



Responsible Office	General Counsel	Effective Date	08/01/2024
Responsible Official	University Title IX Coordinator	Last Revision	08/01/2024

TITLE IX SEX DISCRIMINATION POLICY AND GRIEVANCE PROCEDURES

I. POLICY STATEMENT

Fairleigh Dickinson University (“FDU” or the “University”) is committed to fostering a living, learning and working environment free of discrimination and harassment. FDU is subject to Title IX of the Educational Amendments of 1972 (“Title IX”), 20 U.S.C. §§1681, *et seq.*, which states that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” FDU does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

II. SCOPE OF POLICY

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

This Policy applies to all reports of conduct that may reasonably constitute sex discrimination which are alleged to have occurred on or after August 1, 2024, in the United States and at locations, events, or in circumstances over which FDU exercised substantial control over both the respondent and the context in which the conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by FDU . For all reports of conduct that may reasonably constitute sex discrimination which are alleged to have occurred prior to August 1, 2024, FDU will follow the previous version of this Policy, which was in effect from August 14, 2020 until July 31, 2024 and may be found here: [2020 Title IX Sexual Harassment Policy](https://www.fdu.edu/wp-content/uploads/2023/10/200813-title-ix-policy-10_23.pdf) (https://www.fdu.edu/wp-content/uploads/2023/10/200813-title-ix-policy-10_23.pdf)

III. TITLE IX AND THE TITLE IX COORDINATOR

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

University Title IX Coordinator

Steve Nelson

Associate Vice President for Administrative Operations

snelson@fdu.edu

(201) 692-2466

Dickinson Hall, Room 3312, Mail Code: H-DH-311

1000 River Road

Teaneck, NJ 07666

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

Deputy Title IX Coordinator, Metro Campus

Juhi Bhatt

Associate Dean of Students

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1000 River Road

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Deputy Title IX Coordinator, Florham Campus

Frank Fabiano

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(973) 443-8010

Mail Code: M-SCO-02

285 Madison Ave.

Madison, NJ 07940

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

Assistant Secretary for Civil Rights

U.S. Department of Education

Office of Civil Rights

400 Maryland Avenue, SW

Washington, D.C. 20202-1100

OCR@ed.gov

(800) 421-3481

IV. DEFINITIONS

Terms used in this Policy have the following meanings:

Admission: Selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by FDU.

Advisor: A person who has agreed to provide support and advice to a Complainant or Respondent, subject to the provisions of Section XVI.

Appeal Officer: The individual responsible for determining an appeal under Section XIX. The Appeal Officer may be an employee of FDU or an external contractor but shall not be the same individual who was the original Decisionmaker for the matter.

Applicant: A person who has submitted an application, request, or plan required for employment or admission at FDU.

Complainant:

- a) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- b) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in FDU's education program or activity at the time of the alleged sex discrimination.

Complaint: An oral or written request to FDU that objectively can be understood as a request for FDU to investigate and make a determination about alleged sex discrimination under Title IX or its regulations.

Confidential Employee:

- a) An employee of FDU whose communications are privileged or confidential under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
- b) An employee of FDU whom FDU has designated as confidential 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; or
- c) An employee of FDU who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination – but the employee's confidential status is only with respect to information received while conducting the study.

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

Decisionmaker: The individual who is tasked with objectively evaluating all relevant and not otherwise impermissible evidence, assessing a Party's or witness's credibility when credibility is in

dispute and relevant, and determining whether sex discrimination occurred, as discussed further in Section XVII.

Disciplinary Sanctions: Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated FDU's prohibition on sex discrimination.

Informal Resolution Facilitator: The individual responsible for facilitating the Informal Resolution process, as discussed in Section XV. The Informal Resolution Facilitator may be an FDU employee or an external contractor.

Investigator: The individual responsible for conducting the investigation of alleged discrimination under Title IX, as discussed further in Section X. The Investigator may be an FDU employee or an external contractor.

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

Pregnancy or Related Conditions:

- a) Pregnancy, childbirth, termination of pregnancy, or lactation;
- b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation;
or
- c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Program or Activity: All operations of FDU.

Relevant: Relevant means related to the allegations of sex discrimination under investigation as part of the grievance procedures describe under this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies/Remedial Measures: Measures provided, as appropriate, to a Complainant or any other person FDU identifies as having had their equal access to FDU's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to FDU's education program or activity after FDU determines that sex discrimination occurred.

Respondent: A person who is alleged to have violated FDU's prohibition on sex discrimination.

Retaliation: Any type of intimidation, threat, coercion, or discrimination against any person by FDU, a student, an employee, or other person authorized by FDU to provide aid, benefit, or service

under FDU's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, as discussed further in Section VII.

Student: A person who has gained admission to FDU.

Title IX Jurisdiction: In order to constitute Title IX Sex Discrimination, the alleged misconduct must have occurred under FDU's education program or activity in the United States. Conduct that occurs under FDU's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by FDU and conduct that is subject to FDU's disciplinary authority. FDU will address a Title IX sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of FDU's education program or activity, or outside the United States.

Title IX Sex-Based Harassment: A form of sex discrimination and means sexual harassment and other harassment on the basis of sex (including but not limited to gender, gender stereotypes, gender expression or identity, gender characteristics, sexual orientation, and pregnancy or related conditions), including on the bases described below:

- a) **Title IX Quid Pro Quo Harassment:** An employee, agent, or other person authorized by FDU to provide an aid, benefit, or service under FDU's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
- b) **Title IX Hostile Environment Harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from FDU's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - i. The degree to which the conduct affected the Complainant's ability to access FDU's education program or activity;
 - ii. The type, frequency, and duration of the conduct;
 - iii. The parties' ages, roles within FDU's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effect of the conduct;
 - iv. The location of the conduct and the context in which the conduct occurred; and
 - v. Other sex-based harassment in FDU's education program or activity.
- c) **Title IX Sexual Assault:** An offense classified as a forcible or nonforcible sex offense and includes any of the following prohibited conduct:
 - i. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the other Party;
 - ii. The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the other Party;

- iii. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
 - iv. Nonforcible sexual intercourse with a person who is under the statutory age of consent.
- d) **Title IX Dating Violence:** Violence committed by a person:
- i. Who is or has been in a social relationship of a romantic or intimate nature with the other Party;
 - ii. Where the existence of such a relationship shall be determined based on a consideration of (a) the length of the relationship, (b) the type of relationship, and (c) the frequency of interaction between the persons involved in the relationship.
- e) **Title IX Domestic Violence:** Felony or misdemeanor crimes committed by a person who:
- i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of New Jersey, or a person similarly situated to a spouse of the victim;
 - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - iii. Shares a child in common with the victim; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New Jersey.
- f) **Title IX Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition:
- i. A course of conduct means two or more acts, including, but not limited to, acts in which the alleged stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
 - ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; and
 - iii. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Title IX Sex Discrimination: Conduct prohibited under the Title IX regulations. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Title IX Sex Discrimination also includes Title IX Sex-Based Harassment as described above.

Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to, as discussed further in Section XI which may or may not extend beyond the duration of the grievance procedures:

- a) Restore or preserve that Party's access to FDU's education program or activity, including measures that are designed to protect the safety of the Parties or FDU's educational environment; or

- b) Provide support during FDU's grievance procedures or during an informal resolution process.

V. PREGNANCY OR RELATED CONDITIONS

FDU does not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. When a student informs any FDU employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee shall promptly provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to FDU's education program or activity. FDU does not engage in sex discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided FDU ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

Upon receipt of notice, the Title IX Coordinator will consult with the student and offer to coordinate reasonable modifications for the student based on their individualized needs. A modification that FDU can demonstrate would fundamentally alter the nature of FDU's education program or activity is not a reasonable modification. The student has discretion to accept or decline each reasonable modification offered by the Title IX Coordinator. If accepted by the student, the reasonable modification must be implemented.

VI. CONSENT

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

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

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

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

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

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

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

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

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

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

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

VII. RETALIATION

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

VIII. RECORDKEEPING

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

FDU will also document any Supportive Measures offered to, and accepted by, the Parties. If FDU provides no Supportive Measures it will additionally document why such a response was not clearly unreasonable in light of all known circumstances.

IX. TRAINING

Any individual serving as FDU's Title IX Coordinator, Deputy Title IX Coordinator, Investigator, Informal Resolution Facilitator, Decisionmaker, or Appeal Officer will receive training on this Policy, the scope of FDU's education program or activity, how to conduct an investigation, and Grievance Procedures. Each individual will also receive training on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Further, they will receive training on questions of relevance, credibility, and on preparing an Investigation Report, Determination Letter or Appeal decision, as appropriate.

All FDU employees, including student workers, along with vendors, volunteers and student-facing independent contractors assigned to contracts longer than sixty days are required to complete annual training on Title IX and their rights and responsibilities under it and this Policy.

All students will have online Title IX information and training video available for their review at any point. Certain student groups (e.g., student athletes, program of study, etc.) may be required to complete this training as a condition of their participation in such a group.

GRIEVANCE PROCEDURES

FDU has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX Regulations. These grievance procedures address all forms of sex discrimination.

During the Grievance Procedures, FDU will treat Complainants and Respondents equitably.

X. REPORTING

A. Filing a Complaint

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

Any person may report conduct that may reasonably constitute sex discrimination to the Title IX Coordinator in person, by mail, by telephone, by email, or by the online reporting form.

Individuals may also report conduct that may reasonably constitute sex discrimination anonymously through the same methods as noted above. The Title IX Coordinator will promptly contact the potential Complainant to discuss the availability of Supportive Measures, where appropriate, and to explain the Grievance Procedures. The Grievance Procedures can be initiated by the Complainant upon indicating this request to the Title IX Coordinator in any manner that would be objectively understood by a reasonable person as a request to investigate.

In addition, although reporting parties have a right to notify or decline to notify law enforcement, FDU encourages reporting parties to promptly report conduct that may be criminal in nature to law enforcement by contacting:

- a) 911 (for emergencies)
- b) FDU Department of Public Safety (NJ campuses), 24 hours a day, 7 days a week
 - i. Florham Campus: (973) 443-8888
 - ii. Metropolitan Campus: (201) 692-2222

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

The following people have a right to make a complaint of sex-based harassment, requesting that FDU investigate and make a determination about alleged discrimination under Title IX:

- a) A “Complainant” which includes:
 - i. A student or employee of FDU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - ii. A person other than a student or employee of FDU who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in FDU’s education program or activity;
- b) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- c) FDU’s Title IX Coordinator

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such a person, or if the Title IX Coordinator initiates a complaint.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- a) Any student or employee of FDU; or
- b) Any person other than a student or employee who was participating or attempting to participate in FDU’s education program or activity at the time of the alleged sex discrimination.

FDU may consolidate complaints of sex discrimination against more than one respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances.

B. Employee Title IX Designations

There may be instances when a student or employee discloses conduct that may reasonably constitute sex discrimination to an employee of FDU. There are two types of employee Title IX designations that are important to understand:

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

Confidential employees, while not required to report disclosures of conduct that may reasonably constitute sex discrimination, are required to inform the disclosing party of their status as a Confidential employee, provide the disclosing individual with the name and contact information of the Title IX Coordinator, how to make a complaint of sex discrimination, and inform that person that the Title IX Coordinator can offer and coordinate Supportive Measures as well as initiate an informal resolution process or an investigation under the Grievance Procedures.

If conduct that may reasonably constitute sex discrimination is disclosed to any non-confidential employee of FDU, that employee must report the conduct to the Title IX Coordinator by any of the following methods; phone, email, or in-person. The reporting employee, at a minimum, should obtain and give to the Title IX Coordinator contact information of the individual who was subjected to the alleged conduct and details of what was disclosed.

FDU supports public awareness events such as community programming, candlelight vigils, protests, survivor speak outs, and other forums. These events help inform the community on sex discrimination topics and prevention efforts. Disclosure by a student at such events does not constitute disclosure for the purposes of required reporting to the Title IX Coordinator.

C. Privacy and Confidentiality

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

Supportive Measures, as described in Section XI, may be requested and received by the Complainant without implementing the Grievance Procedures but there may be instances when disclosing the Complainant's identity is necessary to provide certain Supportive Measures (e.g., where the Respondent would need to know the identity of the Complainant in order to comply with a no-contact order). FDU will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair its ability to provide the Supportive Measures.

D. False Reports and Other False Information

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

E. Amnesty

FDU seeks to remove any barriers to reporting. FDU will generally offer any student, whether the Complainant or a witness, who reports conduct that may reasonably constitute sex

discrimination 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. FDU may choose, however, to pursue educational or therapeutic remedies for those individuals.

XI. SUPPORTIVE MEASURES

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

Supportive Measures are designed to restore or preserve equal access to FDU's education program or activity or provide support during FDU's Title IX grievance procedures 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 Title IX Coordinator, as circumstances warrant. Supportive Measures will be kept confidential to the extent doing so does not impair FDU's ability to provide them.

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

- a) Access to counseling services;
- b) Course-related adjustments;
- c) Modification of work or class schedules;
- d) Restrictions on contact by one or both Parties (i.e., Disengagement/"no contact" orders)
- e) Changes in work or housing location;
- f) Leaves of absence;
- g) Increased security and monitoring of certain areas; or
- h) Any other measures deemed appropriate by the Title IX Coordinator to preserve equal access to FDU's program or activities.

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

XII. EMERGENCY REMOVALS

If at any point following the receipt of a report of sex discrimination, FDU determines that the Respondent poses an imminent and serious threat to the health or safety of the Complainant or any other person(s), including the Respondent, FDU may temporarily remove the Respondent from any or all of its education program or activities. The imposition of an Emergency Removal does not suggest a finding of responsibility for any sex discrimination.

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

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

The Title IX Coordinator will notify the Respondent of the terms imposed in connection with an Emergency Removal. The Respondent has the right to appeal the Emergency Removal immediately following the removal. In order to appeal the Emergency Removal, the Respondent shall submit an appeal, via email, to the Vice President of Student Affairs (if the Respondent is a student) or the Vice President for Human Resources (if the Respondent is an employee), within three business days from the date of the notice of Emergency Removal, explaining why the Emergency Removal is not warranted or appropriate. In evaluating the appeal, the Vice President of Student Affairs, or the Vice President of Human Resources, as appropriate, may seek additional information from the Respondent or any other individual. The Emergency Removal will remain in place while the appeal is pending. The Vice President of Student Affairs, or the Vice President of Human Resources, as appropriate, shall issue a decision as soon as possible under the circumstances. The rendered decision is final and shall not be subject to further appeal.

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

XIII. WRITTEN NOTICE OF ALLEGATIONS

Upon initiation of these Title IX Grievance Procedures, FDU will notify the Parties in writing of the following with sufficient time for the Parties to prepare a response before any initial interview:

- a) FDU's Title IX Sex Discrimination Policy and Grievance Procedures;
- b) Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- c) That retaliation is prohibited;
- d) The Respondent is presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- e) The Parties may have an advisor of their choice who may be, but is not required to be, an attorney;

- f) The identity of the Investigator(s) as described in Section XVI;
- g) The Parties are entitled to an investigative report that accurately summarizes the relevant and not otherwise impermissible evidence and an equal opportunity to access this evidence upon the request of any Party;
- h) Notice that FDU's policies prohibit knowingly making false statements or knowingly submitting false information in connection with or during the Grievance Procedures or informal resolution process.

If, in the course of an investigation, FDU decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the Written Notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the Parties.

XIV. DISMISSAL OF A COMPLAINT

FDU may dismiss a complaint if:

- a) FDU is unable to identify the Respondent after taking reasonable steps to do so;
- b) The Respondent is not participating in FDU's education program or activity and is not employed by FDU;
- c) FDU obtains the Complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and FDU determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- d) FDU determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, FDU will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, FDU will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then FDU will notify the Parties simultaneously in writing. The notice will also advise the Parties whether the complaint(s) will proceed as possible under separate FDU policies.

FDU will notify the Complainant that a dismissal may be appealed on the bases outlined in Section XIX. If dismissal occurs after the Respondent has been notified of the allegations, then FDU will also notify the Respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, FDU will follow the procedures outlined in Section XIX. The decision whether the matter will proceed as a potential violation of other FDU policies, including the Policy on Prohibited Discrimination, Harassment and Related Misconduct, is not subject to appeal.

When a Complaint is dismissed, FDU will, at a minimum:

- a) Offer Supportive Measures to the Complainant as appropriate;
- b) If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and

- c) Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within FDU's education program or activity.

XV. INFORMAL RESOLUTION

In lieu of resolving a complaint through FDU's Title IX grievance procedures, FDU may offer the Parties the option to participate in a voluntary Informal Resolution process at any point prior to the conclusion of a Hearing under the Grievance Procedures. FDU will inform the parties in writing of any informal resolution process it offers and determines is appropriate on a case-by-case basis. FDU will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law, or which includes allegations of sex-based harassment of an elementary or secondary school student. Before the initiation of an Informal Resolution process, FDU will explain in writing to the parties:

- a) The allegations;
- b) The requirements of the Informal Resolution process;
- c) That any party has the right to withdraw from the Informal Resolution process and initiate or resume Grievance Procedures at any time before agreeing to a resolution;
- d) That if the Parties agree to a resolution at the end of the Informal Resolution process, they cannot initiate or resume Grievance Procedures arising from the same allegations;
- e) The potential terms that may be requested or offered in an Informal Resolution agreement, including notice that an Informal Resolution agreement is binding only on the Parties; and
- f) What information FDU will maintain and whether and how FDU could disclose such information for use in Title IX Grievance Procedures if such procedures are initiated or resumed.

FDU has discretion to determine whether it is appropriate to offer an informal resolution process and may decline to offer informal resolution despite one or more of the Parties' wishes.

Circumstances when FDU may decline to allow informal resolution include but are not limited to when FDU determines that the alleged conduct would present a future risk of harm to others.

FDU will not require or pressure the Parties to participate in an informal resolution process. FDU must obtain the parties' voluntary consent to the informal resolution process and will not require waiver of the right to an investigation and determination of a Complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

The Informal Resolution process is conducted by a Facilitator appointed by the Title IX Coordinator. The Complainant, Respondent, Title IX Coordinator or Facilitator may terminate the Informal Resolution process at any time prior to its completion.

FDU's Informal Resolution process is a mediation process. Mediation may involve the Complainant and Respondent being in the same or different rooms, but they will never be required

to be in the same room. Mediation typically does not require an admission of responsibility for the conduct which may be reasonably considered sex discrimination by the Respondent.

Unless the Complainant and the Respondent otherwise agree in writing before the commencement of an Informal Resolution process or as otherwise may be required by applicable law:

- a) All communications, documents, and materials created for the Informal Resolution process and exchanged between the Parties for the process will be confidential and may not be submitted as evidence as part of any subsequent Grievance Process between the same Parties; and
- b) The Informal Resolution Facilitator may not serve as a witness in any subsequent Grievance Process between the same Parties.

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

Unless otherwise communicated in writing by the Informal Resolution Facilitator or other authorized representative of FDU to both the Complainant and the Respondent before the commencement of an Informal Resolution process, or as otherwise may be required by applicable law, the outcome of Informal Resolution will not:

- a) Constitute a disciplinary outcome to be reported to third parties (e.g., in connection with graduate school applications, reference checks, etc.); and
- b) Be taken into consideration in the event of future findings of responsibility for sex discrimination or other violations of FDU's policies.

If the Informal Resolution Facilitator or other authorized representative of FDU communicates the intention that either condition listed directly above will not apply to the Informal Resolution process, either Party, or both Parties, may decline to go forward with the Informal Resolution, in which case the Informal Resolution process will not go forward and other processes (including the possibility of the Grievance Process) will be available. Failure to adhere to an agreed outcome of an Informal Resolution process is subject to the sanctions outlined in Section XX, below.

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

XVI. INVESTIGATION

FDU will provide for adequate, reliable, and impartial investigation of Complaints when the Grievance Procedures are requested to be initiated. The burden is on FDU – not the Parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The written notice described in Section XIII will identify the appointed Investigator. Either Party may object to the Investigator on the grounds of conflict of interest or bias for or against

Complainants or Respondents generally, or the individual Complainant or Respondent, by submitting an objection to the Title IX Coordinator in writing within three business days of receipt of the issuance of the written notice. The Title IX Coordinator, in their sole discretion, shall determine whether a different Investigator should be appointed.

FDU will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate.

FDU will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney.

- a) FDU has non-attorney, no-charge, Advisors available should either Party wish to utilize them, but Parties are not required to do so.
- b) FDU will not limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding.
- c) FDU may establish restriction regarding the extent to which the Advisor may participate in these Grievance Procedures, as long as the restrictions apply equally to the Parties.

Parties may also be accompanied by one additional support person at all meetings (e.g., emotional support, union representative, etc.). However, both Parties must agree to waive their FERPA rights as to this additional person's presence. If no such waiver is given, the additional person will not be permitted to attend any meetings related to the Grievance Procedures.

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

FDU will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. FDU will review all evidence gathered throughout the investigation and determine what evidence is relevant and what evidence is impermissible regardless of the relevance.

The Investigator may contact any law enforcement agency that is conducting its own investigation to ascertain the status of that investigation; and to determine the extent to which any evidence collected by law enforcement may be available to FDU in its investigation. At the request of law enforcement, the Investigator may delay the FDU investigation temporarily while an external law enforcement agency is gathering evidence. If the FDU investigation is temporarily delayed, the Investigator will promptly resume the FDU investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation. In the event that the evidence-gathering stage of a criminal investigation become unreasonably long, FDU may decide to move forward even while the criminal investigation is continuing.

FDU will provide each Party and the Party's Advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- a) FDU will provide both Parties the same written investigative report that accurately summarizes the evidence. FDU will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- b) FDU will provide a reasonable opportunity to review the evidence or the investigative report in advance of the live hearing. Both Parties will have an equal opportunity to respond to this evidence during the live hearing;
- c) FDU will take reasonable steps to prevent and address the Parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through the sex discrimination Grievance Procedures.

XVII. PROCEDURE FOR LIVE HEARING

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

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

A. Witnesses

At least five business days before the Hearing, the Decisionmaker will advise the Parties which witnesses will be requested to provide testimony at the Hearing. No later than two business days after such notice, the Parties may request that additional witnesses be requested to be present at the Hearing. The request must be submitted to the Decisionmaker in writing, including a brief description of why the information is relevant to the determination of whether sex discrimination occurred. Whether or not to approve such requests as potentially providing relevant and not otherwise impermissible information shall be in the sole discretion of the Decisionmaker, who will advise the requesting Party of the final decision. If the request is approved, the Decisionmaker will advise the other Party of the additional witness's participation.

B. Documents

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

C. Relevance

The Decisionmaker is responsible for making all determinations of relevance as to Witnesses, questions and documentary evidence presented at the Hearing. For purposes of this Policy, questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged sex discrimination occurred.

Evidence that is not relevant or otherwise impermissible will be excluded at the Hearing and may not form the basis for any decision by the Decisionmaker. Evidence that is duplicative of evidence already in the Hearing record may be deemed not relevant. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are impermissible and thus, not relevant, unless such questions and evidence are offered to prove that someone other than the Respondent committed the alleged conduct or if the questions and evidence concern a specific incident of the Complainant's prior sexual behavior with the Respondent and are offered to prove consent. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

D. Standard of Proof

The Decisionmaker will make a determination of whether sex discrimination occurred using a preponderance of the evidence standard of proof. "Preponderance of the evidence" means that it is more likely than not that the Respondent is responsible for the conduct that constituted sex discrimination.

E. Advisors at Hearings

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

The Parties shall inform the Title IX Coordinator whether they will be accompanied at the hearing by their Advisor of choice by no later than five business days before the Hearing. If a Party has not identified an Advisor, FDU will provide one for the sole purpose of conducting cross-examination as discussed below.

The Decisionmaker, and not the Parties or their Advisors, will conduct direct testimony and cross-examination of the Parties and witnesses. Cross-examination of witnesses will be conducted through Advisors submitting written questions to the Decisionmaker either before or during the Hearing. The Decisionmaker will review all proposed questions and make a determination of their relevance and permissibility and explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the Party or witness being questioned will not be permitted. The Decisionmaker will give an Advisor an opportunity to clarify or revise a question that the Decisionmaker determines is unclear or harassing. If the Advisor sufficiently clarifies or revises the question, the question will be asked. The Decisionmaker's decision on relevance or permissibility is not subject to challenge or objection during the Hearing.

The Decisionmaker, alone, will pose all submitted relevant and not otherwise impermissible questions to the Parties or witnesses. There will be no verbal cross-examination conducted by the Parties or Advisors at any time. If the Hearing is being conducted in an online platform, questions may be submitted to the Decisionmaker utilizing the private direct messaging feature. Questions posed in a message viewable to all participants will be disallowed as a violation of the Rules of Decorum. If an Advisor is required to leave a Hearing for failure to adhere to the Rules of Decorum or for any other reason, the Decisionmaker may, in their sole discretion, elect to recess the Hearing until a new Advisor may be appointed or may choose to continue the Hearing. If the Hearing continues without the Advisor, and, if permitted by the Decisionmaker at the Decisionmaker's sole discretion, the Party without the Advisor may be permitted to submit cross-examination questions directly to the Decisionmaker in the manner described above.

Advisors provided by FDU will be adults with an understanding of the purpose of cross-examination but will not necessarily be attorneys or have training commensurate to attorneys with respect to conducting cross-examination.

F. Hearing procedures

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

i. Recording

The Hearing will be recorded by means of audio or audiovisual recording if conducted in person, or by use of the recording function of the online platform if conducted virtually. Recesses taken or approved by the Decisionmaker, including for the Decisionmaker to consult with the Title IX Coordinator, Investigator, or any other FDU representative, will not be recorded.

ii. Opening Statements

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

iii. Parties and Witnesses

Generally, the Decisionmaker will hear from the Complainant and their witnesses first, followed by the Respondent and their witnesses. Each Party will have the opportunity to provide relevant and not otherwise impermissible evidence to the Decisionmaker. The Decisionmaker may ask relevant questions of each Party and witness, either before, during, or in follow-up to their testimony. After hearing the testimony of a Party or witness, the Decisionmaker will ask any relevant or not otherwise impermissible cross-examination questions submitted by the other Party's Advisor. If a Party or witness does not submit to cross-examination the Decisionmaker may choose to place less or no weight upon statements by that Party or witness. The Decisionmaker will not draw an inference about whether sex discrimination occurred based solely on a Party's or witness's refusal to respond to such questions.

iv. Closing Statement

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

G. Rules of Decorum

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

No person participating in the Hearing may act in a disorderly or disruptive manner or otherwise impede the orderly conduct of the Hearing. Interactions must be civil and respectful. All verbal communication by the Parties or Witnesses must be directed toward the Decisionmaker only; Advisors are not permitted to speak on behalf of their Party or themselves during the hearing. Written communication may only take place between an Advisor and the Decisionmaker or between a Party and their Advisor via a private direct message. Cell phones and other electronic devices must be turned off unless being offered as evidence. Other than the recording being made by FDU, no participant may record any portion of the Hearing. The Decisionmaker may establish specific additional rules for a Hearing in the interest of efficiency and orderly progress.

XVIII. DETERMINATION

Following an investigation and evaluation through the Hearing Process of all relevant and not otherwise impermissible evidence, FDU will:

- a) Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the Decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the

Decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Decisionmaker will not determine that sex discrimination occurred.

- b) Within ten business days, notify the Parties simultaneously, in writing, of the determination whether sex discrimination occurred under Title IX including:
 - i. A description of the allegations that led to the Hearing;
 - ii. Information about the policies and procedures that FDU used to evaluate the allegations;
 - iii. The Decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex discrimination occurred;
 - iv. When the Decisionmaker finds that sex discrimination occurred, any disciplinary sanctions FDU will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by FDU to the Complainant, and, to the extent appropriate, other students identified by FDU to be experiencing the effect of the sex discrimination; and
 - v. FDU's procedures and permissible bases for the Complainant and Respondent to appeal.
- c) FDU will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX Grievance Procedures that the Respondent engaged in prohibited sex discrimination.
- d) If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
 - i. Coordinate the provision and implementation of remedies to a Complainant and other people FDU identifies as having had equal access to FDU's education program or activity limited or denied by sex discrimination;
 - ii. Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - iii. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur with FDU's education program or activity.
- e) Comply with the Title IX Grievance Procedures before the imposition of any disciplinary sanctions against a Respondent; and
- f) Not discipline a Party, witness, or others participating in the Title IX Grievance Procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that FDU provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

XIX. APPEALS

Either Party may appeal a determination of whether or not sex discrimination occurred as set forth by the Decisionmaker or a Dismissal by submitting a written appeal to the Title IX Coordinator by

email within five business days of the notice of the Decisionmaker's determination. The Appeal must be in writing and clearly explain the basis for the Appeal. Appeals may be based on any of the following bases:

- a) Procedural irregularity that would change the outcome;
- b) New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; or
- c) The Title IX Coordinator, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If a Party appeals a dismissal or determination whether sex discrimination occurred, FDU will:

- a) Notify the Parties in writing of any Appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- b) Implement Appeal procedures equally for the Parties;
- c) Provide the Parties equal access to a record of the hearing or final investigative report upon request;
- d) Provide the Parties with the identity of the Decisionmaker for the Appeal;
- e) Ensure that the Decisionmaker for the Appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- f) Ensure that the Decisionmaker for the Appeal has been trained consistent with the Title IX regulations;
- g) Communicate to the Parties in writing that FDU will provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome within five business days; and
- h) Notify the Parties in writing of the result of the appeal and the rationale for the result.

XX. DISCIPLINARY SANCTIONS AND REMEDIES

A. Sanctions

Following a determination that sex discrimination occurred, FDU may impose disciplinary sanctions. The Title IX Coordinator will provide the Decisionmaker with the Respondent's prior conduct record for consideration in the Decisionmaker's assignment of a sanction or sanctions. The range of available sanctions includes:

- i. 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:
 - a. Administrative reassignment of housing;
 - b. Campus restrictions;
 - c. Campus standard probation;
 - d. Co-curricular restriction;
 - e. Community restitution;
 - f. Community service;
 - g. Counseling assessment/support;

- h. Disciplinary reprimand;
 - i. Disengagement notice or no-contact order;
 - j. Educational sanctions (exercises, class assignments/essay, workshops, etc.);
 - k. Fines;
 - l. Housing dismissal;
 - m. Housing probation;
 - n. Housing suspension;
 - o. Social restriction;
 - p. University dismissal;
 - q. University suspension.
- ii. 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. A letter of reprimand being placed in their personnel file
 - b. Additional training;
 - c. Written letter of apology;
 - d. Suspension (paid or unpaid);
 - e. Dismissal;
 - f. Work schedule modifications;
 - g. Voluntary leave of absence;
 - h. Restrictions on campus activities;
 - i. Termination from the University.
- iii. Sanctions for faculty covered by the Faculty Handbook will be reviewed with the University Provost and/or the University President.

B. Remedies

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

APPENDIX A

FDU AND COMMUNITY RESOURCES

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

A. New Jersey State

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

B. Florham Campus Confidential Resources

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

C. Morris County Confidential Resources

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

D. Metropolitan Campus Confidential Resources

- i. Office of Health Wellness: pregnancy testing, wellness exams, STI testing, treatment or referral, and HIV/AIDS testing referrals for students.
 - a. Hours:
 - i. Monday: 9:30am – 4:30pm
 - ii. Tuesday: 10:30am – 5:30pm
 - iii. Wednesday: 11:30am – 6:30pm
 - iv. Thursday: 9:30am – 4:30pm
 - v. Friday: 9:30am – 4:30pm
 - b. Phone: 201-692-2437
- ii. Office of Mental and Emotional Wellbeing: offers students free and confidential counseling by licensed mental health professionals (by appointment).
 - a. Hours:
 - i. Monday: 9:30am – 4:30pm
 - ii. Tuesday: 10:30am – 5:30pm
 - iii. Wednesday: 11:30am – 6:30pm
 - iv. Thursday: 9:30am – 4:30pm
 - v. Friday: 9:30am – 4:30pm
 - b. Phone: 201-692-2174

- iii. Campus Ministries: offers spiritual wellness and counseling (by appointment).
 - a. Address: Interfaith Chapel, 842 River Road, Teaneck, NJ 07666
 - b. Phone: 201-692-2406
 - c. Email: omj@fdu.edu
- iv. Uwill: provides students with access to confidential telemental health at no cost and 24/7 crisis management. A profile must be completed prior to any services being rendered.
 - a. Website: <https://app.uwill.com/>

E. Bergen County Confidential Resources

- i. Holy Name Medical Center – Emergency Department: offers 24-hour emergency and confidential medical care, including sexual assault forensic examinations, pregnancy testing, screening and treatment of sexually transmitted infections, and emergency contraceptives.
 - a. Address: 718 Teaneck Road, Teaneck, NJ 07666
 - b. Phone: 201-833-3210
- ii. healingSPACE YWCA Northern New Jersey Sexual Violence Resource Center: offers support for survivors of sexual assault, their families and friends. A 24-hour crisis intervention hotline provides free and confidential assistance, and trained advocates provide counseling and medical and legal accompaniments to survivors. HealingSPACE also offers support groups, volunteer training, and educational programs for schools and businesses, as well as sponsors activities to raise awareness about sexual violence.
 - a. Address: 214 State Street, Suite 207, Hackensack, NJ 07601
 - b. 24-hour hotline: 201-487-2227
 - c. Email: healingspace@ywcannj.org
- iii. Center for Hope and Safety: offers assistance to victims, and their families, of domestic violence and offers a 24-hour crisis hotline, and emergency shelter program, transitional housing, and other resources.
 - a. Address: 12 Overlook Ave., Rochelle Park, NJ 07662
 - b. 24-hour hotline: 201-944-9600
 - c. Email: safeline@hopeandsafetynj.org
- iv. Lighthouse Pregnancy Resource Center: offers assistance with pregnancy questions, abortion options and STD testing.
 - a. Address: 809 Main St., Hackensack, NJ 07601
 - b. Phone: 973-238-9045
 - c. Website: <https://lighthouseprc.org/>