determination, the Adjudicator must view all evidence and all factual inferences reasonably drawn from the evidence.

iii. Formal Resolution Meeting

The Adjudicator will meet with the Respondent at a formal resolution meeting to share the determination of responsibility (outcome) and rationale for the outcome. If there is a finding of responsibility, the Adjudicator will also discuss sanctions with the Respondent, and impose any appropriate sanction (as outlined below). The Adjudicator will offer the same Formal Resolution meeting to the Complainant separately.

iv. Notice of Outcome

The Complainant and Respondent will simultaneously receive written notice of the outcome within ten (10) business days following the formal resolution meeting. The notice of outcome will include the finding as to whether there is a Policy violation and any applicable sanction(s). The notice of outcome will also provide the parties with their appeal options.

## **H. Time Frames**

Typically, the period from commencement of an investigation through formal resolution (finding and sanction, if any) will not exceed sixty (60) business days, as more specifically outlined below. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons.

## **XVII. SANCTIONS**

Where there is a finding of responsibility, the Adjudicator may impose one or more sanctions. Sanctions for students may include any of the sanctions that are available for violations of the University's Student Code of Conduct, including:

Administrative reassignment of housing	Campus restriction
Campus Standard probation	Co-curricular restriction
Community restitution	Community service
Counseling assessment/support	Disciplinary Reprimand
Disengagement notice/no-contact order	Educational sanctions *
Fines	Housing dismissal
Housing probation	Housing suspension
Social restriction	University dismissal
University suspension	* exercises, class, assignments / essay

Sanctions for employees may include any of the sanctions that are available for violations of the University's Employee Handbook and Faculty Handbook, including a letter of reprimand being placed in their personnel file, additional training, written letter of apology, suspension (paid or unpaid), dismissal, work schedule modifications, voluntary leave of absence, restrictions on campus activities, and termination from the University. Termination from employment may involve compliance with other applicable University processes. Sanctions for faculty covered by the Faculty Handbook will be reviewed with the University Provost and/or the University President.

When determining sanctions, the Adjudicator will consider the following:

- i. The nature and severity of the Prohibited Conduct
- ii. The impact of the Prohibited Conduct on the Complainant ;
- iii. The impact or implications of the Prohibited Conduct within the University community;
- iv. Whether the Respondent has accepted responsibility for the Prohibited Conduct;
- v. The maintenance of a safe and respectful environment conducive to learning; and
- vi. Any other mitigating, aggravating, or compelling factors.

## **XVIII. APPEALS**

Either party may appeal the outcome of an Adjudication. The limited grounds for appeal are:

- i. A substantive or procedural error that substantially affected the outcome;
- ii. Any evidence that could substantially affect the outcome and that was not reasonably available through the exercise of due diligence at the time of the investigation; or
- iii. The Coordinator, Investigator, or Adjudicator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would substantially affect the outcome.

Dissatisfaction with the outcome of the investigation is not grounds for appeal.

A Complainant or Respondent must submit a written appeal within five (5) business days of receipt of the Notice of Outcome to the Coordinator. The written appeal must include the specific basis for the appeal and any information or argument in support of the appeal.

Upon receipt of the appeal, the Coordinator will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted within five (5) business days from receipt of the appeal.

The Coordinator will refer the appeal, and any response to an Appeals Officer, who will decide the appeal in an impartial manner. For students, the Appeals Officer shall be the Vice President of Student Affairs and Dean of Students or appropriate designee. For employees, the Appeals Officer will be The Vice President of Human Resources, or other senior officer, appointed at the discretion of the University President.

The Appeals Officer, in their sole discretion, may make a determination based on the written record or may request to speak with the Investigating Officer, the Adjudicator, the Complainant or the Respondent. Appeals are not intended to be full rehearing of the report (de novo). The Appeals Officer may not substitute their judgment for that of the Adjudicator merely because they disagree with the finding and/or sanctions. The Appeals Officer can: 1) affirm the findings, or 2) alter the findings only where there is clear error based on the stated appeal grounds.

The Appeals Officer shall communicate a written decision, which shall be deemed final and binding, to the Complainant, the Respondent and the Coordinator.

The Appeals Officer will typically conclude the appeal within fifteen (15) business days of the receipt of the appeal documents.

## **APPENDIX I:**

### **CAMPUS AND COMMUNITY RESOURCES**

#### **A. EMERGENCY RESOURCES:**

Anyone who has experienced Prohibited Conduct is urged to immediately seek help. Help includes seeking medical assistance, seeking confidential counseling or crisis response, filing a report with law enforcement, and making a report to the University. Fairleigh Dickinson University's Department of Public Safety will help any individual on the New Jersey campuses get to a safe place, provide transportation to the hospital, contact law enforcement, and offer information about the University's resources and processes.

##### **i. Holy Name Medical Center – Emergency Department**

Offers 24-hour emergency and confidential medical care, including sexual assault forensic examinations, pregnancy testing, screening and treatment of sexually transmitted infections, and emergency contraceptives.

- a. Address: 718 Teaneck Road, Teaneck, NJ 07666
- b. Phone: 201-833-3210

##### **ii. Morristown Medical Center - Emergency Room**

Offers 24-hour emergency and confidential medical care, including sexual assault forensic examinations, pregnancy testing, screening and treatment of sexually transmitted infections, and emergency contraceptives.

- a. Address: 100 Madison Ave., Morristown, NJ 07960
- b. Phone: 973-971-5000

##### **iii. Emergency Law Enforcement:**

New Jersey	911 (from anywhere)
Vancouver	911 (from anywhere)
Wroxton	999 (from within England or Scotland) or 112 (from most European countries)

##### **iv. FDU Department of Public Safety – New Jersey Campuses**

**24 Hours a day, 7 days a week**

Florham Campus	973-443-8800
Metropolitan Campus	201-692-2222

## **B. CONFIDENTIAL RESOURCES:**

Consistent with the definition of Confidential Resources and licensed community professionals, there are a number of resources within the University and Florham Park and Teaneck communities where students and employees can obtain confidential, trauma-informed counseling and support. These resources include:

### **i. NJ State**

- a. New Jersey Coalition Against Sexual Assault (NJCASA)
  - I. 24-hour hotline: 800-601-7200
- b. New Jersey Parent Link
  - I. 24-hour Family Health Line: 800-328-3838
  - II. Website: <https://www.nj.gov/njparentlink/>

### **ii. Florham Campus Confidential Resources**

- a. Office of Health Wellness: pregnancy testing, wellness exams, STI testing, treatment or referral, and HIV/AIDS testing referrals for students.
  - I. Hours:
    - i. Monday: 10:30am – 5:30pm
    - ii. Tuesday: 9:30am – 4:30pm
    - iii. Wednesday: 9:30am – 4:30pm
    - iv. Thursday: 11:30am – 6:30pm
    - v. Friday: 9:30am – 4:30pm
  - II. Phone: 973-443-8535
- b. Office of Mental and Emotional Wellbeing: offers students free and confidential counseling by licensed mental health professionals (by appointment).
  - I. Hours:
    - i. Monday: 10:30am – 5:30pm
    - ii. Tuesday: 9:30am – 4:30pm
    - iii. Wednesday: 9:30am – 4:30pm
    - iv. Thursday: 11:30am – 6:30pm
    - v. Friday: 9:30am – 4:30pm
  - II. Phone: 973-443-8504
- c. Uwill: provides students with access to confidential telemental health at no cost and 24/7 crisis management. A profile must be completed prior to any services being rendered.
  - I. Website: <https://app.uwill.com/>

### iii. Morris County Confidential Resources

- a. Morristown Medical Center - Emergency Room: Offers 24-hour emergency and confidential medical care, including sexual assault forensic examinations, pregnancy testing, screening and treatment of sexually transmitted infections, and emergency contraceptives.
  - I. Address: 100 Madison Ave., Morristown, NJ 07960
  - II. Phone: 973-971-5000
- b. Morris CARES at Morristown Medical Center: offers confidential support and crisis counseling for survivors of sexual assault:
  - I. Address: 100 Madison Ave., Morristown, NJ 07960
  - II. 24-Hour Sexual Assault Program Hotline: 973-829-0587
- c. JBWS: located in Morriston, JBWS offers support and resources for survivors of domestic violence, confidential counseling, emergency shelter, safe house, transitional living, children’s services, education and training, and legal assistance.
  - I. 24-Hour helpline: 877-782-2873
  - II. Website: <https://jbws.org/>
- d. First Choice Women’s Resource Centers: offers assistance with pregnancy questions, abortion options and STD testing.
  - I. Address: 82 Speedwell Ave., Morristown, NJ 07960
  - II. Phone: 973-538-1426
  - III. Website: <https://1stchoice.org/>

### iv. Metropolitan Campus Confidential Resources

- a. Office of Health Wellness: pregnancy testing, wellness exams, STI testing, treatment or referral, and HIV/AIDS testing referrals for students.
  - I. Hours:
    - i. Monday: 9:30am – 4:30pm
    - ii. Tuesday: 10:30am – 5:30pm
    - iii. Wednesday: 11:30am – 6:30pm
    - iv. Thursday: 9:30am – 4:30pm
    - v. Friday: 9:30am – 4:30pm
  - II. Phone: 201-692-2437



- b. Office of Mental and Emotional Wellbeing: offers students free and confidential counseling by licensed mental health professionals (by appointment).
  - I. Hours:
    - i. Monday: 9:30am – 4:30pm
    - ii. Tuesday: 10:30am – 5:30pm
    - iii. Wednesday: 11:30am – 6:30pm
    - iv. Thursday: 9:30am – 4:30pm
    - v. Friday: 9:30am – 4:30pm
  - II. Phone: 201-692-2174
  
- c. Campus Ministries: offers spiritual wellness and counseling (by appointment).
  - I. Address: Interfaith Chapel, 842 River Road, Teaneck, NJ 07666
  - II. Phone: 201-692-2406
  - III. Email: omj@fdu.edu
  
- d. Uwill: provides students with access to confidential telemental health at no cost and 24/7 crisis management. A profile must be completed prior to any services being rendered.
  - I. Website: <https://app.uwill.com/>

**v. Bergen County Confidential Resources**

- a. Holy Name Medical Center – Emergency Department: Offers 24-hour emergency and confidential medical care, including sexual assault forensic examinations, pregnancy testing, screening and treatment of sexually transmitted infections, and emergency contraceptives.
  - I. Address: 718 Teaneck Road, Teaneck, NJ 07666
  - II. Phone: 201-833-3210
  
- b. healingSPACE YWCA Northern New Jersey Sexual Violence Resource Center: Offers support for survivors of sexual assault, their families and friends. A 24-hour crisis intervention hotline provides free and confidential assistance, and trained advocates provide counseling and medical and legal accompaniments to survivors. HealingSPACE also offers support groups, volunteer training, and educational programs for schools and businesses, as well as sponsors activities to raise awareness about sexual violence.
  - I. Address: 214 State Street, Suite 207, Hackensack, NJ 07601
  - II. 24-hour hotline: 201-487-2227
  - III. Email: [healingspace@ywcannj.org](mailto:healingspace@ywcannj.org)

- c. Center for Hope and Safety: offers assistance to victims, and their families, of domestic violence and offers a 24-hour crisis hotline, and emergency shelter program, transitional housing, and other resources.
  - I. Address: 12 Overlook Ave., Rochelle Park, NJ 07662
  - II. 24-hour hotline: 201-944-9600
  - III. Email: safeline@hopeandsafetynj.org
  
- d. Lighthouse Pregnancy Resource Center: offers assistance with pregnancy questions, abortion options and STD testing.
  - I. Address: 809 Main St., Hackensack, NJ 07601
  - II. Phone: 973-238-9045
  - III. Website: <https://lighthouseprc.org/>

**vi. Vancouver Confidential Resources**

- a. Student Counseling Services: Offers free confidential individual and group counseling and outreach activities by licensed mental health professionals for students.
  - I. Address: Cambie Campus, room 237
  - II. Hours: 10 am to 2 pm Monday through Thursday
  - III. Phone: 604-648-4497
  - IV. Email: fduvcounseling@fdu.edu
  
- b. VictimLink BC: Victim service workers can provide information and referrals to all victims of crime and crisis support to victims. A toll-free, confidential, multilingual telephone service available across BC and Yukon 24 hours a day, 7 days a week.
  - a. Phone: 800-563-0808
  - b. Website: <http://www.victimlinkbc.ca/>
  
- c. Crisis Line:
  - I. Greater Vancouver 24 hr (604) 872-3311
  - II. 1-800 SUICIDE (784-2433)
  
- d. Immediate Counseling Service: Offers counseling services for post-secondary students in BC
  - I. Here2Talk (available on phone, app, and web)
    - a. <https://here2talk.ca/home>

**vii. Employee Resources:**

Employees who are enrolled in the University's United Healthcare medical plan, and are in need of assistance related to being a victim of sexual violence, domestic violence, and dating violence have resources available to them as follows:

United Behavioral Health:	877-481-9032 or 800-582-8220
Employee Assistance Plan Care 24:	888-887-4114 (US employees)
Health Advocate:	866-695-8622
Employee Assistance Plan:	877-207-8833 (Canadian employees)