

**FAIRLEIGH DICKINSON UNIVERSITY**  
**TITLE IX SEXUAL HARASSMENT 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. FDU is subject to Title IX of the Educational Amendments of 1972 (“Title IX”), 20 U.S.C. §§1681, *et seq.*, which states that “[n]o 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.” FDU does not discriminate on the basis of sex and will not tolerate sexual misconduct in any form, including as defined by Title IX.

**II. SCOPE OF POLICY**

FDU’s Title IX Sexual Harassment Policy and Procedures (“Policy”) applies to all FDU community members, including students, faculty, staff and third parties, such as volunteers, contractors and visitors. Alleged misconduct subject to this Policy (“Prohibited Conduct”) is Title IX Sexual Harassment (which is defined by law).

**III. TITLE IX AND THE TITLE IX COORDINATOR**

The following individuals are responsible for coordinating FDU’s efforts to comply with Title IX and this Policy:

University Title IX Coordinator  
Rose D’Ambrosio  
Vice President of Human Resources  
dambrosi@fdu.edu  
(201) 692-2706  
Dickinson Hall, Mail Code: H-DH3-05  
1000 River Road  
Teaneck, NJ 07666

(Where applicable, responsibilities of the Title IX Coordinator under this Policy may be performed by a Deputy Title IX Coordinator:)

Vidal Lopez  
Deputy Title IX Coordinator

Associate Dean of Students  
Florham Campus  
lopezv@fdu.edu  
(973) 443-8574  
Mail Code: M-SCO-03  
285 Madison Avenue  
Madison, NJ 07940

Juhi Bhatt  
Deputy Title IX Coordinator  
Associate Dean of Students  
Metropolitan Campus  
bhattj@fdu.edu  
(201) 692-2187  
Mail Code: T-DS1-01  
1000 River Road  
Teaneck, NJ 07666

Please contact any of the above individuals with questions regarding Title IX or this Policy. Questions may also be directed to:

Assistant Secretary for Civil Rights  
U.S. Department of Education  
Office for Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Telephone: 800-421-3481  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

#### **IV. DEFINITIONS**

(a) Definitions. Terms used in this Policy have the following meanings:

**Advisor:** An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent, subject to the provisions of Section X(C).

**Appeal Officer:** The individual responsible for determining an appeal under Section XII. The Appeal Officer may be FDU's employee or an external contractor. The Appeal Officer shall not be the University's Title IX Coordinator or the Investigator or Hearing Officer who were assigned to the matter that is the subject of the Appeal.

**Complainant:** An individual who is alleged to be the victim of Prohibited Conduct.

**Consent:** A knowing, voluntary and mutual decision among participants to engage in sexual activity, as discussed further in Section VI.

**Formal Complaint:** A document submitted by a Complainant and bearing the Complainant's physical or digital signature, or otherwise indicating that the Complainant is the one filing the Formal Complaint, requesting that FDU investigate the allegations of Prohibited Conduct. The Title IX Coordinator also may sign a Formal Complaint, as discussed in Section X, but does not become the Complainant by doing so. In order to file a Formal Complaint, a Complainant must be participating in or attempting to participate in FDU's education program or activity at the time a Formal Complaint is filed.

**Hearing Officer:** The individual responsible for conducting the Hearing under Section XI(D), reaching a decision on responsibility and assigning sanctions, if appropriate. The Hearing Officer may be FDU's employee or an external contractor. The Hearing Officer shall not be the University's Title IX Coordinator or the Investigator who investigated the matter that is the subject of the Hearing.

**Informal Resolution Facilitator:** The individual responsible for facilitating Informal Resolution, as discussed in Section X(D). The Informal Resolution Facilitator may be FDU's employee or an external contractor.

**Investigator:** The individual responsible for conducting the investigation of alleged Prohibited Conduct, as discussed in Section XI(A). The Investigator may be FDU's employee or an external contractor. The Title IX Coordinator may serve as the Investigator.

**Party or Parties:** Party refers to a Complainant or a Respondent. Parties refers to Complainant and Respondent collectively.

**Prohibited Conduct:** Prohibited Conduct means Title IX Sexual Harassment.

**Respondent:** An individual who has been reported to have engaged in any form of Prohibited Conduct.

**Title IX Sexual Harassment:** (a) Definition. Title IX Sexual Harassment means conduct on the basis of sex that involves an employee of FDU conditioning the provision of an aid, benefit, or service of FDU on an individual's participation in unwelcome sexual conduct; or an individual engaging in unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to FDU's education program or activity. Title IX Sexual Harassment also includes the following:

- **Title IX Sexual Assault:** Sexual assault includes any of the following Prohibited Conduct:
  - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the alleged victim.

- The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the alleged victim.
  - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - Non-forcible sexual intercourse with a person who is under the statutory age of consent.
- **Title IX Dating Violence:** Violence, including sexual or physical abuse or the threat of such abuse, committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
  - **Title IX Domestic Violence:** Violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or has cohabitated with the alleged victim as a spouse or intimate partner, by a person similarly situated to a spouse of the alleged victim under the domestic or family violence laws of New Jersey, or by any other person against an adult or youth alleged victim who is protected from that person's acts under the domestic or family violence laws of New Jersey.
  - **Title IX Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition, (a) course of conduct means two or more acts, including, but not limited to, acts in which the alleged stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; (b) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; and (c) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(b) Jurisdiction. In order to constitute Title IX Sexual Harassment, the alleged misconduct must have occurred (i) in the United States, and (ii) in FDU's education program or activity, which is defined as locations, events or circumstances over which FDU exercised substantial control over both Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by the University.

## V. RETALIATION

Retaliation against an individual for participating in any way in a report, investigation, hearing or other proceeding under this Policy is strictly prohibited. No one may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Allegations of Retaliation will be handled under this Policy. In evaluating whether retaliation has occurred, FDU may consider whether the conduct in question constituted the exercise of rights protected under applicable law or was covered by another FDU policy, including with respect to freedom of expression or academic freedom.

## **VI. 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.

*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.

*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:

- Making decisions about the potential consequences of sexual activity;
- Appraising the nature of one’s own conduct;
- Communicating Consent to sexual activity; or
- 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.

*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:

- Intoxication may impact one’s ability to give Consent and may lead to Incapacitation (the inability to give Consent).
- 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.
- 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.

## **VII. REPORTING**

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.

Any person may report conduct constituting possible Prohibited Conduct to the Title IX Coordinator in person, by mail, by telephone, or by email. The Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures (*see* Section IX) and to explain the process for filing a Formal Complaint.

Complainants are encouraged, but not required, to proceed with a Formal Complaint. If the Complainant desires to proceed with a Formal Complaint, the Title IX Coordinator or designee will begin the Formal Complaint Processes (*see* Section XI). If the Complainant decides not to submit a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint when the Title IX Coordinator deems doing so necessary to address the possible Prohibited Conduct, including in order to provide a safe and nondiscriminatory environment for all members of FDU's community. In deciding whether to sign a Complaint if the Complainant elects not to do so, the Title IX Coordinator may, but is not required to, consider factors such as whether the conduct alleged included threats, violence, serial predation, or weapons. A Complainant is not required to submit a Formal Complaint in order to receive Supportive Measures.

In addition, although reporting parties have the right to notify or decline to notify law enforcement, FDU encourages reporting parties to promptly report Prohibited Conduct to law enforcement. Reporting parties can report Prohibited Conduct to local law enforcement by contacting:

- 911 (for emergencies)
- FDU Department of Public Safety – New Jersey Campuses 24 Hours a day, 7 days a week  
Florham Campus (973) 443-8888 Metropolitan Campus (201) 692-2222

Police have unique legal authority, including the power to issue search warrants, collect forensic evidence, make arrests, and assist in seeking civil protection orders. FDU will assist reporting parties in notifying law enforcement if they choose to do so.

### **A. Anonymous Reporting**

With the exception of Authorized and Responsible Employees, discussed in Section VII(B), any individual may anonymously report allegations of Prohibited Conduct to the Title IX Coordinator in person, by mail, by telephone, or by email. Depending on the information provided, FDU's ability to take action in response to an anonymous report may be limited.

## **B. Reports to Authorized and Responsible Employees**

There may be instances when a student or employee discloses alleged Prohibited Conduct to an employee of FDU. Whether that disclosure constitutes actual notice to FDU, triggering its response obligations under this Policy, depends on the role of the employee to whom the disclosure is made, as follows:

- **Authorized Employees:** A disclosure or report of Prohibited Conduct made to an Authorized Employee (regardless of whether the disclosure is made by the Complainant or a third party) constitutes a report to FDU (*i.e.*, actual knowledge), triggering a response under this Policy. All Authorized Employees are required to promptly report disclosures of Prohibited Conduct to the Title IX Coordinator, including all information that has been disclosed to the Authorized Employee, such as the names of those involved, the location of the incident, the alleged Prohibited Conduct, etc. The following individuals are Authorized Employees:
  - Title IX Coordinator
  - President of the University
  - University Provost and Senior Vice President for Academic Affairs
  - Senior Vice President for Finance and Administration
  - Senior Vice President for University Operations
  - Vice President for Enrollment, Planning, and Effectiveness
  - Vice President for Information, Resources & Technology, Chief Information Officer
  - Vice President for Facilities & Auxiliary Services
  - General Counsel
  - Vice President for Student Affairs and Dean of Students
  - Senior Vice President for University Advancement
  - Dean or Director (of either Maxwell Becton College of Arts and Sciences; Peter Sammartino School of Education; School of Pharmacy and Health Sciences; Silberman College of Business; International School of Hospitality, Sports, and Tourism Management; School of Psychology and Counseling; Gildart Haase School of Computer Sciences and Engineering; Henry P. Becton School of Nursing and Allied Health; or School of Public and Global Affairs)
  
- **Responsible Employees:** A disclosure or report of Prohibited Conduct made to a Responsible Employee (regardless of whether the disclosure is made by the Complainant or a third party) does not constitute a report to FDU (*i.e.*, is not “actual knowledge”) triggering a response under this Policy. FDU, as a matter of policy, requires Responsible Employees to promptly report disclosures of Prohibited Conduct to the Title IX Coordinator, including all information that has been disclosed to the Responsible Employee, such as the

names of those involved, the location of the incident, the alleged Prohibited Conduct, etc.

FDU has determined that all employees (who are not Confidential Resources), including student workers, staff, faculty, OPEIU members, graduate assistants, etc., are “Responsible Employees” under Title IX and are therefore obligated to report any incidents or alleged incidents of Prohibited Conduct to the Title IX Coordinator. In addition, all Authorized Employees (other than the Title IX Coordinator) are required to report any such incidents or alleged incidents to the Title IX Coordinator.

Confidential Resources are designated professionals who have the ability to have legally privileged conversations under New Jersey state law. These generally include medical professionals, mental health professionals, rape crisis counselors and clergy (in the context of a confidential communication). Confidential Resources will not share information about an individual (including whether that individual has received services) without the individual’s express written permission, unless there is a continuing threat of serious violence to the patient/client or to others or there is a legal obligation to reveal such information (e.g. suspected abuse or neglect of a minor).

All students and other members of the FDU community, even if not Authorized or Responsible Employees, are encouraged to report instances of possible Prohibited Conduct to the Title IX Coordinator.

### **C. Privacy and Confidentiality**

FDU respects the privacy of individuals involved in any report of alleged Prohibited Conduct, meaning the Title IX Coordinator and others responsible for carrying out this Policy will disclose information only as required to implement this Policy or by law. If a Complainant requests that a report of Prohibited Conduct remain confidential (*i.e.*, with the Complainant’s identity not being disclosed to the Respondent and an investigation not being commenced), the Title IX Coordinator will evaluate that request in the context of FDU’s responsibility to provide a safe and nondiscriminatory environment for all members of its community. FDU may question an employee-Respondent about alleged Prohibited Conduct without disclosing the identity of the Complainant, provided that it does not take disciplinary action against that Respondent without implementing the Formal Complaint Processes in Section X.

The Complainant is not required to file a Formal Complaint to receive Supportive Measures (*see* Section IX), but there may be instances when disclosing the Complainant’s identity is necessary to provide certain Supportive Measures (*e.g.*, where the Respondent would need to know the identity of the Complainant in order to comply with a no-contact order). FDU will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair its ability to provide the Supportive Measures.

Only certain professionals at FDU are legally required to keep information shared by an

individual truly confidential, without reporting it to the Title IX Coordinator. Those confidential resources and support services are discussed further in Section XV.

**D. False Reports and Other False Information**

The submission of knowingly false information is prohibited and will be addressed under FDU's Code of Conduct for students and employment policies for faculty and staff. This provision does not apply to reports made and other information submitted in good faith, even if the facts alleged are not substantiated by an investigation and/or Hearing decision.

**E. Amnesty**

FDU seeks to remove any barriers to reporting. FDU will generally offer any student, whether the Complainant or a witness, who reports Prohibited Conduct amnesty or limited immunity from being charged for policy violations related to the personal ingestion of alcohol or other drugs, provided that any such violations did not and do not place the health and safety of any person at risk. The University may choose, however, to pursue educational or therapeutic remedies for those individuals.

**VIII. EMERGENCY REMOVALS**

If at any point following the receipt of a report of Prohibited Conduct, FDU determines that the Respondent poses an immediate threat to the physical health or safety of the Complainant or any other person(s), including the Respondent, FDU may temporarily remove the Respondent from any or all of its programs or activities. The imposition of an Emergency Removal does not suggest a finding of responsibility for any Prohibited Conduct.

Before imposing an Emergency Removal, appropriate FDU resources will undertake an individualized safety and risk analysis concerning Respondent at the request of the Title IX Coordinator. An Emergency Removal will be imposed only if FDU concludes that the threat to physical health or safety arises from the allegations of Prohibited Conduct and warrants the removal.

An Emergency Removal may involve the denial of access to some or all of FDU's campus facilities, academic program, or other programs or activities. While FDU may provide alternative academic or employment opportunities during an Emergency Removal, it is not required to do so. Non-punitive actions taken as Supportive Measures (*e.g.*, changes in housing) do not constitute Emergency Removals.

The Title IX Coordinator will notify Respondent of the terms imposed in connection with an Emergency Removal. Respondent has the opportunity to challenge the Emergency Removal upon receipt of that notice. In order to challenge the Emergency Removal, Respondent shall submit an appeal via email to the Dean of Students for students and the Senior Vice President for Finance and Administration for employees, within three calendar days from the date of the notice of Emergency Removal, explaining why Emergency Removal is not appropriate. In evaluating the appeal, the Dean of Students or Senior Vice President for Finance and

Administration, as appropriate, may seek additional information from Respondent or any other individual. The Emergency Removal will remain in place while the appeal is pending. The Dean of Students or Senior Vice President for Finance and Administration shall issue a decision as soon as possible under the circumstances. The decision is final and not subject to further appeal.

Separate from the Emergency Removal process, the Title IX Coordinator may request that the Senior Vice President for Finance and Administration place an employee-Respondent on an administrative leave, with or without pay.

## **IX. 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 Title IX Coordinator to be appropriate and reasonably available. Supportive Measures may also be imposed at the initiative and in the sole discretion of the Title IX Coordinator. Supportive Measures are available beginning at any time after the submission of a report of Prohibited Conduct.

A Complainant may seek and be provided Supportive Measures prior to or without ever filing a Formal Complaint.

Supportive Measures are designed to restore or preserve equal access to FDU's educational programs and activities, without unreasonably burdening the other party. Supportive Measures may be of any duration and may be modified at the discretion of the Title IX Coordinator, as circumstances warrant. Supportive Measures will be kept confidential to the extent doing so does not impair FDU's ability to provide them.

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

- Access to counseling services;
- Extensions of deadlines or other course-related adjustments;
- Modification of work or class schedules;
- Mutual restrictions on contact between the Parties (*i.e.*, "no contact" orders);
- Changes in work or housing locations;
- Leaves of absence;
- Increased security and monitoring of certain areas; or
- Any other measures deemed appropriate by the Title IX Coordinator to preserve equal access to FDU's programs and 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.

## **X. FORMAL COMPLAINT PROCESSES**

In order to commence Formal Complaint Processes, a Complainant must file a Formal Complaint with the Title IX Coordinator. Alternatively, if the Title IX Coordinator has received a report of Prohibited Conduct, but the Complainant elects not to submit a Formal Complaint or the Complainant is unknown, the Title IX Coordinator has the discretion to sign the Complaint if the Title IX Coordinator deems doing so necessary to address Prohibited Conduct, including in order to provide a safe and nondiscriminatory environment for all members of its community. In doing so, the Title IX Coordinator does not become the Complainant.

There is no time limit within which a Complainant must file a Formal Complaint. However, at the time a Formal Complaint is filed, the Complainant must be participating or attempting to participate in FDU's programs or activities.

Pursuing a Formal Complaint does not preclude a Complainant from pursuing the filing of criminal charges. However, it is important to understand that the standard for criminal prosecution is different from that used in student and employee conduct proceedings. As a result, decisions rendered in either forum are not determinative of what will happen in the other.

If the Title IX Coordinator receives Formal Complaints against more than one Respondent or by more than one Complainant against one or more Respondents, or by one Party against the other Party (i.e., "counterclaims"), where the allegations of sexual harassment arise out of the same facts or circumstances and are so intertwined that the allegations directly relate to all of the Parties, the Title IX Coordinator has the discretion to consolidate the Formal Complaints. If Formal Complaints are consolidated, all Parties must receive the same version of the written determination.

#### **A. Written Notice**

Upon the submission of a Formal Complaint, the Title IX Coordinator will provide written notice to the Complaint and Respondent, if known, including the following:

- A copy of this Policy.
- Notice of the allegations of conduct that may constitute Prohibited Conduct, with sufficient detail for the Respondent to prepare a response before any initial interview, including, if known, the identities of the Parties involved and the date and location of the incident.
- The presumption that the Respondent is not responsible for the alleged Prohibited Conduct unless a determination of responsibility is reached at the conclusion of the Formal Resolution Process.
- Notice of the Parties' entitlement to an Advisor of choice at any meeting, interview or other proceeding related to the Formal Complaint, as discussed in Section X(C).
- The identity of the Investigator as described in Section XI(A).
- Notice that the Parties may inspect and review evidence gathered during the investigation as discussed in Section XI(B).
- Notice that FDU's policies prohibit knowingly making false statements or knowingly submitting false information in connection with or during the Formal Complaint

Processes or Formal Resolution Process.

If additional allegations of conduct that might constitute Prohibited Conduct are identified during the course of the investigation and will be included in the Formal Complaint Processes, the Title IX Coordinator will issue an updated notice.

**B. Dismissal for Purposes of Title IX Sexual Harassment**

If any of the following circumstances are met, the Title IX Coordinator will dismiss the Formal Complaint for purposes of any form of Title IX Sexual Harassment:

- Even if proved, the misconduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined in Section IV;
- The misconduct alleged in the Formal Complaint did not occur in FDU's education program or activity, which is defined as locations, events or circumstances over which FDU exercised substantial control over both Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by FDU; or
- The misconduct alleged in the Formal Complaint is not alleged to have occurred in the United States.

Further, if any of the following circumstances are met, the Title IX Coordinator may dismiss the Formal Complaint for purposes of any form of Title IX Sexual Harassment, in the Title IX Coordinator's sole discretion:

- Complainant notifies the Title IX Coordinator in writing that Complainant wishes to withdraw the Formal Complaint or any allegation in it;
- Respondent is no longer enrolled or employed at FDU; or
- Specific circumstances prevent FDU from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegation.

The Title IX Coordinator will promptly send notice of the dismissal, including the reasons for dismissal, to the Complainant and Respondent via email. The notice will advise the Parties whether the Formal Complaint will proceed as possible under separate FDU policies. Both the Complainant and Respondent may appeal any decision to dismiss the Formal Complaint for purposes of Title IX Sexual Misconduct by submitting a request for appeal to the Title IX Coordinator by email within three calendar days of the date of the Title IX Coordinator's email. The appeal will be determined using the procedures set forth in Section XII.

The decision whether the matter will proceed as a potential violation of other FDU policies, including the Policy on Prohibited Discrimination, Harassment and Related Misconduct, is not subject to appeal.

**C. Advisors**

The Parties are entitled to identify an Advisor of their choice, who may accompany them to all investigative interviews, Hearings, and other meetings or proceedings held in connection with a Formal Complaint (“Formal Complaint Process Proceedings”). An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent. The Parties are responsible for identifying their own Advisor, if they wish to have one. FDU will maintain a list of employees who have agreed to serve as Advisors at no cost to Complainants or Respondents, whom the Complainant or Respondent may, but are not required to, contact to determine whether they are available for that purpose. In its discretion, FDU may choose to expand the list of Advisors to include persons who are external to the University.

As discussed in Section XI(D)(5), the Parties must have an Advisor for purposes of conducting cross-examination at a Hearing. If a Party has not identified an Advisor to accompany them to the Hearing for purposes of conducting cross-examination, FDU will provide one for that limited purpose.

Except when conducting cross-examination as discussed in Section XI(D), Advisors may not speak aloud during any Formal Complaint Process Proceedings, including by addressing anyone other than the individual for whom they are an Advisor. The Advisor may confer with the individual whom they are advising quietly or by means of written notes. Parties may request a brief recess to consult with their Advisor, which may be granted at the sole discretion of the FDU representative conducting the Formal Complaint Process Proceeding. An Advisor whose presence is deemed at that individual’s sole discretion to be improperly disruptive or inconsistent with Rules of Decorum established by FDU, as discussed in Section XI(D)(7), will be required to leave and may be prohibited from participating in future Formal Complaint Process Proceedings.

While FDU may consider short delays in scheduling to reasonably accommodate an Advisor’s availability, whether to grant such a request is in the sole discretion of the FDU representative responsible for the event in question.

#### **D. Informal Resolution**

Informal Resolution presents the opportunity for the Complainant and Respondent to resolve allegations of Prohibited Conduct without an investigation or hearing. Participation in Informal Resolution in lieu of the Formal Resolution Process is purely voluntary. Informal Resolution is available only when a Formal Complaint has been filed and the Parties agree to its use in writing. Informal Resolution may be used only with the approval of the Title IX Coordinator, who may deem its use inappropriate based on the specific allegations involved or other factors. Informal Resolution is not available to resolve a student-Complainant’s allegations that an employee has engaged in Title IX Sexual Harassment. Prior to initiating Informal Resolution, the Title IX Coordinator will provide the Parties with written notice disclosing the allegations, the requirements of the process, the right to withdraw from Informal Resolution to pursue formal resolution, and any consequences of participation (*e.g.*, as it relates to any subsequent formal resolution if Informal Resolution is not achieved).

Informal Resolution can be commenced at any point prior to the conclusion of a Hearing under the Formal Resolution Process. It is conducted by an Informal Resolution Facilitator appointed

by the Title IX Coordinator. The Complaint, Respondent, Title IX Coordinator or Facilitator may terminate Informal Resolution at any time prior to its completion. If Informal Resolution is terminated, the Formal Resolution Process will promptly commence or resume, as appropriate.

Informal Resolution may take many forms as agreed to between the Complainant, Respondent and Title IX Coordinator, including, but not limited to:

- Mediation: Mediation may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same room. Mediation typically does not require an admission of responsibility for the Prohibited Conduct by the Respondent.
- Restorative Justice: Restorative Justice may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same room. Restorative Justice typically requires an admission of responsibility for the Prohibited Conduct, or certain allegations, by the Respondent.

Unless the Complainant and the Respondent otherwise agree in writing before the commencement of an Informal Resolution process or as otherwise may be required by applicable law, (1) all communications, documents, and materials created for, or in the course of, the Informal Resolution process and exchanged between the participants for the process will be confidential and may not be submitted as evidence as part of any subsequent Formal Resolution Process between the same Parties and (2) the Informal Resolution Facilitator may not serve as a witness in any subsequent Formal Resolution Process between the same Parties.

The outcome of the Informal Resolution will be documented in an agreement or other form that is signed by both the Complainant and the Respondent.

Unless otherwise communicated in writing by the Informal Resolution Facilitator or other authorized representative of FDU to both the Complainant and the Respondent before the commencement of an Informal Resolution process, or as otherwise may be required by applicable law, the outcome of Informal Resolution will not (1) constitute a disciplinary outcome to be reported to third parties (e.g., in connection with graduate school applications, reference checks, etc.) and (2) be taken into consideration in the event of future findings of responsibility for Prohibited Conduct or other violations of FDU's policies. If the Informal Resolution Facilitator or other authorized representative of FDU communicates the intention that either condition (1) or (2) in this paragraph will not apply to Informal Resolution process, either Complainant or Respondent (or both) may decline to go forward with Informal Resolution, in which case the Informal Resolution process will not go forward and other processes (including the possibility of a Formal Resolution Process) will be available. Failure to adhere to an agreed outcome of an Informal Resolution process are subject to the sanctions outlined in Section XI. F, below.

The Informal Resolution process typically should be completed within thirty calendar days of the Parties documenting their agreement to participate. That period may be extended at the discretion of the Title IX Coordinator.

## **XI. FORMAL RESOLUTION PROCESS**

FDU strives to resolve Formal Complaints within 90 calendar days of the submission of a Formal Complaint, but balances its desire to achieve a prompt resolution with the need to conduct a thorough and complete investigation, which may delay that timeframe. Delays might also result from a number of factors, including but not limited to the appeal of a dismissal as discussed in Section XII, impacts of concurrent criminal processes, or an attempt at Informal Resolution. The Title IX Coordinator may extend the time for completion of the Formal Resolution Process for good cause as determined in the sole discretion of the Title IX Coordinator, and will provide written notice to the Parties of the reason for extension or delay.

At the discretion of the Title IX Coordinator, possible violations of the Student Code of Conduct, Policy on Prohibited Discrimination, Harassment and Related Misconduct, or other policies that occurred directly in connection with the alleged Prohibited Conduct may be, but are not required to be, addressed under the Formal Resolution Process herein, in lieu of engaging in a separate decision-making process for those possible violations. Where applicable, references in this Policy to Prohibited Conduct will be deemed to include violations of other FDU policies that are addressed through the Formal Resolution Process set forth in this Policy.

### **A. Investigation**

The written notice described in Section X(A) will identify the appointed Investigator. Either Party may object to the Investigator on the grounds of conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, by submitting an objection to the Title IX Coordinator in writing within three calendar days of receipt of the issuance of the written notice. The Title IX Coordinator, in their sole discretion, shall determine whether a different Investigator should be appointed.

The Investigator will conduct an investigation of the allegations in the Formal Complaint, and is responsible for interviewing the Parties and witnesses, and gathering relevant inculpatory and exculpatory evidence. The Investigator may not access, consider, disclose or otherwise use records that are made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to the Complainant or Respondent, unless the Investigator obtains the Complainant's or Respondent's, as appropriate, voluntary written consent to do so.

All Parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, for the Investigator. Parties will be provided with written notice of the date, time, location, participants and purpose of all investigative interviews in which they are expected to participate. Parties may be accompanied by an Advisor of their choice at any investigative interview, as described in Section X(C).

The Investigator may contact any law enforcement agency that is conducting its own investigation to ascertain the status of that investigation; and to determine the extent to which

any evidence collected by law enforcement may be available to FDU in its investigation. At the request of law enforcement, the Investigator may delay the FDU investigation temporarily while an external law enforcement agency is gathering evidence. If the FDU investigation is temporarily delayed, the Investigator will promptly resume the FDU 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, FDU may decide to move forward even while the criminal investigation is continuing.

## **B. Investigation Report**

The Investigator will prepare an investigation report summarizing all relevant evidence. The report will exclude all non-relevant evidence, as well as any evidence not subject to disclosure for reasons set forth herein (*e.g.*, medical records regarding which the Party has not authorized disclosure).

Prior to completing the investigation report, the Investigator will send to both Complainant and Respondent, and their Advisors all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, regardless of whether it is anticipated that the evidence will be used at the hearing or in connection with any decision on responsibility. The Parties and their Advisors are strictly prohibited from disclosing or disseminating the evidence to any third parties and from using it for purposes other than carrying out the Formal Resolution Process. Complainant and Respondent will have ten calendar days to provide a written response concerning the evidence to the Investigator, including identifying additional evidence for the Investigator's consideration prior to completing the investigation report. The response must be by the Party, not the Party's Advisor. A Party's response will be shared with the other Party.

After receipt of the Parties' responses concerning the evidence and at least ten calendar days before the hearing, the Investigator will provide the Complainant and Respondent, and their Advisors, if any, a copy of the investigation report. The Complainant and Respondent may, but are not required to, provide written responses to the investigation report at least three calendar days before the hearing. Any response must be by the Party, not the Party's Advisor. A Party's response will be shared with the other Party.

## **C. Hearing Notice**

After the investigation report has been provided to the Parties and their Advisors, if any, and not fewer than seven calendar days before the hearing, the Title IX Coordinator will issue a Hearing notice via email advising the Parties of the following:

- The date, time and location of the Hearing;
- The specific charges of Prohibited Conduct and (if applicable) other violations of FDU policies subject to disposition at the Hearing and a brief description of the conduct resulting in the charges;
- The individual to serve as the Hearing Officer; and

- That at the request of either Party, the Hearing will take place with the Parties located in separate rooms with technology enabling the Parties to simultaneously see and hear the Party/witness answering questions. Requests for separate rooms must be submitted to the Title IX Coordinator via email at least three calendar days before the Hearing.

Any Party may object to the Hearing date or challenge the appointment of the Hearing Officer for bias or conflict of interest by submitting a written objection to the Title IX Coordinator via email within three calendar days of the Title IX Coordinator issuing the Hearing Notice. The Title IX Coordinator, in their sole discretion, shall determine whether the Hearing Officer should be removed and/or the Hearing rescheduled. Once the Hearing Officer is confirmed, the Title IX Coordinator will provide the Hearing Officer with a copy of the investigation report.

#### **D. Hearing**

Hearings are governed by the procedures set forth below. The formal Rules of Evidence that may apply to any courtroom proceeding do not apply to Hearings conducted under this Policy.

Except as provided in this paragraph, the only individuals who may appear at a Hearing are the Complainant and Advisor, Respondent and Advisor, and witnesses called by the Hearing Officer. The Parties and their Advisors may be present throughout the Hearing, with the exception of any recesses for which they are excused by the Hearing Officer. Witnesses are permitted to be present only when providing testimony. The Investigator and Title IX Coordinator may be present throughout the Hearing, as may other FDU representatives at the discretion of the Hearing Officer. If a Party fails to attend a Hearing, the Hearing may be held in the Party's absence, at the discretion of the Hearing Officer.

##### **1. Witnesses**

At least five calendar days before the Hearing, the Hearing Officer will advise the Parties which witnesses will be requested to provide testimony at the Hearing. No later than two calendar days after such notice, the Parties may request that additional witnesses be requested to be present at the Hearing. The request must be submitted to the Hearing Officer in writing, including a brief description of why the information is relevant to the determination of responsibility. Whether or not to approve such request as potentially providing relevant information shall be in the sole discretion of the Hearing Officer, who will advise the requesting Party of the final decision. If the request is approved, the Hearing Officer will advise the other Party as well.

##### **2. Documents**

All documentary evidence provided to the Parties under Section XI(B) will be made available at the Hearing, as well as all evidence produced by the Parties in their response. The availability of such evidence does not suggest a determination on relevance, which shall be made by the Hearing Officer.

##### **3. Relevance**

The Hearing Officer is responsible for making all determinations of relevance as to witnesses, questions and documentary evidence presented at the Hearing. For purposes of this Policy, “relevant” means that the evidence is probative of any material fact.

Evidence that is not relevant will be excluded at the Hearing and may not form the basis for any decision by the Hearing Officer. Evidence that is duplicative of evidence already in the Hearing record may be deemed not relevant. Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct or if the questions and evidence concern a specific incident of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

#### **4. Standard of Proof**

The Hearing Officer will make decisions on responsibility using a preponderance of the evidence standard of proof. “Preponderance of the evidence” means that it is more likely than not that the Respondent is responsible.

#### **5. Advisors at Hearings**

The Parties may be accompanied by their Advisor at the Hearing. As discussed in Section X(C), the Advisor may not address the Title IX Coordinator, Investigator, Hearing Officer, other Advisors, or any other individuals participating in the Hearing. The only exception is with respect to cross-examination as discussed below. Like the Parties, Advisors are required to adhere to the Rules of Decorum applicable to Hearings, as outlined in Section XI(D)(7). An Advisor who fails to do so may, at the sole discretion of the Hearing Officer, be required to leave the Hearing.

The Parties shall inform the Title IX Coordinator whether they will be accompanied at the Hearing by their Advisor of choice by no later than five calendar days before the Hearing. If a Party has not identified an Advisor, FDU will provide one for the sole purpose of conducting cross-examination as discussed below. The Parties may not conduct cross-examination themselves; cross-examination must be performed by an Advisor. If an Advisor is required to leave a Hearing for failure to adhere to the Rules of Decorum or for any other reason, the Hearing Officer shall recess the Hearing until FDU appoints an Advisor for purposes of cross-examination. Advisors provided by FDU will be adults with an understanding of the purpose of cross-examination, but will not necessarily be attorneys or have training commensurate to attorneys with respect to conducting cross-examination.

#### **6. Hearing Procedures**

The procedures herein provide the general framework for any Hearing. The Title IX Coordinator or Hearing Officer may alter certain procedures as deemed appropriate in their sole discretion to aid in the equitable resolution of the matter.

a) Recording

The Hearing will be recorded by means of audio or audiovisual recording. Recesses taken or approved by the Hearing Officer, including for the Hearing Officer to consult with the Title IX Coordinator, Investigator or any other FDU representative, will not be recorded.

b) Opening Statements

Each Party will have the opportunity to make a brief opening statement. The Parties will make any statements themselves, not through their Advisor.

c) Parties

Generally, the Hearing Officer will hear from the Complainant first, followed by the Respondent. Each Party will have the opportunity to provide relevant evidence to the Hearing Officer. The Hearing Officer may ask relevant questions of each Party and witness, either before, during, or in follow-up to their testimony. Each Party's Advisor will have the opportunity to ask cross-examination questions of the other Party and each witness. Advisors are reminded of the importance of adhering to the Rules of Decorum in cross-examining the Parties and any witnesses. If a Party does not submit to cross-examination, the Hearing Officer must not rely on any statement of that Party in reaching a determination regarding responsibility, regardless of where, when or in what forum the statement was made. The Hearing Officer cannot draw an inference regarding responsibility based solely on a Party's absence from the Hearing or refusal to answer questions.

With respect to cross-examination, Advisors are limited to asking only relevant questions. The Hearing Officer will determine whether questions are relevant prior to the Party answering the question. If the question is deemed not relevant, the Hearing Officer will provide a brief explanation and the question will be precluded. The Hearing Officer's decision is not subject to challenge or objection during the Hearing.

d) Witnesses

A similar process and the same rules that apply to Parties will apply to the testimony of witnesses. Like the Parties, any witness may appear remotely, with technology allowing the Hearing participants to simultaneously see and hear the witness.

[If a witness does not submit to cross-examination, the Hearing Officer must not rely on any statement of that witness in reaching a determination regarding responsibility, regardless of where, when or in what forum the statement was made. The Hearing Officer cannot draw an inference regarding responsibility based solely on a witness's absence from the Hearing or refusal to answer questions.]<sup>1</sup>

---

<sup>1</sup> On August 24, 2021, the Department of Education ceased enforcement of this requirement, with the result that a decision-maker at the University may now consider statements made by parties or witnesses that are otherwise permitted under this policy, even if those persons do not participate in cross-examination at the live

The Investigator may be called as a witness. At the Hearing Officer's discretion, the Investigator may be asked to testify before the Parties to facilitate an efficient presentation of evidence.

e) Closing Statement

Each Party will have the opportunity to make a brief closing statement. The Parties will make any statements themselves, not through their Advisor.

**7. Rules of Decorum**

The following Rules of Decorum apply to the Parties, Advisors and witnesses participating in any Hearing. Individuals failing to follow the Rules of Decorum may be directed to leave the Hearing, at the Hearing Officer's sole discretion. Although the Hearing Officer may provide warnings or reminders of the Rules of Decorum before such removal, a pre-removal warning or reminder will not necessarily be provided depending on the nature of the conduct in question.

No person participating in the Hearing may act in an disorderly or disruptive manner or otherwise impede the orderly conduct of the meeting. Questions will be asked from a seated position. Questions or other statements that are badgering or unduly repetitive will not be permitted. Interactions must be civil and respectful. Cell phones and other electronic devices should be turned off unless being offered as evidence. Other than the recording being made by FDU, no participant may record any portion of the Hearing. The Hearing Officer may establish specific additional rules for a Hearing in the interest of efficiency and orderly progress.

**E. Hearing Outcome Letter**

Within ten calendar days of the conclusion of the Hearing, the Hearing Officer will issue the Hearing Outcome Letter via email to the Parties.

The Hearing Outcome Letter will include:

- A description of the allegations that led to the Hearing, as potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination;
- A statement of factual findings supporting the determination;
- A statement of the conclusions regarding the application of this Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- An explanation of the disciplinary sanctions imposed on the Respondent, if any;

---

hearing. This includes emails and text exchanges between the parties, police reports, medical reports, and other documents. <https://content.govdelivery.com/accounts/USED/bulletins/2ee0a5d>

- A statement of whether remedies designed to restore or preserve equal access to FDU's education program or activity will be provided to the Complainant. Specific remedies will be identified in the Hearing Outcome Letter only to the extent those remedies directly affect the Respondent. The Title IX Coordinator is responsible for implementing such remedies; and
- The procedures and permissible bases for the Complainant and Respondent to appeal.

The Hearing Outcome becomes final following the determination of the appeals, if any, or upon the date following the deadline for filing an appeal, if no appeal is pursued. No further appeals of any kind are permitted.

## **F. Sanctions and Remedies**

### **1. Sanctions**

If the Respondent is found responsible for any Prohibited Conduct, the Title IX Coordinator will provide the Hearing Officer with the Respondent's prior conduct record for consideration in the Hearing Officer's assignment of a sanction or sanctions. The range of available sanctions includes:

Sanctions for students may include any of the sanctions that are available for violations of the University's Code of Student Rights, Responsibilities and 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; Educational sanctions (exercises, class, assignments /essay); Fines; Housing dismissal; Housing probation; Housing suspension; Social restriction; University dismissal; University suspension.

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. Sanctions for faculty covered by the Faculty Handbook will be reviewed with the University Provost and/or the University President.

### **2. Remedies**

The Title IX Coordinator is responsible for the implementation of remedies designed to restore or preserve equal access to FDU's education program or activity. While remedies might constitute Supportive Measures, they also might be in the form of sanctions.

## **XII. APPEALS**

Either Party may appeal a determination of responsibility (or non-responsibility) as set forth in the Hearing Outcome by submitting a written appeal to the Title IX Coordinator by email within

five calendar days of the Hearing Officer's issues of the Hearing Outcome Letter. Appeals may be based on only one of the following:

- A procedural irregularity that affected the determination of responsibility;
- The existence of new evidence that was not reasonably available at the time of the Hearing that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.

As discussed in Section X(B), appeals may also be based on the dismissal of a Formal Complaint alleging Title IX Sexual Harassment.

The appeal must be in writing and clearly explain the basis for the appeal. If the appeal is from the outcome of a Hearing, the Parties shall have access to the record of the Hearing to prepare their appeal on such terms as the Title IX Coordinator provides. Upon receipt of an appeal, the Title IX Coordinator will notify the other Party that the appeal has been filed, permitting the Party three calendar days to provide a response, and providing the Parties with the identity of the Appeal Officer who will determine the matter. The Party's response will be provided to the appealing Party, but no further exchange of positions is permitted.

The Parties may challenge the appointment of the Appeal Officer for bias or conflict of interest by submitting a written objection to the Title IX Coordinator via email within three calendar days of the Title IX Coordinator issuing the notice. The Title IX Coordinator, in their sole discretion, shall determine whether a new Appeal Officer should be identified.

The Title IX Coordinator will forward the appeal and the other Party's response to the Appeal Officer. The Appeal Officer will evaluate the appeal on the written record and recording of the Hearing, and may seek input from the Title IX Coordinator, Investigator and/or Hearing Officer as deemed appropriate in the Appeal Officer's sole discretion.

For appeals from a Dismissal in Section X(B), the Appeal Officer will typically issue a written decision on the appeal, including the result and a brief rationale, within five calendar days of the Hearing Officer's receipt of the appeal materials.

For appeals from a Hearing Outcome, the Appeal Officer will typically issue a written decision on the appeal, including the result and a brief rationale, within seven calendar days of the Appeal Officer's receipt of the appeal materials. The Appeal Officer may (1) affirm the findings or (2) alter the findings or order that all or part of the Formal Resolution Process be re-performed only where there is clear error based on the following stated appeal grounds:

- A procedural irregularity affected the outcome of responsibility;
- New evidence exists that was not reasonably available at the time of the Hearing that could affect the outcome of the matter; or

- The Title IX Coordinator, Investigator or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.

The Appeal Officer's decision is final. No further appeals are permitted.

### **XIII. RECORDKEEPING<sup>2</sup>**

FDU will retain records created in connection with a Formal Complaint for seven years. Such records include those relating to any Informal Resolution, the investigation, any determination regarding responsibility (including any audio or audiovisual recording or transcript), any disciplinary sanction imposed, any appeal, and any remedies provided to the Complainant designed to restore or preserve equal access to FDU's education program or activity.

FDU will also document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the education program or activity. If FDU provides no Supportive Measures to the Complainant, it will additionally document why such a response was not clearly unreasonable in light of all the known circumstances.

### **XIV. TRAINING**

Any individual serving as FDU's Title IX Coordinator, Investigator, Informal Resolution Facilitator, Hearing Officer, or Appeal Officer will receive training on this Policy, the scope of FDU's education program or activity, how to conduct an investigation and Formal Resolution Process (including Hearings, Appeals and Informal Resolution, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias. Further, they will receive training on questions of relevance, and on preparing an Investigation Report, Hearing Outcome Letter or Appeal decision, as appropriate.

### **XV. FDU AND COMMUNITY RESOURCES**

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

---

<sup>2</sup> In addition to the requirements documented in this Policy, FDU must retain for seven years all materials used to train Title IX Coordinators, investigators, decision-makers, informal resolution facilitators and others involved in implementation of the Policy, and post those training materials on FDU's publicly-accessible website.

- Statewide Support Resource New Jersey Coalition Against Sexual Assault (NJCASA) (800) 601-7200, 24-hour hotline

#### 1. Florham Campus Confidential Resources

- Student Health Services Offers gynecological/women's health (by appointment), STI testing, treatment or referral, and HIV/AIDS testing referrals for students Monday through Friday, 9 am to 5 pm Holidays, Saturdays and Sundays, closed (973) 443-8535
- Florham Campus Counseling Centers Offers free and confidential counseling by licensed mental health professionals for students Wellness Center at the Danforth Road entrance to campus Monday through Friday, 9 a.m. to 5 p.m., by appointment (973) 443-8504

#### 2. Morris County Confidential Resources

- 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, emergency contraceptives 100 Madison Avenue Morristown, NJ 07960 (973) 971-5000
- Morris CARES at Morristown Medical Center Offers confidential support and crisis counseling for survivors of sexual assault (973) 829-0587, 24-hour Sexual Assault program hotline
- Jersey Battered Women's Services Offers support and resources for survivors of domestic violence, including a 24-hour hotline, confidential counseling, safe house, transitional living, children's services, education and training, and legal assistance Morristown, Emergency Shelter (973) 267-4763, 24-hour Helpline [info@jbws.org](mailto:info@jbws.org)

#### 3. Metropolitan Campus Confidential Resources

- Student Health Services Offers vaccinations, pregnancy and STI testing, and emergency contraception for students Student Union Building, Second Floor Monday through Friday, 9 am to 5 pm Saturday through Sunday, closed (201) 692-2437
- Student Counseling and Psychological Services (S-CAPS) Offers free confidential individual and group counseling and outreach activities by licensed mental health professionals for students Corner of Lone Pine Lane and Residence Drive (behind University Court 8) 9 a.m. to 5 p.m. Monday through Friday by appointment Evening hours by appointment (201) 692-2174

#### 4. Bergen County Confidential Resources

- 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, emergency contraceptives 718 Teaneck Road Teaneck, NJ 07666 (201) 833-3210

- healingSPACE YWCA Bergen County 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. 214 State Street, Suite 207 Hackensack, NJ 07601 (201) 487-2227 – 24-hour hotline [healingspace@ywcabergencounty.org](mailto:healingspace@ywcabergencounty.org)
- Center For Hope and Safety Dedicated to assisting victims, and their children, of domestic violence and offers a 24-hour crisis hotline, an emergency shelter program, transitional housing, and other resources 24-hour Crisis Hotline: (201) 944-9600 [safeline@hopeandsafetynj.org](mailto:safeline@hopeandsafetynj.org)