

Policy on Prohibited Discrimination, Harassment and Related Misconduct Including Sexual and Gender-Based Harassment and Violence, Interpersonal Violence, Stalking and Retaliation

Responsible Office
Responsible Official

Human Resources
Title IX Coordinator

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I. Policy Statement

This Fairleigh Dickinson University (the “University”) Policy On Prohibited Discrimination, Harassment And Related Misconduct prohibits all forms of Discrimination and Harassment based on Protected Status. It also expressly prohibits related conduct, including Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Stalking and Interpersonal Violence, which need not be based on the individual’s Protected Status. In addition, this Policy prohibits 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. University students and employees who violate this Policy will be met with appropriate disciplinary action, up to and including dismissal, expulsion or termination from the University. Third parties who violate this Policy may have their relationship with the University terminated and their access to campus restricted.

Discrimination, Harassment, Sexual or Gender-Based Harassment, Sexual Violence, Sexual Exploitation, Stalking, Interpersonal Violence, Complicity, and Retaliation (collectively referred to as “Prohibited Conduct”) are defined in Section IV of this Policy.

The University encourages all community members to take reasonable and prudent action to prevent or stop Prohibited Conduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive responsibility will be supported by the University and protected from retaliation.

The University also encourages all community members to promptly report Prohibited Conduct so that the University may take immediate and appropriate corrective action. With the exception of employees designated as Confidential Resources, all other University employees who become aware of Prohibited Conduct are required to promptly notify the Title IX Coordinator and Public Safety. To foster a climate that encourages prevention and reporting of Prohibited Conduct, the University will actively promote prevention efforts, educate the community, respond to all reports promptly and equitably, provide interim measures to address safety and emotional well-being, and act in a manner that recognizes the inherent dignity of the individuals involved.

During the investigations and resolution of violations of this Policy that are alleged in good faith, reasonable steps will be taken that seek to protect the Reporting Party, the Responding Party, and other participants in the reporting investiga-

tion, and resolution process from Retaliation. Individuals who have a concern about potential or actual Retaliation should contact the University Title IX Coordinator for assistance in addressing the concern.

A. Notice of Nondiscrimination Based on Protected Status

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

- Age Discrimination Act of 1973
- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990
- Title VI of the Civil Rights Act of 1964
- Title VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Equal Pay Act of 1963
- Executive Order 11246
- Executive Order 13672
- Title II of the Genetic Information Nondiscrimination Act of 2008
- Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”) New Jersey Civil Union Act
- New Jersey Domestic Partnership Act
- New Jersey Equal Pay Act
- New Jersey Law Against Discrimination
- Section 504 of the Rehabilitation Act of 1973
- Vietnam Era Veterans Readjustment Act
- Violence Against Women Act (“VAWA”)

B. Protected Status Definitions

Consistent with federal and state law, the University prohibits Discrimination and Harassment based on age, color,

creed, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, or veteran status.

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

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

C. Notice of Non discrimination Based on Sex or Gender

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

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

The University's response to Sexual and Gender-Based Harassment, Sexual Assault, Interpersonal Violence (including domestic and dating violence) and Stalking is also governed by the Clery Act, VAWA and this Policy. Such acts violate the essential dignity of our community member(s) and are contrary to our institutional values.

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

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

II. Scope and Applicability

A. Individuals Covered by this Policy

This Policy applies to the conduct of, and protection of, University faculty, staff, administrators, supervisors, employees, students, volunteers, guests, patrons, independent contractors, or clients and visitors of the University. This Policy provides for the prompt and equitable resolution of reports of Prohibited Conduct.

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

B. Jurisdiction

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

The University Title IX Coordinator will determine whether the University has jurisdiction over off-campus conduct that is not part of an educational program or activity of the University, considering the facts and circumstances of each re-

port, the nature of the alleged conduct, the risk of harm to any University community member, whether both parties are members of the campus community, and whether the off-campus conduct is part of a series of actions that occurred both on and off campus.

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

C. Incidents Involving Minors

Individuals who suspect that a minor (under the age of 18) is being harmed or observe a child being harmed should contact law enforcement by dialing 911, in the United States and in British Columbia.

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

III. Title IX Coordinator and Response Team

A. Title IX Coordinator

The University has designated the associate vice president of human resources to serve as the University's Title IX Coordinator. The Title IX Coordinator has primary responsibility for administering this Policy and assuring the University's compliance with Title IX. The Title IX Coordinator is:

- Charged with overseeing the initial response, investigation, and resolution of all reports of Prohibited Conduct involving all parties covered under this Policy;
- Knowledgeable and trained in University policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a Reporting Party, and a Responding Party, about University and community resources and reporting options;
- Available to provide assistance to any University employee regarding how to respond appropriately to a report of Prohibited Conduct;
- Responsible for ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture.

The Title IX Coordinator is available to meet with any community member to discuss this Policy or the accompanying procedures. The University has also designated 3 Deputy Title IX Coordinators, who may assist the Title IX Coordinator in the discharge of the responsibilities.

Inquiries or complaints concerning the application of Title IX may be referred to the Title IX Coordinators and/or the United States Department of Education:

University Title IX Coordinator

Rose D'Ambrosio
Associate Vice President of Human Resources
dambrosi@fdu.edu
(201) 692-2706
Dickinson Hall, Mail Code: H-DH3-05

Deputy Title IX Coordinators

Sandra Gilot-West
Deputy Title IX Coordinator
Assistant Dean of Students for Residential Education,
Florham Campus
SGWest@fdu.edu
(973) 443-8574
Mail Code: M-SC0-02

Vidal Lopez-Marrero
Deputy Title IX Coordinator
Dean of Students, Metropolitan Campus
lopezv@fdu.edu
(201) 692-2190
Mail Code: T-DS1-01

Eoin Kennedy
Human Resources Adviser
Vancouver Campus
eoin_kennedy@fdu.edu
(604) 648-4461
Mail Code: V-CS1-01

U.S. Department of Education

New York Office
Office for Civil Rights
32 Old Slip, 26th Floor
New York, New York 10005-2500
Phone (646) 428-3900
Fax (646) 428-3843
TDD (800) 877-8339
OCR_NewYork@ed.gov

B. Response Team

The Title IX Coordinator is supported by an interdepartmental Response Team, which includes a member of Public Safety and the Title IX Coordinator or Deputy Title IX Coordinator. Depending on the status of the Reporting Party (e.g. student, faculty, staff) and the Responding Party, the Response Team may also include administrators from the Office of Human Resources, Dean of Students Office, or Office of Residence Life. In each case, the Response Team will be narrowly limited to a small "need to know" number of specially trained administrators.

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

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

IV. Prohibited Conduct

A. Discrimination

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

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

Discrimination includes failing to provide reasonable accommodations, consistent with state and federal law, to a qualified person with a disability. Students with questions about their Section 504 Academic Adjustments may also use the resources on their campus by contacting the Disability Coordinator on each campus.

B. Harassment

This Policy prohibits Harassment which is a type of Discrimination that occurs when verbal, physical, electronic, or other conduct based on an individual's Protected Status:

(1) interferes with that individual's:

- Educational environment (e.g., admission, academic standing, grades, assignment);
- Work environment (e.g. hiring, advancement, assignment);
- Participation in a University program or activity (e.g., campus housing); or
- Receipt of legitimately-requested services (e.g. disability or religious accommodations), thereby creating a hostile work environment or quid pro quo harassment, as defined below; and,

(2) is so severe, persistent, or pervasive that it alters the condition of education, employment or participation in a University program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive (hostile environment harassment); or

(3) submission to or rejection of such conduct is made, explicitly or implicitly, a term or condition of, or is used as the basis for decisions affecting the individual's education, employment, or participation in a University program or activity (quid pro quo harassment).

1. Sexual Harassment

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

2. Gender-based Harassment

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

3. Additional Guidance about Harassment

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

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

C. Sexual Assault

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

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

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

1. 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 non-verbal 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.

2. 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.

3. 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, the University will consider whether the Responding Party knew that the Reporting Party 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 Reporting Party was incapacitated.

4. Additional Guidance about the Impact of Alcohol or Other Drugs on Consent

Where an individual's level of impairment does not rise to Incapacitation, the University 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 Responding Party's intoxication is never an excuse for or a defense to committing Sexual Assault or other form of Prohibited Conduct and it does not diminish one's responsibility to obtain Consent.

D. Sexual Exploitation

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

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

- Providing alcohol or other drugs to another person for the purpose of inducing incapacitation or compromising that person's ability to consent to sexual contact;

- Observing another person's nudity or sexual contact, or allowing another to observe the same, without the knowledge and consent of all parties involved;
- Non-consensual streaming of images, photography, video, or audio recording of sexual contact or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Prostituting another person;
- Knowingly exposing another person to a sexually-transmitted infection, without the person's knowledge; and
- Knowingly failing to use contraception without the other party's knowledge.

E. Interpersonal Violence

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

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

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

F. Stalking

Stalking occurs when a person engages in a course of conduct directed at another person under circumstances that would cause a reasonable person to fear bodily injury or to suffer substantial emotional distress.

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

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

G. Complicity

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

H. Retaliation

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

- Participation in the reporting, investigation, or resolution of an alleged violation of this Policy;
- Opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy; or
- 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 Responding Party, the Reporting Party, or any other individual or group of individuals.

V. Consensual Relationships in Regards to Prohibited Conduct

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

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

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

Anyone involved in or who commences a dating or sexual relationship with someone over whom they have supervisory power (employment or academic) must immediately disclose the existence of the relationship to their immediate supervisor and the associate vice president of human resources. Anyone involved in or who commences a dating or sexual relationship with someone over whom they have supervisory power (employment or academic) cannot participate in any decisions that affect the compensation, evaluation, employment conditions, instruction, and/or the academic status of the subordinate involved. The Associate Vice President of Human Resources shall create an alternate mechanism for such decisions. If it is not feasible to create such alternate mechanism, one or both of the employees may be reassigned.

These restrictions are in addition to those contained in the University's *Policy on Conflicts of Interest and Nepotism*.

VI. Privacy and Confidentiality

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

A. Privacy

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

B. Confidentiality

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

C. Employee Reporting Responsibilities

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

1. Responsible Employees

The University has determined that all employees (who do not have statutory confidentiality), 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 discrimination or harassment, including Prohibited Conduct to the Title IX Coordinator and Public Safety.

Responsible Employees will safeguard an individual’s privacy, but are required by the University to immediately share all details about a report of Prohibited Conduct (including the known details of the incident such as date, time, location, names of the parties involved, a brief description of the incident and if the incident has been previously reported) to the Title IX Coordinator and Public Safety.

An employee who discourages a report, interferes with the procedures under this Policy or fails to report incidents about which he/she becomes aware to the Title IX Coordinator, will be met with appropriate disciplinary action, up to and including dismissal, expulsion or termination from the University.

2. Confidential Resources

As set forth in the Confidentiality section, 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).

Confidential Resources at the University, which include student health services and campus counseling services, are detailed in Appendix I: Campus and Community Resources.

D. Release of Information

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

The University will assess Prohibited Conduct that is reported to the Department of Public Safety to determine if a timely warning is required. If the report poses a serious and continuing threat to any of the University’s campus communities, the University will issue a timely notification to protect the health or safety of the affected campus as required by the Clery Act. The notification will not include identifying information about a Reporting Party.

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

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

E. Records

The University Title IX Coordinator and/or Campus Deputy Title IX Coordinators will maintain records of all reports under this Policy and their outcomes in order to track patterns and systemic behaviors and assure compliance with Title IX and related federal laws.

VII. Resources and Reporting Options

A. Initial Steps Following an Incident of Prohibited Conduct

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

Specific information about campus and community resources for medical assistance, confidential counseling or crisis response, is provided in Appendix I on page 53.

B. Reporting Options

There are many options for reporting Prohibited Conduct. A Reporting Party may choose to report to the University, to law enforcement, to both, or to neither. These reporting options are not exclusive. Reporting Parties may pursue some or all of these steps at the same time (e.g., one may simultaneously pursue University disciplinary action and a criminal investigation). The University will support Reporting Parties in understanding and assessing these options.

1. Law Enforcement

Although Reporting Parties have the right to notify or decline to notify law enforcement, the University 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 United States and British Columbia emergencies)
- 999 (for England emergencies)
- FDU Department of Public Safety — New Jersey Campuses 24 Hours a day, 7 days a week

Florham Campus (973) 443-8800

Metropolitan Campus (201) 692-2222

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

2. Reporting to the University

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

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

The Reporting Options are included in Appendix II.

In turn, these Reporting Options will immediately refer the report to the Response Team to assure consistent application of this Policy. Similarly, when an individual chooses to share information with a University employee designated as a Responsible Employee, the report will be shared with the members of the Response Team.

Typically, reports will be first directed to the Directors of Public Safety to ensure the University's prompt response to all reports under this Policy. This is not counted as a report to law enforcement, but will trigger Clery obligations. Reports are directed to Public Safety as this Office provides 24-hour support to the entire University community and can immediately provide information about supports, resources, policy and procedures. The Directors of Public Safety work closely with the University Title IX Coordinator.

The University recognizes that deciding whether to make a report and choosing how to proceed are personal decisions. At the time a report is made, a Reporting Party 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 un-

folds over time. The University will make every effort to respect an individual's autonomy in making the determination as to how to proceed. Resources are always available to support a Reporting Party 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.

C. Anonymous Reporting

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

Anonymous reports can be made through the United States Postal Service mail without providing identifying information. Mail should be sent to P.O. Box 2123, Teaneck, New Jersey 07666.

As with all other reports, all anonymous reports of Prohibited Conduct will go to the Title IX Coordinator for review by the Response Team and appropriate response and action. Where there is sufficient information, the University will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

D. Time Frame for Reporting

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

E. Amnesty

The University seeks to remove any barriers to reporting. The University will generally offer any student, whether the Reporting Party 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. Initial Assessment

Upon receipt of a report, the Response Team, under the supervision of the Title IX Coordinator, will conduct an Initial Assessment of the following: the Reporting Party'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 Interim Measures or accommodations.

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

In the course of the Initial Assessment, the Response Team will consider the interest of the Reporting Party and the Reporting Party'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. A member of the Response Team, in consultation with the University Title IX Coordinator, will also determine whether the alleged conduct presents a potential violation of this Policy and whether further action is warranted based on the alleged conduct and the Reporting Party's requested course of action. It is at the discretion of the Response Team to determine which method of resolution is appropriate.

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

A. Interim Measures

In responding to a report, the University has an interest in providing care to the Reporting Party and to the broader campus community. For this reason, after receiving a report, the University, through its Response Team, will offer and establish reasonable and appropriate Interim Measures to protect a Reporting Party and facilitate the Reporting Party's continued access to University employment or education programs and activities. Interim Measures may be both remedial (designed to address a Reporting Party's well-being and continued access to educational and employment opportunities) or protective (involving action against a Responding Party).

Remedial and protective measures, which may be temporary or permanent, may include no-contact orders, counseling and emotional support, residence modifications, academic modifications and support, work schedule modifications, voluntary leave of absence, interim suspension, suspension from employment, restrictions on campus activities, and other immediate remedies as reasonable and appropriate. Remedial measures are available regardless of whether a Reporting Party chooses to pursue an investigation or discipli-

nary action under this Policy. The University will maintain the privacy of any remedial and protective measures provided under this Policy to the extent practicable and will promptly address any violation of the protective measures reported to the University.

The University will provide reasonable remedial and protective measures to Third Parties as appropriate and available, taking into account the role of the Third Party and the nature of any contractual relationship with the University.

The Title IX Coordinator or designee has the discretion to ensure the appropriateness of any Interim Measure based on all available information, and is available to meet with a Reporting or Responding Party to address any concerns about the provision of Interim Measures. Retaliation is expressly prohibited by this Policy, and the University will take immediate and responsive action to any report of retaliation or any violation of Interim Measures.

B. Balancing Agency and Autonomy with Campus Safety Obligations

Where the Reporting Party requests that their identity not be shared with the Responding Party or that the University not pursue an investigation, the University must balance this request with the University's responsibility to provide a safe and nondiscriminatory environment for all University community members. The University, through the Title IX Coordinator and Response Team, will take all reasonable steps to investigate 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 Reporting Party's request will be balanced against the following factors:

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

The University will take all reasonable steps to investigate and respond to the report consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Reporting Party. Where the University is unable to take action consistent with the request of the Reporting Party, the Title IX Coordinator or a member of the Response Team will inform the Reporting Party about the chosen course of action, which may include the University seeking disciplinary action against a Responding Party. 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 Responding Party or reveal the identity of the Reporting Party.

C. Support Person and Adviser

1. Support Person

The Reporting Party and Responding Party 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 Reporting Party and Responding Party to any meeting or related proceeding with the Investigating Officer or a University employee. The support person is a silent and nonparticipating 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 Title IX Coordinator; such meeting shall be in advance of participating in the meetings and procedures under this Policy. The Title IX Coordinator has the right at all times to determine what constitutes appropriate behavior on the part of a support person. No copies of written materials or any other evidence will be given to a support person, although the parties may share such information with the support person as necessary to assist them in the proceedings.

2. Adviser

In addition, with respect to reports of Sexual Assault, Interpersonal Violence or Stalking only, during any investigation and resolution of a report under this Policy, the Reporting Party and Responding Party have the right to be assisted by an adviser of their choice. The adviser cannot be a witness in the investigation. The adviser may accompany the Reporting Party and Responding Party to any meeting or related proceeding with the Investigating Officer or a University employee. The adviser may be an attorney. The adviser is a silent and nonparticipating presence who is there to provide advice and guidance to the Reporting Party and Responding Party.

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

IX. Informal Resolution

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

The decision to pursue Informal Resolution will be made when the Response Team has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation is voluntary, and a Reporting Party or Responding Party can request to end Informal Resolution at any time. Pursuing Informal Resolution does not preclude later use of Formal Resolution if the Informal Resolution fails to achieve a resolution acceptable to the parties and the University. The University may refer a report for Formal Resolution at any time and retains the discretion to determine the type of Informal Resolution that may be appropriate in a specific case.

The University will offer mediation for appropriate cases, but will not compel a Reporting Party to engage in mediation, to directly confront the Responding Party, or to participate in any particular form of Informal Resolution. Mediation may not be used for Sexual Assault.

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

X. Investigation and Formal Resolution

Where the Initial Assessment concludes that disciplinary action may be appropriate, based on the request of the Reporting Party or the Response Team's determination that an investigation should be pursued based on the potential risk of harm or threat to public safety, the Title IX Coordinator 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 University Title IX Coordinator is authorized to designate appropriately trained individuals to receive reports and investigate allegations of Prohibited Conduct ("Investigating

Officer”). The Investigating Officer may be a University employee or an external professional engaged to assist the University in conducting a reliable, thorough and impartial investigation. Any Investigating Officer chosen to conduct the investigation must be impartial and free of any actual conflict of interest. The Investigating Officer may work alone, or appoint a “designee” to assist in conducting the investigation.

B. Notice of Investigation

The Title IX Coordinator will notify the Reporting Party and Responding Party, 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 Reporting Party and the Responding Party to understand the details of the report. The Investigating Officer, in his/her discretion, will conduct other fact finding and/or discussions with any other individuals who may have information relevant to the determination. All investigative interviews will be documented and maintained by the University for inclusion in the investigation report. The Investigating Officer will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate.

The Reporting Party and Responding Party 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 be participating solely to speak about an individual’s character.

The Title IX Coordinator may consolidate multiple reports against a Responding Party into one investigation if the evidence related to each incident would be relevant in reaching a determination on the other incident.

D. Prior Sexual History and/or Prior Acts of Prohibited Conduct

1. Other Prohibited Conduct

In gathering the facts, the Investigating Officer may consider similar prior or subsequent reports, or findings of responsibility for similar conduct by the Responding Party to the extent such information is relevant. The determination of relevance will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Prior or subsequent conduct of the Responding Party also may be considered in determining other relevant issues, including knowledge, intent, motive, or absence of mistake.

The Investigating Officer will include any pattern evidence as part of the final Investigative Report. The Title IX Coordinator has the discretion to make the final determination whether any pattern evidence is relevant to the determination of responsibility.

2. Prior Sexual History

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

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

E. Coordination with Law Enforcement

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

F. Review of Investigation Report

At the conclusion of the investigation, the Investigating Officer will prepare a preliminary written Investigation Report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the Investigating Officer will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the complaint. In general, the Investigating Officer may redact information that is irrelevant, more prejudicial than probative, or immaterial. The Investigating Officer may also 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 Reporting Party and Responding Party will be given the opportunity to review all information that will be submitted to the Title IX Coordinator in the final Investigation Report. The Reporting Party and Responding Party may submit any additional comment or evidence to the Investigating Officer within five (5) days of being provided the opportunity to review the report.

Upon receipt of any additional information by the Reporting Party and Responding Party, or after the five (5) day comment period has lapsed without comment, the Investigating Officer will submit a final Investigation Report to the Title IX Coordinator. 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 Title IX Coordinator to determine responsibility by a Preponderance of the Evidence.

G. Referral of Report to Deputy Title IX Coordinator or Appropriate Official for Review and Adjudication

1. Adjudicator

If the report involves potential Prohibited Conduct by a student, the Title IX Coordinator will refer the Investigation Report to the Deputy Title IX Coordinator, who will serve as the Adjudicator.

If the report involves potential Prohibited Conduct by an employee, the Title IX Coordinator will be the Adjudicator. The Title IX Coordinator may, in his/her 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.

2. Initial Review by the Adjudicator

The Adjudicator will review the report and make a determination whether sufficient information has been alleged that would support a Policy violation. The Adjudicator may request that additional investigative steps be taken.

3. Notice of Charges

Following this review, the Adjudicator will notify the Reporting Party and the Responding Party, in writing, of the potential charges/violations under this Policy and their opportunity to meet, separately, with the Adjudicator to review the final Investigation Report, learn more about the formal resolution (adjudication process), or present any additional, relevant information to the Adjudicator.

The Reporting Party or Responding Party may raise a challenge for actual bias or conflict to the Title IX Coordinator.

4. Pre-Hearing Meeting

A pre-hearing meeting will typically be scheduled within five (5) calendar days from the date of the notice of charges by the Adjudicator, subject to extension for good cause at the discretion of the Title IX Coordinator.

At the pre-hearing meeting, the Reporting Party or Responding Party may review the final Investigation Report, ask questions and learn more information about the formal reso-

lution meeting (adjudication process), or present any additional, relevant information to the Adjudicator. The Reporting Party or Responding Party will meet with the Adjudicator separately.

5. Formal Resolution Meeting

The Adjudicator will review the final Investigation Report, any additional information submitted by the Reporting Party or Responding Party and make a determination whether there is sufficient information to find, by a preponderance of the evidence (i.e., whether it is more likely than not) that the Responding Party committed a Policy violation.

The Adjudicator will meet with the Reporting Party and Responding Party, separately, 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 sanction with each party, and impose any appropriate sanction (as outlined below).

6. Notice of Outcome

The Reporting Party and Responding Party will simultaneously receive written notice of the outcome within ten (10) calendar days following the formal resolution meeting. The notice of outcome will include the finding as to whether there is a Policy violation, the sanction, and the rationale for each. The notice of outcome will also provide the parties with their appeal options.

H. Time Frames

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

XI. 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 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*
Fines	Housing dismissal
Housing probation	Housing suspension
Social restriction	University dismissal
University suspension	

*Exercises, class, assignments/essay

Sanctions for employees may include any of the sanctions that are available for violations of the University's *Employee Handbook* and *Faculty Handbook*, including a letter of reprimand.

mand 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.

When determining sanctions, the Adjudicator will consider the following factors:

- The nature and severity of the Prohibited Conduct
- The impact of the Prohibited Conduct on the Reporting Party;
- The impact or implications of the Prohibited Conduct within the University community;
- Whether the Responding Party has accepted responsibility for the Prohibited Conduct;
- The maintenance of a safe and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

XII. Appeals

Either party may appeal the outcome. The limited grounds for appeal are as follows:

- A substantive or procedural error that substantially affected the outcome; and
- 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;

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

A Reporting Party or Responding Party must submit a written appeal within five (5) business days of receipt of the Notice of Outcome to the Title IX 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 Title IX 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) days from receipt of the appeal.

The Title IX 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 one of the Associate Campus Executives. Typically, the Associate Campus Executive from the Responding Party's home campus will be assigned, but depending on the circumstances of the matter, the Associate Campus Executive from either campus may review the appeal. For employees, the Appeals Officer will be an Associate Vice President appointed at the discretion of the President, but not the Associate Vice President of Human Resources.

The Appeals Officer, in his/her sole discretion, may make a determination based on the written record or may request to speak with the Investigating Officer, the Adjudicator, the Reporting Party or the Responding Party. Appeals are not intended to be full rehearing of the report (*de novo*). The Appeals Officer may not substitute his/her judgment for that of the Adjudicator merely because he/she 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 Reporting Party and the Responding Party and the University Title IX Coordinator.

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

XIII. 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 from expression shall be considered in investigating and reviewing complaints and reports of discrimination and/or harassment. However, raising issues of academic freedom and freedom of expression will not excuse behavior that constitutes a violation of the law or this Policy.

XIV. Education and Prevention Programs

The University is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the University's policy and procedures; relevant definitions, including Prohibited Conduct, discussions of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming first year students, faculty, and staff will receive primary prevention and awareness programming as part of their orientations. Returning students and employees will also have ongoing opportunities for training and education.

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

XV. Annual Review

This Policy will be reviewed on an annual basis by the University Title IX Coordinator with the assistance of the University General Counsel.

Appendix I

Campus And Community Resources

A. Emergency Resources

Anyone who has experienced Prohibited Conduct is urged to immediately seek help. Help includes seeking medical assistance, seeking confidential counseling or crisis response,

filing a report with law enforcement, and making a report to the University. Fairleigh Dickinson University's Department of Public Safety will help any individual on the New Jersey campuses get to a safe place, provide transportation to the hospital, contact law enforcement, and offer information about the University's resources and processes.

• 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

• 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

• Emergency Law Enforcement

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

• FDU Department of Public Safety – New Jersey Campuses

24 Hours a day, 7 days a week
Florham Campus (973) 443-8800
Metropolitan Campus (201) 692-2222

B. Confidential Resources

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

• 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 a.m. to 5 p.m.
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

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

• 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
safelin@hopeandsafetynj.org

5. Vancouver Confidential Resources

• 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
(800) 563-0808
<http://www.victimlinkbc.ca/>

C. Employee Resources

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

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

Appendix II

Campus Reporting Options

A. University Title IX Coordinator

Any individual may make a report of Prohibited Conduct involving a student or employee to:

University Title IX Coordinator
Rose D'Ambrosio
Associate Vice President of Human Resources
dambrosi@fdu.edu
(201) 692-2706
Mail Code: H-DH3-05

B. Deputy Title IX Coordinators

Students are encouraged to make a report of Prohibited Conduct to the Deputy Title IX Coordinator on their home campus:

Sandra Gilot-West
Deputy Title IX Coordinator
Assistant Dean of Students for Residential Education,
Florham Campus
SGWest@fdu.edu
(973) 443-8574
Mail Code: M-SC0-02

Vidal Lopez-Marrero
Deputy Title IX Coordinator
Dean of Students, Metropolitan Campus
lopezv@fdu.edu
(201) 692-2190
Mail Code: T-DS1-01

Eoin Kennedy
Human Resources Adviser
Vancouver Campus
eoin_kennedy@fdu.edu
(604) 648-4461
Mail Code: V-CS1-01

C. Investigation Officers

Reports can also be made directly to the University's Investigation Officers, who are assigned by campus and by nature of the reported conduct. Generally, reports involving Harassment by an employee will be investigated by Human Resources. Reports involving Harassment by a student will be investigated by Student Affairs. Reports involving other forms of Prohibited Conduct by a student or employee will be investigated by Public Safety.

For reports of *Harassment against employees* on all campuses:

Stefanie Miller
Director of Employee Benefits and Training
smiller@fdu.edu
(201) 692-2704
Mail Code: H-DH3-05

For reports of *Harassment against students* on the **Florham Campus, Study Abroad Programs or Wroxtton:**

Conor Leary
Director of First Year Experience and Student Engagement
cleary2@fdu.edu
(973) 443-8582
Mail Code: M-SC0-02

For reports of *Harassment against students* on the **Metropolitan Campus:**

Childerick Barthelus
Assistant Dean of Students, Commuter Affairs
Childerick_barthelus@fdu.edu
(201) 692-2187
Mail Code: T-DS1-01

For reports of *Harassment against students* on the **Vancouver Campus:**

Jobin Mojtabavi
Director of Student Services
jobin@fdu.edu
(604) 648-4465
Mail Code: V-CS1-01

For reports of *other forms of Prohibited Conduct* on the **Florham Campus, Study Abroad Programs or Wroxtton:**

Joseph Vitiello
Director of Public Safety
Joseph_Vitiello@fdu.edu
(973) 443-8929
Mail Code: M-BB1-01

For reports of *other forms of Prohibited Conduct* on the **Metropolitan or Vancouver Campuses:**

Dave Miles
Director of Public Safety
dmiles@fdu.edu
(201) 692-2227
Mail Code: T-PS1-01

Campus Sexual Assault Victim's Bill of Rights

A. A college or university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the University community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. In creating a community free from violence, sexual assault and nonconsensual sexual contact, respect for the individual and human dignity are of paramount importance.

The state of New Jersey recognizes that the impact of violence on its victims and the surrounding community can be severe and long-lasting. Thus, it has established this Bill of Rights to articulate requirements for policies, procedures and services designed to ensure that the needs of victims are met and that the colleges and universities in New Jersey create and maintain communities that support human dignity.

B. Bill of Rights

The following rights shall be accorded to victims of sexual assault that occur:

1. On the campus of any public or independent institution of higher education in the state of New Jersey and
2. Where the victim or alleged perpetrator is a student at that institution and/or
3. When the victim is a student involved in an off-campus sexual assault.

C. Human Dignity Rights

1. To be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy.
2. To have any allegations of sexual assault treated seriously; the right to be treated with dignity.
3. To be free from any suggestion that victims are responsible for the commission of crimes against them.
4. To be free from any pressure from campus personnel to:
 - a) report crimes if the victim does not wish to do so,
 - b) report crimes as lesser offenses than the victim perceives the crime to be,
 - c) refrain from reporting crimes or
 - d) refrain from reporting crimes to avoid unwanted personal publicity.

D. Rights to Resources On and Off Campus:

1. To be notified of existing campus and community-based medical, counseling, mental health and student services for victims of sexual assault, whether or not the crime is reported formally to campus or civil authorities.

2. To have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling.

3. To be informed of and assisted in exercising:

- a) any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus and/or pregnancy and

- b) any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

E. Campus Judicial Rights:

1. To be afforded the same access to legal assistance as the accused.

2. To be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused.

3. To be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

F. Legal Rights:

1. To have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported.

2. To receive full and prompt cooperation of and assistance from campus personnel in notifying the proper authorities.

3. To receive full, prompt and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

G. Campus Intervention Rights

1. To require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants.

2. To be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonable available.

H. Statutory Mandates:

1. Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation.

2. Each campus shall make every reasonable effort to ensure that every student at that institution receives a copy of this document.

3. Nothing in this act or in any "Campus Assault Victim's Bill of Rights" developed in accordance with the provisions of this act, shall be construed to preclude or in any way restrict any public or independent institution of higher education in the state from reporting any suspected crime or offense to the appropriate law enforcement authorities.