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PROHIBITED DISCRIMINATION AND RELATED MISCONDUCT POLICY AND PROCEDURES

VANCOUVER CAMPUS

I. POLICY STATEMENT

Fairleigh Dickinson University – Vancouver Campus (“FDU-V”) is committed to fostering a respectful learning and working academic environment free of discrimination and harassment. The FDU-V *Prohibited Violence, Discrimination, Harassment and Related Misconduct Policy and Procedures* (this “Policy”) applies only to the Vancouver campus and prohibits all forms of Discrimination and Harassment based on grounds protected by the BC *Human Rights Code* (each term as defined below). Further, this Policy sets forth the procedures that the Vancouver Campus will follow when such conduct occurs.

II. SCOPE OF POLICY

This Policy excludes violations covered by the FDU-V *Sexual Violence and Misconduct Policy*.

FDU-V students and employees who violate this Policy will be met with appropriate disciplinary action, up to and including dismissal or termination from Fairleigh Dickinson University and FDU-V (collectively, “University”). Third parties who violate this Policy may have their relationship with the University terminated and their access to all University property restricted or prohibited.

A. Individuals Covered by this Policy

This Policy applies to the conduct of, and protection of, FDU-V faculty, staff, administrators, supervisors, employees, students, volunteers, guests, patrons, independent contractors, and clients and visitors of FDU-V regarding prohibited violence, discrimination, harassment, and related misconduct (as described more fully below, “Prohibited Conduct”) that is not covered under FDU-V’s *Sexual Violence and Misconduct Policy*. Further, this Policy prohibits (and Prohibited Conduct includes) “Complicity” for knowingly assisting in an act that violates this Policy; and “Retaliation” against an individual because of their good faith participation in the

reporting, investigation, or adjudication of violations of this 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. Respondent refers to any individual who has been accused of violating this Policy.

B. Jurisdiction

This Policy applies to all Prohibited Conduct that occurs on the FDU-V 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 FDU-V, or had continuing adverse effects on campus, or had continuing adverse effects in an off-campus employment or education program or activity of FDU-V.

The University Title IX and Anti-Discrimination Coordinator (“Coordinator”) will determine whether the FDU-V has jurisdiction over off-campus conduct that is not part of an employment or educational program or activity of the FDU-V, considering the particular facts and circumstances, the nature of the alleged conduct, the risk of harm to any FDU-V 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, FDU-V will offer resources and assistance to the Complainant. If the Respondent is not a member of the FDU-V community or FDU-V does not have jurisdiction over the conduct, FDU-V will also assist the Complainant in identifying and contacting external law enforcement agencies and community resources.

C. Incidents Involving Minors

If you think a child or youth (under the age of 19) in British Columbia is being abused or neglected, you can call the child welfare worker at 1-800-663-9122. You can also call the Helpline for Children at 310-1234. If the child is in immediate danger, call 9-1-1 or your local police. The University Title IX and Anti-Discrimination Coordinator must also be informed if related to conduct under the possible jurisdiction of this Policy.

III. NOTICES

A. Notice of Non-Discrimination Based on Protected Characteristics

FDU-V is committed to maintaining a fair and respectful environment for living, working, and learning. To that end, and in accordance with the BC *Human Rights Code* and other applicable law, FDU-V prohibits any student, employee or third party from harassing and/or discriminating against any other member of the FDU-V community because of that person’s actual or perceived age, ancestry, colour, criminal conviction (unrelated to employment), family status, gender identity or expression, indigenous identity, marital status, mental

disability, physical disability, place of origin, political belief, race, religion, sex, or sexual orientation (collectively referred to as “Protected Characteristics”).

Prohibited Conduct under this Policy will be interpreted in the same manner as it is interpreted by the BC Human Rights Tribunal.

B. Protected Characteristics Definitions

- i. **Age:** The number of years from the date of a person’s birth. The BC Human Rights Code only protects against age discrimination for people who are 19 years of age and over.
- ii. **Ancestry:** Includes where a person’s family is from.
- iii. **Colour:** An individual’s skin pigmentation, complexion, shade, or tone.
- iv. **Family Status:** Includes being related to another person by blood, marriage or adoption. It also includes family type (e.g., a single parent family) and who is in the family.
- v. **Gender Identity or Expression:** Gender expression is about how a person presents their gender. It includes how a person acts and appears. It can include dress, hair, make-up, body language, and voice. How a person presents their gender may not reflect their gender identity. Gender identity is a person’s sense of their gender, including man, woman, transgender or non-binary. For some people, gender identity is fixed. For others, it is fluid. Gender identity or expression can also include a person’s name and pronoun, such as he, she or they.
- vi. **Indigenous Identity:** Indigenous identity means being First Nations, Métis, or Inuit. This definition comes from the Human Rights Code. Section 1 defines “Indigenous” as follows: “Indigenous”, in relation to a person, means Indigenous within the meaning of “Indigenous peoples” as defined in the Declaration on the Rights of Indigenous Peoples Act. The Declaration on the Rights of Indigenous Peoples Act says (in section 1(1)): “Indigenous peoples” has the same meaning as aboriginal people in section 35 of the Constitution Act, 1982 The Constitution Act, 1982 says (in section 35(2)): In this Act, aboriginal peoples of Canada includes the Indian, Inuit and Métis peoples of Canada.
- vii. **Marital Status:** Includes being married, single, widowed, divorced, separated or living common-law. It also includes who a person’s spouse is (e.g., being discriminated against because of who a person’s wife is).
- viii. **Mental Disability:** Mental disability includes mental conditions that affect or are seen as affecting a person’s abilities. Mental disability includes such conditions as a learning disorder, developmental disability, or illness such as depression or bipolar disorder.
- ix. **Physical Disability:** Physical disability includes physical conditions that affect or are seen as affecting a person’s abilities. Physical disability includes conditions that impair a person’s ability to carry out the normal functions of life. It includes addiction, amputation, asthma, acne, diabetes, cancer, epilepsy, high blood pressure,

- hypertension, obesity and impairments to mobility. It includes people who are Deaf, hard of hearing, or blind. It does not include short-lived conditions such as a cold.
- x. **Place of Origin:** Place of origin includes the fact of being born in a particular country or group of countries or region of Canada or the world.
 - xi. **Political Belief:** Political belief includes support of a political party or group that advocates political change, and beliefs about the organization and governance of communities. It includes advocacy for a change to legislation. It is only protected in employment, employment advertisements, and membership in a union or occupational association.
 - xii. **Race:** Race includes socio-cultural or ethnic groups such as First Nations, Métis, Chinese or South Asian.
 - xiii. **Race, Ancestry, Colour, and Place of Origin:** Race, ancestry, colour and place of origin may be closely connected. Some or all of these grounds may be combined to define a person or group's ethnic identity. These grounds do not have a precise definition but are meant to capture the negative perceptions that may be associated with them and result in discrimination. For example, a group of Latin American workers may share characteristics relating to race, ancestry, colour and place of origin.
 - xiv. **Religion:** Religion includes adherence to the practices of a particular faith or genuinely held religious beliefs, and not having religious beliefs.
 - xv. **Sex:** Sex includes being female, male, intersex, Two Spirit, or transgender. Sex also includes pregnancy, breast-feeding, and sexual harassment.
 - xvi. **Sexual Orientation:** Sexual orientation includes being heterosexual, gay, lesbian or bisexual.

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

FDU-V does not discriminate on the basis of sex or gender and FDU-V's response to sex-based Discrimination will be addressed under this Policy.

Sexual Assault, Interpersonal Violence (including domestic and dating violence) and Stalking are addressed under the FDU-V *Sexual Violence and Misconduct Policy*. Such acts violate the essential dignity of our community members and are contrary to our institutional values.

FDU-V is committed to taking all appropriate steps to eliminate all forms of Prohibited Conduct, prevent the recurrence of such acts, and address their effects, both for the Complainant and the FDU-V 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, as defined by the BC Human Rights Code and that 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 FDU-V's programs.

Discrimination includes failing to provide reasonable accommodations, consistent with BC and Canadian law, to a qualified person with a disability. Students with questions about their academic adjustments may also use the resources on their campus by contacting the Deputy Campus Executive (or equivalent successor position) of FDU-V.

B. Complicity

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

C. 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. 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 Freedom of Information and Protection of Privacy Act (FIPPA)) or, in accordance with FIPPA, the University General Counsel has determined that the disclosure is necessary for compelling health or safety reasons.

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 U.S. 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 FDU-V proceedings are conducted in accordance with the requirements of applicable laws as well as applicable university policies. No information, including the identity of the parties,

will be publicly released from such proceedings except as required or permitted by law or University policy.

VI. 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 behaviour that constitutes a violation of the law or this Policy.

VII. RECORDKEEPING

The Vice President of Human Resources and their FDU-V 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 behaviours and assure compliance with Human Resources policy and related national or provincial laws.

The FDU-V Director of Student Services and Student Experience will maintain records of all reports involving only students under this Policy and their outcomes in order to track patterns and systemic behaviours and assure compliance with Student Affairs policy and related national or provincial laws.

VIII. EDUCATION AND PREVENTION PROGRAMS

FDU-V is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of FDU-V's policy and procedures and relevant definitions, including Prohibited Conduct; discussions of the impact of alcohol and illegal drug use; consent; review of 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 FDU-V's commitment to provide an educational and work environment free from Prohibited Conduct, this Policy will be disseminated widely to the FDU-V community through email communication, websites, new employee training, and other appropriate channels of communication.

PROCEDURES

FDU-V 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. In the event that applicable law conflicts with any provision of this Policy, this Policy will be deemed amended to the extent necessary to achieve compliance consistent with the objectives of the affected provisions; in such event, FDU-V will promptly publish an appropriate revision to this Policy.

IX. 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, filing a complaint with the BC Human Rights Tribunal, and making a report to FDU-V. FDU-V's Student Services Department will help any student get to a safe place, provide transportation to the hospital, contact a law enforcement agency, and offer information about FDU-V's resources and processes. FDU-V's Human Resources Department will provide this same help to any staff or faculty member.

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 Response Team, which may include administrators from FDU-V Student Services 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 centrally integrated and coordinated approach will allow FDU-V 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 FDU-V community member understand the Policy and options for resolving concerns raised under this Policy in academic or work settings at FDU-V. 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 employees:

- i. Confidential Employees
 - a. An employee of FDU-V whose communications are privileged or confidential under national or provincial 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-V whom FDU-V 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.
- ii. Non-Confidential Employees
 - a. All employees of FDU-V who do not qualify as Confidential employees.
 - b. This category includes all student workers when working in the capacity of an employee of FDU-V, including but not limited to 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-V, 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 FDU-V, 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 FDU-V disciplinary action and a criminal investigation). FDU-V 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,

FDU-V encourages Complainants to promptly report Prohibited Conduct to law enforcement. Complainants can report Prohibited Conduct to local law enforcement by contacting:

- a. 911 (for emergencies)
- b. Vancouver Police Department
2021 Cambie Street
Vancouver, B.C.
604-717-3321

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. FDU-V will assist Complainants in notifying law enforcement if they choose to do so.

ii. Reporting to the University

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

Making a report means telling a designated Reporting Option what happened, in person, by telephone, in writing, by e-mail, electronically, or anonymously. FDU-V 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:

Arthur Pinto
Manager of Student Services
a.pinto1@fdu.edu
604-648-4402

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

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

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 employee, the report must be shared with the Coordinator.

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

FDU-V 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. FDU-V 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 FDU-V's ability to respond or take further action.

Anonymous reports can be made through the online reporting tool located at https://cm.maxient.com/reportingform.php?FairleighDickinsonUniv&layout_id=26, Canada Post 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 FDU-V'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), FDU-V 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

FDU-V encourages the reporting of violations of this Policy by persons who believe they have been victimized by the violation. FDU-V 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 FDU-V, FDU-V 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, if needed, 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 FDU-V and community resources, the right to seek appropriate and available supportive measures, and how to request those resources and measures; explain the 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 FDU-V 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 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, or appropriate Response Team member, 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 at any time after receiving a report of alleged Prohibited Conduct under this Policy.

Supportive Measures are designed to restore or preserve equal access to FDU-V'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-V'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 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-V's program or activities.

A student's 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 FDU-V not pursue an investigation, FDU-V must balance this request with FDU-V's responsibility to provide a safe and non-discriminatory environment for all FDU-V community members. FDU-V, 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 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 FDU-V possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and,
- xi. Any other considerations as may be pertinent to the particular facts and circumstances.

Where FDU-V 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 FDU-V seeking disciplinary action against a Respondent under other applicable policies. 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

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 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 behaviour 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.

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, FDU-V 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 FDU-V 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 on the part of both Complainant and Respondent, and either party 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 FDU-V. FDU-V 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.

FDU-V 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. FDU-V will not offer mediation to resolve a complaint when such a process would conflict with national or provincial law.

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 with 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 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. 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 FDU-V 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 FDU-V in its investigation. At the request of law enforcement, the Investigating Officer may delay the FDU-V investigation temporarily while an external law enforcement agency is gathering evidence. The Investigating Officer will promptly resume the FDU-V 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-V may decide to move forward to facilitate a prompt campus resolution.

E. 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 information. The Complainant and the Respondent will not normally be permitted to review the Investigation Report but will be informed of the pertinent information contained in the report. In reviewing information with the Complainants and Respondents, the names of and identifying information regarding witnesses and other third parties may be withheld by the Investigating Officers, as deemed appropriate to comply with applicable confidentiality laws and policies.

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.

F. 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 Services 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.

G. 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 FDU-V 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:

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
Social restriction	University dismissal
University suspension	* exercises, class, assignments / essay

Where University housing is made available, sanctions may include reassignment, probation, suspension, or dismissal from University-controlled or sponsored housing.

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 provincial, national, and 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 FDU-V 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

I. 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 FDU-V. FDU-V's Student Services Department will help any student get to a safe place, provide transportation to the hospital, contact a law enforcement agency, and offer information about FDU-V's resources and processes. FDU-V's Human Resources Department will provide this same help to any staff or faculty member.

i. Vancouver General Hospital

- a. Address: 899 West 12th Avenue, Vancouver, BC V5Z 1M9
- b. Phone: 604-875-4111

ii. B.C. Women's Hospital

- a. Address: 4500 Oak Street, Vancouver, BC V6H 3N1
- b. Phone: 604-875-2424

iii. Emergency Law Enforcement:

Vancouver 911 (from anywhere)

II. CONFIDENTIAL RESOURCES:

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

i. 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.
 - I. Phone: 800-563-0808
 - II. Website: <http://www.victimlinkbc.ca/>
- a. Crisis Line:
 - I. Greater Vancouver 24 hr (604) 872-3311
 - II. 1-800 SUICIDE (784-2433)
- b. 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>

ii. 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
Health Advocate:	866-695-8622
Employee Assistance Plan:	877-207-8833 (Canadian employees)