

Sexual Misconduct Policy and Procedures for
the Fordham University Community

Reporting Allegations and Complaints, Procedures for
Resolving Misconduct, and Resources for Assistance

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I. Policy Statement

Fordham University is committed to the development and support of its primary educational mission. In furtherance of the University's mission and in accordance with Title IX of the Education Amendments of 1972 ("Title IX"), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"), as amended by the Violence Against Women Act/Campus Sexual Violence Act ("Campus SaVE Act"), and Article 129-B of the New York State Education Law, the University is committed to maintaining a community free from all forms of sex discrimination, including sexual misconduct.

The University will not tolerate any form of sexual misconduct such as rape, sexual assault, sexual harassment, or other forms of non-consensual activity, including stalking, and/or domestic violence or dating violence, sexual exploitation and other sexual misconduct. Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity. Fordham will take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent recurrence and, as appropriate, remedy its effects.

II. Purpose

The purpose of this policy and procedures is to ensure that our community members live, work and learn in a safe and respectful environment free from any form of sex and gender discrimination and sexual harassment. If there is a violation of this policy:

- The University will take steps to prevent discrimination and harassment, to prevent any recurrence, and will take appropriate action to remedy the effects of discrimination.
- The University will provide for the prompt and equitable resolution of allegations and complaints brought by the complainant (the person who believes they were discriminated against or a victim / survivor of sexual misconduct) and the respondent (the person whose actions are being evaluated as to whether there was a violation of the University's policies).

These procedures are used to explain the University's process and procedures for responding to and resolving reports of violations of this policy, including its investigation and fact-finding process, and the fair and equitable process for resolution and possibly discipline for violating this policy. These policies and procedures also provide Options for Reporting Misconduct Outside the University and Resources Available (on and off campus) to support anyone who has been victimized or impacted by another's misconduct. You may also refer to the student brochure [Campus Assault and Relationship Education \(CARE\)](#) for further information.

III. Scope

The Fordham Community to which this Sexual Misconduct Policy and Procedures applies includes all: students, employees (including faculty), visitors or third parties, and applicants for admission or employment. A third party is someone who is on campus or participating in a Fordham sponsored program, activity, or event. This policy applies regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Location of Where the Conduct Occurs: This policy applies to conduct that takes place on-campus, off-campus, and at Fordham University sponsored programs or events, including Fordham University sponsored study abroad programs or Fordham University academic, learning, and service programs located at off-campus sites. This policy also covers conduct that takes place off-campus that occurs in the context of an education program or activity of the University and covers conduct that takes place off-campus that has a continuing effect on campus or in an off-campus education program or activity.

IV. Notice of University-Wide Nondiscrimination Policy and the Designation of the Title IX Coordinator

Fordham University is an Equal Opportunity Employer committed to the principle of equal opportunity in education and employment in compliance with Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, the Violence Against Women Act, and other federal, state, and local laws.

Fordham University does not discriminate on the basis of race, color, creed, religion, age, sex, gender, national origin, marital or parental status, sexual orientation, citizenship status, veteran status, disability, gender identity or expression, genetic predisposition, carrier status, or any other basis prohibited by law.

This policy is strictly enforced by the University, and alleged violations receive prompt attention and appropriate corrective action. The University will take steps to prevent discrimination and harassment, to prevent the recurrence of discrimination and harassment, to prevent retaliation for bringing a claim or assisting in an investigation, and will take appropriate action to remedy the effects of discrimination and harassment.

The Title IX Coordinator is responsible for the University's Title IX compliance efforts and for coordinating the University's response to all complaints involving possible sex discrimination,

including educational programs, gender equity in athletics, employment, and admission. This also includes all forms of discrimination, limitations on consensual relationships, sex and gender discrimination, sexual harassment, sexual assault/rape, exploitation and other sexual misconduct, stalking, dating and domestic violence, and intimidation and retaliation for filing such complaints.

Inquiries concerning the application of Title IX and its implementing regulation may be referred to the University's designated Title IX Coordinator listed below or to the Assistant Secretary of the Office for Civil Rights (OCR), U.S. Department of Education, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue SW, Washington, DC 20202-1100. Call the OCR main numbers toll free at 800-421-3481 or 800-877-8339 (TDD). Or contact the OCR's New York office at ocr.newyork@ed.gov or 646-428-3800.

Fordham's Title IX coordinator may be contacted at:

Kareem Peat
Title IX Coordinator
Cunniffe House, Room 114
Rose Hill Campus
718-817-3112
titleix@fordham.edu

The 504 Compliance Officers are responsible for the University's compliance efforts related to Section 504 of the Rehabilitation Act of 1973 and for coordinating the University's response to all complaints involving possible discrimination on the basis of disability.

Student complaints of disability discrimination should be directed to:

Mary Byrnes
Director of Disability Services
O'Hare Hall, Basement
Rose Hill Campus
718-817-0655
mbyrnes11@fordham.edu

Employee complaints of disability discrimination should be directed to:

Nancy Hark
Senior Director of Human Resources Policy and Practice
Faculty Memorial Hall, Room 506
718-817-4090
nhark@fordham.edu

V. Duties of Title IX Coordinator and Designation of Deputy Coordinator

The Title IX Coordinator is responsible for the University's Title IX compliance efforts and coordinating the University's response to all complaints involving possible sex discrimination and is informed of all Title IX complaints throughout the University. The Coordinator collects all data for all of the University's Title IX complaints in order to monitor the timeliness of the process, outcomes, identify and address any patterns or systemic problems revealed by such reports and complaints, and assess effects on the campus climate.

The Department of Public Safety conducts investigations when anyone may be in violation of this Title IX Sexual Misconduct Policy and Procedures. This includes complaints brought by students, faculty, staff or third parties against a faculty member, staff member or third party. The Title IX Coordinator is responsible for coordinating the Sexual Misconduct Policy and Procedures process where a staff member, faculty member, or third party may be found responsible for violating this policy.

The Department of Public Safety conducts investigations for all Title IX cases involving complaints by students against other students. The Deputy Title IX Coordinator or the Dean of Students for the campus where the respondent is enrolled conducts the student conduct process and, if necessary, imposes student conduct sanctions for students found in violation of these policies. The Division of Student Affairs oversees the student conduct process in those cases in which a student is alleged to be in violation of this Sexual Misconduct Policy and Procedures and is responsible for record keeping in these matters.

The Deputy Title IX Coordinator and the Deans of Students listed below are responsible for coordinating the student conduct process and ensuring that student complaints against other students are handled properly. Should you have any questions about the specific office or staff member with whom you should speak about sexual misconduct, please contact one of the offices below or the Department of Public Safety and you will be referred to the proper office or staff member.

If you are a student enrolled at the Rose Hill Campus or the Calder Center, contact:

Christopher Rodgers, Assistant Vice President and Dean of Students at Rose Hill
McGinley Campus Center 242
(718) 817-4755
deanrodgers@fordham.edu

If you are a student enrolled at the Lincoln Center or Westchester Campuses, contact:

Keith Eldredge, Assistant Vice President and Dean of Students at Lincoln Center
140 W62 Building, G33

(212) 636-6250
eldredge@fordham.edu

If you are a student enrolled at any campus, contact:

Michele C. Burris, Associate Vice President for Student Affairs/Deputy Title IX Coordinator
Keating Hall 100
(718) 817-4750
mburris@fordham.edu

If an incident happens off-campus or overseas during a Fordham study abroad, academic, or service program off-campus or abroad during a Fordham sponsored activity, contact the person who is leading the Fordham led-program and/or Public Safety at (718) 817-2222. You may also file an online complaint through Fordham’s Department of Public Safety and the Student, Faculty or Employee Tab of My.Fordham.edu.

The person who is leading the Fordham travel program is required to report information learned about an incident to Public Safety.

Members of the University community may also refer to the student brochure [Campus Assault and Relationship Education \(CARE\)](#) for detailed information on what steps to take to protect oneself and others from all forms of sex discrimination, sexual harassment, rape / sexual abuse, dating violence, domestic violence, stalking, sexual exploitation or other sexual misconduct before it happens, or in the aftermath of an incident.

VI. Conduct Covered by This Sexual Misconduct Policy and Procedure

The Policy Definitions of Prohibited Conduct and the Definition of Affirmative Consent are listed below. All Employees, Students, Faculty, and Third Parties who are enrolled, employed, or reasonably connected to the University are subject to these policies and possible discipline for behavior that violates the policy definitions described below:

- A. **“Unlawful Sex and Gender Discrimination”** is any action that denies a person access to, or the benefits of, any program or activity or employment opportunity, solely on the basis of sex or gender.
- B. **“Limitations on Consensual Relationships”**: In order to protect the integrity of the University academic and work environment, this policy outlines limitations on consensual romantic or sexual relationships between and among faculty, staff, and students. When individuals are involved in a consensual romantic or sexual relationship and are in positions of unequal authority or power, there is the potential for a conflict of interest, favoritism, and

exploitation of power.

- Anyone with supervisory, evaluative, or mentoring authority who controls or influences another person's employment, academic advancement, extracurricular or athletic team participation, scholarship or financial support, grades, recommendations, wage status, or promotion at the University is prohibited from having a romantic or sexual relationship with that person regardless of consent.
- Faculty, employees, and staff are prohibited from having a romantic or sexual relationship with any undergraduate student, regardless of whether the faculty, employee, or staff member currently exercises or expects to have any pedagogical or supervisory responsibility over the student. For the purposes of this policy, if a graduate student teaches courses to any undergraduate students for a semester, then starting that semester in which the graduate student begins to teach undergraduate students, that graduate student is prohibited from having a romantic or sexual relationship with any undergraduate student. This policy rule applies to that graduate student for as long as that student is enrolled at the University, even if that graduate student is no longer instructing undergraduates.
- If anyone is promoted into a position or has a change of circumstances that results in a conflict with this policy limiting consensual relationships, this information must be reported by the faculty, employee, or staff member to their supervisor or their respective vice president or to the vice president of human resources, who will contact the Title IX coordinator for assistance in resolving the conflict.

C. **“Sexual Harassment”** encompasses many of the specific policy definitions listed in this Sexual Misconduct Policy. Sexual Harassment is a form of sex discrimination. It is defined as “unwelcome conduct” of a sexual nature, including but not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic standing, status in a program, course or activity; or
2. submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual, or for academic evaluation, grades or advancement; or
3. such conduct is sufficiently pervasive, offensive, or abusive to have the purpose or reasonable effect of interfering with an individual's work or educational performance, or creating an intimidating, hostile, or offensive work or educational environment.

The effect of the conduct will be evaluated based upon the perspective of a reasonable person in the position of the complainant. “Unwelcome Conduct” is conduct considered to be undesirable or offensive to the individual if that person did not request, consent to, or invite the particular conduct. Please see Affirmative Consent to Sexual Activity below.

Some examples of sexual harassment include, but are not limited to:

- Unwanted sexual advances, requests for sexual favors or propositions of a sexual nature;
- Direct or implied threats that submission to sexual advances is a condition for employment promotion, good grades, recommendations, etc.
- Unwelcome verbal or physical conduct of a sexual nature which a reasonable person regards undesirable or offensive, including, but not necessarily limited to, sexually explicit jokes, statements and questions or remarks about sexual activity or experience.
- Physical assault, including rape;

D. Affirmative Consent to Sexual Activity for Incidents Involving Students: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary affirmative consent prior to and during sexual activity. The following is the University's policy for affirmative consent to sexual activity that applies to sexual activity involving a student.

Affirmative Consent is defined as a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The Six Guiding Principles regarding Consensual Sexual Activity: These principles, along with the above definition, will be used to evaluate whether sexual activity was consensual or violates our sexual misconduct policy:

1. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
2. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
3. Consent may be initially given but withdrawn at any time.
4. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.
 - Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent.
 - Depending upon the degree of intoxication, someone who is under the influence of
 - alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
5. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
6. When consent is withdrawn or can no longer be given, sexual activity must stop.

Minors Lack Consent: According to New York state law, a minor, defined as anyone less than 17 years of age, is incapable of consenting to sexual activity with a person 18 years of age or older. The University adopts this prohibition of sexual activity by adults with minors on all University property, and at any and all University-sponsored activities or functions outside New York state regardless of out-of-state laws.

Consent to Sexual Activity Not Involving a Student: Consent is defined as all people in a sexual encounter agreeing to the sexual activity. Agreement to sexual activity is defined as informed, freely given, and mutually understandable words or actions that indicate a willingness to participate in the particular sexual activity. A person may decide at any time that they no longer consents and wants to stop the sexual activity.

E. “Sexual Assault / Rape” is defined as physical sexual acts against another person that include vaginal, anal, or oral sexual intercourse with another person, touching sexual or intimate parts of another person, or inserting a foreign object, however slight, into any sexual or intimate parts of another person:

1. Without consent from the other person; or by coercion or threat; or
2. When the other person is incapable of giving consent due to being physically or mentally helpless for any reason, including being asleep or unconscious at the time, or being incapacitated because of the use of alcohol or drugs;
3. When the other person is unable to give consent due to a disability, mental incapacity or age (a person under 17 years of age cannot consent to sexual activity with anyone over 18 years of age).

This definition includes, but is not limited to, any form of non-consensual intercourse and/or sexual activity, **actual or attempted**, by person(s) known or unknown to the victim. This includes assault by multiple offenders. See New York State Penal Law Section(s) 130.00.

F. “Sexual Exploitation and Other Sexual Misconduct” occurs when someone takes advantage of another person without the person’s consent and exploits or attempts to sexually exploit that person. The following are activities prohibited under this provision:

1. Voyeurism or peeping, which is purposefully watching, videotaping or recording undressing, or engaging in sexual activity. This also includes allowing others to observe private sexual activity from hidden locations or by electronic means.
2. Sexual exhibitionism, where a person engages in sexually explicit activity in public spaces on campus or to be viewed by the public while on campus using computer hardware or software.
3. Displaying or distributing nude or sexually explicit images of another person on campus or the Internet without the person’s consent.
4. Sexual coercion, which is when someone threatens another by stating an intention or

threat to expose the other person's sexual orientation, consensual sexual experiences, sexually explicit photographs or videotapes or other images to family, friends, or the public.

5. Writing or marking of graffiti on University property that is sexually graphic in nature.
6. Unwelcome gestures of a sexual nature toward another person.
7. Fondling / Forcible Touching which is defined as non-consensual forcible touching of sexual or intimate parts of another person for the purpose of degrading or abusing such persons or for gratifying the actor's sexual desire.
8. Prostituting another person or soliciting a prostitute to campus or a campus event to engage in prostitution.
9. Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.
10. Incest, which is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
11. Stealthing, which is defined as:
 - The act of removing a condom during sexual intercourse without the knowledge or consent of the sexual partner; (or)
 - The act of intentionally misleading a sexual partner to believe a condom is being used during sexual intercourse after having agreed to do so.

Stealthing can occur between partners of the same or different gender/sexual identities.

G. "Stalking" is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. For purposes of this definition "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker, directly, indirectly, or through third parties, by any method, action, device, or means, monitors, observes, follows, surveils, threatens, or communicates to or about a person or interferes with a person's property. "Reasonable person" means a reasonable person under similar circumstance and with similar identities to the victim. "Substantial emotional distress" means significant mental anguish or suffering that may, but does not necessarily, require professional treatment or counseling.

H. "Dating Violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where existence of such a relationship shall be determined based on the complainant's statement and with consideration of the following factors: (i) length of the relationship, (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual, physical, or psychological abuse, or the threat of such

abuse. Dating violence does not include acts covered under the definition of domestic violence.

- I. **“Domestic Violence”** means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the under New York domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person’s acts under New York domestic or family violence laws.

- J. **“Intimidation and Retaliation for Reporting”**: Any member of the University community or third party who attempts either directly or indirectly to violate a University No Contact Restriction or to intimidate, threaten, retaliate, interfere with, restrain, coerce, discriminate against, or harass any person for reporting, attempting to report, or responsibly pursuing a complaint, or any person who is a witness cooperating in a University investigation regarding possible violations of any of the University’s policies regarding sexual misconduct, will be subject to prompt and appropriate disciplinary action, including possible termination or expulsion from the University.

Further Definitions Used in this Policy:

- K. **"Bystander"** shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.

- L. **"Confidentiality"** may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Counseling and Psychological Services mental health counselors, University Health Services medical providers and Campus Ministry pastoral counselors are examples of institution employees who may offer confidentiality.

- M. **"Privacy”** may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials. Institutions may substitute another relevant term having the same meaning, as appropriate to the policies of the institution. All designated as Campus Security Authorities must report information and should so inform the individual reporting.

- N. **"Reporting Individual"** shall encompass the terms victim, survivor, complainant, claimant, or witness with victim status; for this policy, the reporting individual is referred to as the

Complainant.

- O. **“Clery Reporting”** refers to the data collected by the Department of Public Safety on violent crimes (including sexual assault/rape, domestic violence, dating violence, and stalking) occurring on or near University property and is compiled in the University’s [Annual Security Report](#). Only aggregate data is reported and no personally identifiable information is collected. For more information on Clery Reporting, please review the Annual Security and Fire Safety Report or contact the Department of Public Safety

VII. Reporting, Privacy, and Confidentiality

A. Reporting

The University encourages all members of the community to report incidents of sexual misconduct. All employees and faculty have certain mandatory reporting requirements listed below in Section (b). The purpose of reporting is so any victim of any sexual discrimination, sexual misconduct or sexual violence is properly supported by the University and the University can make efforts to stop the discrimination, prevent it from recurring, and remedy the effects.

All reported incidents are centrally tracked in order to review for patterns and to assist in stopping the recurrence of similar incidents. The Department of Public Safety can receive reports at any time, as it is 24 hrs/7 days per week operation. When a person makes a report to a University employee who is required to report the incident, the Department of Public Safety will be notified as this department investigates reported incidents.

Good Faith Reporting: An individual who files a reasonable complaint in good faith of a suspected violation of the above referenced prohibited acts or brings forth information about such an act in honest belief, even if it may be found to be erroneous, will be covered by Fordham if done in good faith and will not be subject to discipline.

False (or) Malicious Reporting: The use of this policy for false, malicious, or frivolous purposes is strictly prohibited. Anyone who knowingly brings a false, malicious, or frivolous complaint against another University community member may be subject to disciplinary action.

Student Alcohol and Drug-Use Amnesty Policy When Reporting Sexual Misconduct

The health and safety of every student at Fordham University is of utmost importance. Fordham University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Fordham University strongly encourages students to report domestic violence, dating violence, stalking, or sexual

assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Fordham officials or law enforcement will not be subject to adjudication under Fordham University's Code of Conduct for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Notification of Rights at the Time of First Disclosure:

At the first instance of disclosure by a reporting individual to an institution representative, the following information shall be presented to the reporting individual: "You have the right to make a report to the Department of Public Safety, local law enforcement, or State Police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."

This information is also printed on the inside cover of the main University publication for students related to sexual misconduct, the Campus Assault and Relationship Education (CARE) brochure.

1. Reporting on Campus

The Department of Public Safety can receive complaints 24 hours a day 7 days per week, 365 days per year. Please call the Department of Public Safety at 718-817-2222. Supervisors are former ranking members of law enforcement who have prior experience and training working with victims of all crimes.

There are professionals on campus who can assist and support any victim/complainant as soon as a report is received that outlines possible sexual misconduct. These employees are specifically trained to respond appropriately. There will be an initial discussion with the complainant who can provide a recount of what has taken place and discuss how best to proceed. An Administrative Support Person (ASP) will be assigned by the Office of Residential Life/Dean of Students to both the student-complainant and student-respondent to assist and support both students through the process, even if the student complainant decides not to proceed internally with a student conduct process. The Department of Public Safety will investigate and draft an incident report.

Non-students will be provided similar information as described below but are not typically assigned an Administrative Support Person. However, the Title IX Coordinator or designee will assist non-student complainants and respondents with assistance in obtaining medical and counseling support, interim measures where warranted, and other services as needed after a report.

The Administrative Support Person or other administrator will explain the various options and support resources available, including but not limited to:

- Medical and counseling resources;
- The University's sexual misconduct procedures and policies against intimidation and retaliation and provide documents and information relevant to the conduct process;

- Standard of proof during the internal conduct process and possible sanctions;
- How to report the incident to the local police or prosecutor or seek other types of civil relief;
- Interim measures for possible accommodations and options for changing academic, living, transportation, and working situations if such changes are warranted under the circumstances and reasonably available.

Complaints by students against other students (students include full-time, part-time, undergraduate, graduate or non-matriculated students) **DURING BUSINESS HOURS:** should be brought to the Dean of Students for the campus at which the student is enrolled or the Deputy Title IX Coordinator, or **ANY TIME DAY OR NIGHT:** to the Department of Public Safety (24/7, 365 days a year). The Department of Public Safety conducts the investigation for all Title IX cases involving complaints by students against other students (or) where a student is subject to student conduct sanctions by this Sexual Misconduct Policy and Procedures. The Deputy Title IX Coordinator or the Dean of Students conducts the student conduct process and, if necessary, will impose student conduct sanctions for students who are found in violation of these policies.

If you are a student enrolled at the Rose Hill Campus or the Calder Center, contact:

Christopher Rodgers, Assistant Vice President and Dean of Students at Rose Hill
 McGinley Campus Center 242
 (718) 817-4755
deanrogers@fordham.edu

If you are a student enrolled at the Lincoln Center or Westchester Campuses, contact:

Keith Eldredge, Assistant Vice President and Dean of Students at Lincoln Center
 140 W62 Building G33
 (212) 636-6250
eldredge@fordham.edu

If you are a student enrolled at any campus, contact:

Michele C. Burris, Associate Vice President for Student Affairs/Deputy Title IX Coordinator
 Keating Hall 100
 (718) 817-4750
mburris@fordham.edu

Please Note: The Department of Public Safety can receive complaints 24 hours a day 7 days per week, 365 days per year, in person, by telephone and/or through the confidential online reporting system. Reports of sexual misconduct can also be filed directly with the Title IX Coordinator.

Complaints against Faculty, Staff, or Third Parties should be brought to the Title IX Coordinator (or) to the Human Resources Department during business hours (or) to the Department of Public Safety at any time. This includes students, staff, faculty and third parties

bringing allegations against staff, faculty, and third parties.

Kareem Peat
Title IX Coordinator
Cunniffe House 114
718-817-3112
TitleIX@Fordham.edu

Complaints occurring at London Centre should be brought to the Associate Head of the London Centre. Complaints may also be brought to the New York-based Department of Public Safety at +1-718-817-2222 or to Kareem Peat, Title IX Coordinator at +1-718-817-3112 or at titleix@fordham.edu. Complaints may be filed [electronically](#) by visiting the top-right section of the “Home” tab on my.fordham.edu and filling out a Public Safety Incident Report.

Please note: The Department of Public Safety can receive complaints 24 hours a day 7 days per week, 365 days per year, in person, by telephone and/or through the confidential online reporting system.

When the University receives a report from a student that he or she has been the victim of sexual misconduct including dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the University will provide the reporting individual with a written explanation of his or her rights and options in the form of the Campus Assault and Relationship Education brochure; that includes the Student’s Bill of Rights and Notification of Rights at the Time of First Disclosure. The University will provide the reporting individual with written notification regarding existing counseling, health, mental health, victim advocacy, legal assistance, student financial aid and other services available for victims both within the University and in the community. If the reporting individual is not the complainant, and the identity of the complainant is made known to the University, the University will provide written notification to the complainant in the form of the Campus Assault and Relationship Education brochure.

A reporting individual shall be advised of his or her right to have emergency access to the Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options. Any questions about whether the incident violated the Penal Law can be addressed to Public Safety, law enforcement or the District Attorney.

Reporting individuals are entitled to a plain language explanation of confidentiality which shall, at

a minimum, include the following: Even Fordham offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Department of Public Safety to investigate and/or seek a resolution.

The University will ensure that Reporting Individuals have information about resources including intervention, mental health counseling, and medical services, which shall include information on whether such resources are available at no cost or for a fee. The University will also provide information on sexually transmitted infections, sexual assault forensic examinations, and resources available through the New York State Office of Victim Services.

Use of a Designee as the Investigator, Finder of Fact and / or Adjudicator in a Conduct Proceeding: The University may, at its discretion, designate another trained/experienced person(s) to act as the investigator, finder of fact, and/or adjudicator in a conduct process. If there is a designation, the parties involved will be informed.

2. Mandatory Reporting: The University's Expectation for Faculty and Staff to Report

A responsible employee is a University employee who has the authority to redress sexual misconduct, who has a duty to report incidents of sexual misconduct, or who a student could reasonably believe has this authority or duty. This definition encompasses virtually every University employee, including all faculty, staff and administrators with the exceptions noted below.

A responsible employee must report all relevant details about the learned incident to the Title IX Coordinator or the other offices designed to streamline the accepting of reports, provide support and possibly commence an investigation which are: The Deans of Students for the Campuses, the Deputy Title IX Coordinator, and the Department of Public Safety. These offices will provide the reported information to the Title IX Coordinator for centralized review. When a Faculty or Staff member is told, observes, obtains knowledge, learns of or reasonably suspects that another member of the Fordham community is a victim/survivor of sexual misconduct, the following reporting procedures apply and must be reported as soon as reasonably possible. It is imperative that the Department of Public Safety, the Deans of Students, the Deputy Title IX Coordinator, and/or the Title IX Coordinator are informed to ensure the victim/survivor is provided with Notification of Rights at the time of first disclosure.

The only Fordham employees who are exceptions to the Mandatory Reporting requirement are:

- 1) Professional counselors and pastoral counselors working as such at the University's Counseling and Psychological Services (or) in Campus Ministry whose official responsibilities include providing mental health counseling to University students, including those who act in that role under the supervision of a professional counselor; and

- 2) University Health Services medical providers (see below Section 3: Speaking with a Confidential Resource and Not Reporting to the University).

State law requires professional counselors to report:

- 1) When a patient is likely to engage in conduct that would result in serious harm to the patient or to others; or
- 2) If there is reasonable cause to suspect that a minor has been sexually abused.

Please see the section below regarding Confidentiality and Privacy for further information.

**If unclear whether or not information MUST be reported, it is better to call the Title IX Coordinator, Deputy Title IX Coordinator or Deans of Students (business hours) or the Department of Public Safety (24/7) who can assist you for proper next steps.*

When there is a Student who is a Victim / Survivor of Any Sexual Misconduct:

All faculty and staff members MUST report the following incidents when a student is a victim / survivor and they observe, obtain knowledge, learn of, or reasonably suspect:

- Any form of sexual harassment (verbal or physical)
- Rape / sexual assault
- Dating violence and domestic violence
- Stalking
- Forcible touching
- Sexual exploitation
- Other sexual misconduct

*Please see Section VI. for conduct covered by this policy if unsure of the definitions listed above.

When there is a Faculty or Staff Member who is a Victim / Survivor of a Violent Act:

All faculty and staff members MUST report the following incidents when a faculty or staff member is a victim / survivor of:

- Any form of non-consensual physical sexual act including but not limited to rape, sexual assault or forcible touching which is considered a “violent act” under this policy;
- Dating Violence and Domestic Violence; see Section VI. for conduct covered by this policy if unsure of the definitions.

When there is a Faculty Staff Member who is a Victim / Survivor of a Non-Violent Act:

All faculty and staff members shall report any non-violent sexual act, including but not limited to:

- Verbal sexual harassment
- Gender Discrimination
- Sexual Exploitation

When Department Heads, Area Chairs and Employees with Supervisory Authority over

Others Learn of any Form of Prohibited Sexual Misconduct (Verbal or Physical):

The Supervisor MUST report the information to the Title IX Coordinator, Human Resources or the Department of Public Safety. The employee can simultaneously report this information to their own supervisor, however, it is required that it be reported to the Title IX Coordinator, Human Resources or the Department of Public Safety as soon as reasonably possible.

3. Speaking with a Confidential Resource and Not Reporting to the University:

Many victims of domestic violence, dating violence, stalking, sexual assault, or other sexual misconduct experience acute stress after an assault of such an incident. Survivors also sometimes blame themselves or feel ashamed, angry, or confused. Many find it helpful to talk in a supportive, confidential context. There are staff members in certain offices on campus and also off-campus resources available for people to speak with a confidential resource when a person chooses not to report an incident to the Department of Public Safety, the Title IX Coordinator, the Deputy Title IX Coordinator, or the Deans of Students for the campuses. Those staff members at Fordham include professional counselors in Counseling and Psychological Services, pastoral counselors in the Office of Campus Ministry, and medical providers in University Health Services.

It is important to note that confidential counselors in these offices will not be able to directly provide other accommodations and support that Public Safety, the Deans of Students, the Deputy Title IX Coordinator, or the Title IX Coordinator can arrange (i.e., changes in academic scheduling, living, transportation and working accommodations).

Counseling and Psychological Services:

Rose Hill Campus: 718-817-3725

Lincoln Center Campus: 212-636-6225

Westchester Campus: 914-367-3733

Calder Center: Please use the Westchester phone number

Office of Campus Ministry:

Rose Hill Campus: 718-817-4500

Lincoln Center Campus: 212-636-6267

Westchester Campus: 914-367-3420

Calder Center: please use the Westchester phone number

University Health Services:

Rose Hill Campus: 718-817-4160

Lincoln Center Campus: 212-636-7160

Westchester Campus: please use the Rose Hill Campus number

Calder Center: please use the Rose Hill Campus numbers

Off-Campus -- 24/7 Confidential Hotlines:

RAPE Crisis Hotline: 914-345-9111

Safe Horizon's Rape/Sexual Assault and Incest Hotline: 212-227-3000

NYC Domestic Violence Hotline: 800-621-HOPE (4673)

Gay and Lesbian Anti-Violence Project: 212-714-1141
Crime Victims Hotline: 212-577-7777
New York State Domestic Violence Hotline: (800) 942-6906
New York State Office of Victim Services: (800) 247-8035 or www.ovs.ny.gov

International Resources:

Rape Crisis National Helpline—London: 0808 802 9999
International Directory of Domestic Violence Agencies:
<http://www.hotpeachpages.net/a/countries.html>
Sexual Assault Support and Help for Americans Abroad (SASHAA): <https://sashaa.org/>

4. Reporting Options Outside the University to the Police, a Local Prosecutor and / or Seeking Medical Treatment at a Local Hospital

Medical Treatment: Anyone who is sexually assaulted or physically injured should seek a medical examination to determine the extent of injuries. It is also important to understand that physical evidence is collected during a sexual assault examination as a way to preserve evidence should the victim want to pursue criminal charges with the police or a local prosecutor at a later time.

Hospitals: *The hospitals listed below conduct sexual assault examinations*

Rose Hill Campus:

- Jacobi Medical Center—Pelham Parkway South, Bronx, NY, 718-918-5000
- North Central Bronx Hospital—3424 Kossuth Ave., Bronx, NY, 718-519-5000

Lincoln Center Campus:

- Mt. Sinai Roosevelt Emerg. Rm—59th St. on 9th and 10th Aves., NY, NY 212-523-6800
- Mt. Sinai/St. Luke's, Emergency Room—1111 Amsterdam Ave., NY, NY 212-523-3335

Westchester Campus:

- Westchester County Medical Center—100 Woods Rd., Valhalla, NY, 914-493-7000

Calder Center:

- Westchester County Medical Center—100 Woods Rd., Valhalla, NY, 914-493-7000

London Centre:

- The Haven—Whitechapel, Royal London Hospital, Whitechapel, London, E1 5DG, 020 7247 4787
- The Haven—Paddington, Imperial College Healthcare NHS Trust, Praed Street, London, W2 1NY, 020 3312 6666
- The Haven—Camberwell, King's College Hospital, Denmark Hill, London, SE5 9RS,

Law Enforcement / Local Prosecutor: A victim of any criminal sexual offense has legal recourse outside the University and can commence civil or criminal proceedings against the offending person(s). Many of the prohibited behaviors of the University's policies are also violations of New York State criminal laws where a person can be charged criminally with rape, sex abuse, stalking, and other charges. If convicted of such crimes, a person can be subject to severe penalties, including imprisonment for up to 25 years. If the action takes place outside New York, a person is subject to the criminal laws of the applicable jurisdiction.

Family and Civil Court: Additionally, Family Court is a civil court option where a person can seek a civil court order of protection in many circumstances. University administrators and / or the Department of Public Safety can assist any victim in the finding of resources, accompanying a person to court, and in initiating a legal proceeding in family court or civil court.

- The Bronx County Family Court is located at 900 Sheridan Ave, Bronx NY 10451 (corner of 161 Street).
- The Westchester Family Court is located at 111 Dr. Martin Luther King Jr. Blvd, White Plains, NY 10601.
- The Manhattan Family Court is located at 60 Lafayette St., New York, NY 10013.
- The Bronx Civil Court is located at 851 Grand Concourse, Bronx, NY 10451.
- The Manhattan Civil Court is located at 111 Centre Street, New York, NY 10013.

Law Enforcement:

- **Rose Hill Campus:** 48th Precinct—450 Cross Bronx Expressway, Bronx, NY 718-299-3900
- **Lincoln Center Campus:** 20th Precinct—120 West 82nd St., New York, NY 212-580-6411
- **Westchester Campus:** Harrison P.D.—650 North Street, Harrison, NY 914-967-5110
- **Calder Center:** North Castle Police Department —15 Bedford Road, Armonk, NY 914-273-9500
- **NY State Police:** 24-hour hotline for reporting sexual assault on NY college campuses 844-845-7269
- **NYPD Special Victims Division:** 646-610-7272
- **London Centre:** Dial 112 or 999 for assistance.

A person may report an incident to either the police or the University, or to both simultaneously. A complainant has the right to have the institution's process run concurrently with a criminal justice investigation: The filing of a complaint of sexual misconduct under this Policy is independent of any criminal investigation or proceeding. The University will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any necessary interim measures to protect the complainant and the University community.

However, the University may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of sexual misconduct matters that may also violate the state criminal code.

There may be times when the Department of Public Safety or another administrator may contact the police regarding the nature of an alleged incident. However, it is always the complainant’s decision as to whether or not to cooperate with any police or University investigation. The Department of Public Safety and other administrators stand ready to assist in reporting incidents to the police or local prosecutors.

A Plain Language Explanation of Distinctions Between the New York State Penal Law and the Fordham University Disciplinary Processes

	<u>Criminal Justice System</u>	<u>Fordham University Disciplinary System</u>
<u>Goals</u>	Safety, deterrence and punishment.	Education; safety; safe and supportive campus
<u>Governing Law</u>	NYS Penal Law NYS Rules of Criminal Procedure Federal criminal Law Federal Rules of Evidence	Title IX The Clery Act, Amended NYS Education Law Sections 129A and B
<u>How to Report</u>	Crimes involving sexual violence may be reported to: Fordham University Public Safety New York City Police Department Local police New York State Police Federal Law Enforcement Agents	Victims may disclose sexual violence to: Department of Public Safety (non-confidential) Dean of Students (non-confidential) Title IX Coordinator (non-confidential) Counseling and Psychological Services (Conf.) Pastoral counselor in Campus Ministry (Conf.) University Health Services (Confidential)
<u>Will there be an Investigation?</u>	Determination is made by law enforcement agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision whether to have a criminal prosecution is made by a prosecutor.	Disclosures made to a Confidential Resource will not trigger an investigation. A decision to investigate disclosures made to the Title IX Coordinator and other Non-Confidential Resources will be investigated only if deemed necessary after weighing a request for confidentiality against the continuing safety of the reporter and the safety and best interest of the campus community.
<u>Who Investigates?</u>	Police or law enforcement officials	Investigators, employed or retained by Fordham, in different departments including, but not limited to, Public Safety and Student Affairs.
<u>Procedures</u>	Governing state or federal law	University policies and Bylaws, which incorporate requirements of governing law.
<u>Standard of Evidence</u>	Crimes must be proven “Beyond a Reasonable Doubt”	A violation of disciplinary rules must be found by a “Preponderance of Evidence” which basically means, more likely than not, the conduct occurred.
<u>Confidentiality/</u>	A criminal charge and trial must be	Fordham offers confidential resources and

<u>Privacy</u>	public.	disciplinary proceedings are kept as private as possible but pursuant to law. Relevant information must be shared with those involved.
<u>Who are the Parties?</u>	The prosecution and Defendant. The victim is not a party.	The reporting individual (also referred to as the complainant) and the accused (also referred to as the respondent). The University acts as the finder of fact.
<u>Participation in the Process</u>	A criminal prosecution can proceed without the participation or cooperation of the reporter but the burden of proof is harder to achieve.	Reporting students cannot be required to participate in the University process. The University will be limited in its ability to respond if the reporting individual does not participate.
<u>Who Initiates Proceedings?</u>	A prosecutor	The University
<u>Testimony</u>	Generally public. Witnesses/reporters can be cross examined.	Reporter's testimony is private. No cross examination.
<u>Role of Attorneys</u>	Both state and defendants are represented by counsel.	Parties may be advised by attorneys but can only speak with their client.
<u>Mental Health/ Sexual History</u>	Generally, but not always, a reporter's prior sexual and mental health history is inadmissible in a criminal case	Generally not admissible but subject to very limited exceptions. Education Law 129 permits a party to exclude information of their prior sexual history with persons other than the other party. Evidence of mental health history is also excluded in the fact finding phase of the disciplinary process.
<u>Possible Results</u>	Defendant may: *plead guilty *have case dismissed *be charged guilty or not guilty by a judge or jury	If there is a formal proceeding, the respondent may be found "responsible" or "not responsible" for violations of university policy.
<u>Possible Results</u>	Fined, imprisoned, or both	Sanctions range from a warning to suspension or expulsion from the University

B. Privacy and Confidentiality

The University strongly supports a person's interest in confidentiality who is involved in sexual misconduct matters.

Be aware that only those officials in [Campus Ministry](#) and [Counseling and Psychological Services](#) who are providing pastoral or professional counseling and medical providers in [University Health Services](#) can accommodate requests for **confidentiality**. The University requires all other employees, including all faculty, staff, and administrators, to report learned instances of sexual misconduct to appropriate University officials (please see Reporting Section A for more details). However, even those University offices and employees who cannot guarantee confidentiality will maintain your **privacy** to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator, Deputy Title

IX Coordinator, Deans of Students, Department of Public Safety or designee to investigate and/or seek a resolution.

Even if a person does not ask for confidentiality, these matters are considered private and are shared with a limited number of employees who have a “need to know” and are responsible for the University’s response, including taking appropriate steps to respond to what happened, supporting complainants, respondents, witnesses, and resolving the matter promptly and fairly. To the extent practicable and appropriate to the circumstances, investigatory and resolution procedures, as well as appeal procedures, shall be held in strict confidence to reasonably insure the privacy of the parties concerned and to offer as much protection as reasonably possible to the careers and reputations of the parties involved.

The Family Educational Rights and Privacy Act (FERPA) allows a University to share information with an individual’s parents if there is a health or safety emergency or if the individual is listed as a dependent on either parent’s prior year federal tax income form. However, the University will generally not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the reporting individual’s permission.

1. Requests for Confidentiality and Requests to the University Not to Investigate:

If a person discloses an incident or reports an incident of sexual discrimination or sexual misconduct to the University but then wishes to remain confidential or does not want the University to proceed with an investigation, the University will attempt to honor and abide by a person’s wishes.

- By honoring such a request, the University will not be able to meaningfully investigate and pursue misconduct proceedings or disciplinary proceedings to find anyone responsible for the violation.
- The University will provide support and accommodations, such as information about counselors and advocates, and shall assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of reporting choices, as much as possible under the circumstances.

2. The University May Not Always Be Able to Honor a Request Not to Investigate:

In some limited circumstances, the University may not be able to honor the request for the University not to investigate. The University may elect to conduct its own investigation when the University determines in good faith that it is in the best interest of the community to do so. The person investigating the matter, the Department of Public Safety, after consultation with the Title IX Coordinator, the Deputy Title IX Coordinator, and Deans of Students, will weigh the request not to proceed against the University’s obligation to provide a safe, non-discriminatory environment for the entire community and decide whether the request can be honored.

Some, not all, of the factors that are reviewed when determining whether or not the University has

an overriding responsibility to proceed against someone's wishes not to proceed or to remain confidential, include:

- an increased risk that someone will commit additional sexual misconduct or other relevant misconduct;
- whether the respondent has a history of violent behavior or is a repeat offender;
- whether the incident represents an escalation in and unlawful conduct on behalf of the respondent from previously noted behavior;
- whether the accused used a weapon or force;
- whether the reporting individual is a minor;
- whether the University has other means to obtain relevant evidence;

If possible, the University will make attempts to inform the complainant prior to proceeding with an investigation after a person requests that the University not investigate. The University may proceed with an investigation and the adjudication process where someone could be found responsible for a policy violation even when a complainant does not participate and does not want to proceed.

If, after considering these factors, the University determines that it is able to respect the complainant's request for confidentiality, the University will nevertheless take all reasonable steps to respond to the complaint consistent with the complainant's confidentiality request, and will determine whether interim measures are appropriate or necessary. The University will also consider broader remedial action, such as increased monitoring, supervision of security at locations where the reported sexual misconduct occurred, increasing training, education and prevention efforts, and conducting climate surveys.

The University may, under certain circumstances, be required by law to report and/or file a complaint with external authorities. However, any complainant or witness can decide whether or not to cooperate or even speak with the police, as it is not required.

3. Sexual Assault Public Awareness Events

The University is not obligated to begin an investigation based on information that a person chooses to share during public awareness events that are designed and intended to be safe spaces for survivors to share experiences. These events could include candlelight vigils, "Take Back the Night," protests, or other public events. The University may also decide to use the information learned to inform its efforts for additional education and prevention efforts.

VIII. How the University Will Respond to Reports

Complaints to the University will be investigated immediately upon receipt. The investigation will be thorough, reliable, and impartial. Both parties will have an equal opportunity to provide the

names of relevant witnesses and other information to the investigator who will weigh the reliability and credibility of information obtained. The complainant has the right to withdraw the complaint and their involvement in the process at any time. The University reserves the right to conduct its own investigation and proceedings notwithstanding the status or resolution of any civil or criminal proceedings or in the interest of the community. See VII (B)(2) Not Honoring a Request to Not Investigate.

A. Interim Measures and Orders of Protection (Restraining Orders)

Remedial Action and Remedies appropriate to the nature and severity of any misconduct found will follow.

Interim measures may be imposed if requested or if the University deems them necessary to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Individuals may also request and obtain reasonable and available interim measures and accommodations that effect a change in academic, extracurricular, housing, dining, employment, transportation, or other applicable arrangements. Both the complainant and respondent shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, and shall be allowed to submit evidence in support of his or her request.

Factors determining which interim measures the University will take may include:

- i. the specific needs expressed by the complainant;
- ii. the age of the students involved;
- iii. the severity or pervasiveness of the allegations;
- iv. whether the complainant and respondent share the same residence hall, class, or job locations; and
- v. whether other court ordered judicial measures have been taken to protect the complainant.

In the event the respondent is determined to present a continuing threat to the health and safety of the community, the respondent may be subject to an interim suspension pending the outcome of the conduct process. Both the respondent and complainant may request a review of the need for and terms of the interim suspension, including potential modification, and will be allowed to submit information in support of their request, subject to applicable handbooks, bargaining agreements, etc. for non-students.

University No Contact Restriction: After a complainant reports a complaint of sexual misconduct to the Title IX Coordinator, Deputy Title IX Coordinator, Deans of Students, or the Department of Public Safety, a no contact restriction will typically be put in place between the complainant and the respondent. A no contact restriction is a directive prohibiting contact between or among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party.

- The Title IX Coordinator, Deputy Title IX Coordinator, Deans of Students, Department of Public Safety or designee will issue verbally and/or in writing a directive restricting contact between the complainant and the respondent.
- An individual who wishes to report a violation of a no contact restriction can contact the issuing office during business hours, the Department of Public Safety and/or his or her administrative support person, where applicable. If the respondent and the complainant observe each other in a public place, it shall be the responsibility of the respondent to leave the area immediately and without directly contacting the complainant. Individuals who violate a no contact restriction are subject to further disciplinary charge of retaliation and violating the no contact restriction order and subject to adjudication and possible discipline.
- Both the respondent and complainant will, upon request and consistent with our policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measures, no contact restrictions, and accommodations, including potential modification, and will be allowed to submit evidence in support of his or her request. The Title IX Coordinator, Deputy Title IX Coordinator, Deans of Students or designee will determine within a reasonable timeframe whether there will be any modification.

Orders of Protection Issued by Criminal Courts and Civil (including Family) Courts: In addition to a University's No Contact Restriction issued by the University to University community members, victims of stalking, dating and domestic violence, or any other violence/crime can seek orders of protection from both the family and criminal courts.

The Department of Public Safety or another designated University staff member is available to assist in obtaining a government court issued order of protection (or, if outside New York State, an equivalent protective force or restraining order) and explain the consequences of violating such an order, including but not limited to arrest, additional conduct charges, and interim suspension. The parties are entitled to receive a copy of the order of protection or equivalent when received by the University and have an opportunity to speak with a Department of Public Safety representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons. An individual may receive assistance from the Department of Public Safety in effecting an arrest when an individual violates such an order.

Delay or Denial of Degree Award: During the period disciplinary charges are pending against a student, the University may deny and/or delay issuance of a degree. Further, the University may refuse to issue a degree to a student who is serving a suspension or has been permanently dismissed from the University.

B. The University's Internal Investigation and Conduct Process

If a person chooses to proceed with an internal University process using these Sexual Misconduct

Policy and Procedures, there are two options:

(1) An Informal Approach to Resolution*

**Not to be used when there is sexual violence (or) any forcible touching or by Third Parties.*

(OR)

(2) A Formal Approach to Resolution

1. Informal Approach to Resolution

**Not to be used when there is sexual violence (or) any forcible touching or by Third Parties.*

Any complaint and resolution reached through the informal process still must be reported to the Title IX Coordinator for the University.

A complainant who wishes to file a complaint but who does not wish to pursue Formal Resolution may request a less formal proceeding, known as “Informal Resolution.” While the Informal Resolution process is not as structured as the Formal Resolution process, it can be an effective and appropriate means to deal with the complaint. **The Informal Resolution procedure is not available for complaints of sexual violence.**

If the complainant wishes to proceed with Informal Resolution, the Title IX Coordinator, Deputy Title IX Coordinator, or Dean of Students, or his or her designee, will ascertain the name of the respondent, and the date, location, and nature of the alleged sexual misconduct, and, will schedule an individual intake meeting with the respondent in order to provide him or her with a general understanding of the Policy.

The complainant and the respondent each may bring an Advisor of Choice to the Informal Resolution. Advisors of Choice are subject to the same restrictions set forth in the Policy where they do not actively participate during the informal process. A trained counselor, trained mediator, or, if appropriate, a University faculty member or administrator, will preside over the Informal Resolution and may be assisted by another member of the senior staff of the University or outside expert.

If, in the course of the Informal Resolution, the respondent admits to violating the Policy, that admission will serve as a finding of responsibility after an independent investigation into the matter by the University. The University will not impose sanctions on the basis of an admission (by the respondent) without an independent investigation into the alleged misconduct. The Dean of Students, Human Resources or appropriate Vice President, or his or her designee, will recommend one or more sanctions, which the respondent can accept or reject. The sanctions that may be imposed as the result of the Informal Resolution process are the same as those outlined in the Formal Resolution process below. If the recommended sanction(s) is accepted, the process is concluded. If it is rejected, the complaint will proceed to the Formal Resolution process.

Participation in the Informal Resolution process is voluntary. The University will not compel a complainant or a respondent to engage in Informal Resolution, or directly confront the respondent, and will allow a complainant or respondent to withdraw from the Informal Resolution process at any time, where appropriate. The University may, at any time, elect to end such proceedings and

initiate Formal Resolution instead. 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. Statements or disclosures made by the parties in the course of the Informal Resolution may be considered in the Formal Resolution. In the event a complainant or a respondent wishes to proceed to the Formal Resolution process, he or she must provide written notification to the Title IX Coordinator.

Informal Resolution may result in the imposition of protective actions agreed upon by the parties, or (with or without such agreement) based on information derived from the Informal Resolution taken together with any other relevant information known to the University at the time of the Informal Resolution.

2. Formal Approach to Resolution:

In all matters of sexual violence, in matters the University decides must be handled formally, if a matter cannot be resolved through the informal approach, or if the complainant chooses not to proceed informally, or if the complainant is a third party, the complainant may seek the assistance of Public Safety as the official investigator and fact finder for each campus. The results of this investigation are passed to the Deputy Title IX Coordinator or the Dean of Students (or the Dean's designee) for student respondents and the Title IX Coordinator for all other respondents who will follow the appropriate adjudication proceedings.

The Department of Public Safety will handle complaints impartially and objectively, perform fact-finding, and will follow certain procedures. If there is a significant conflict of interest where the investigator cannot be impartial, another investigator will conduct the investigation. The Department of Public Safety evaluates information based upon the nature and context of the conduct after assessing the credibility of witnesses and weighing the relevant information learned.

Those involved in the investigation and conduct process receive training, at least annually, on the issues relating to sexual misconduct, including sexual harassment, dating violence, domestic violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Notification of Proceedings and Meetings:

Once an initial investigation has been conducted showing that a more formal investigation is warranted (meaning the behavior in question may violate one of the Sexual Misconduct Policy and Procedures sexual misconduct covered by this policy), the complainant and respondent are:

- Informed that there is a formal inquiry into the conduct in question;
- Provided information as to the behavior that will be evaluated;
- Informed of which provisions of the Sexual Misconduct Policy and Procedures the behavior being investigated may violate;
- Informed of the possible sanctions;
- Notified that they will be provided the time and place for all meetings in relation to the conduct process.

The University will ensure that every student is afforded the right to a process in all student conduct cases where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the University's code of conduct, that includes, at a minimum: (1) notice to a respondent describing the date, time, location and factual allegations concerning the violation, (2) a reference to the specific code of conduct provisions alleged to have been violated, and (3) possible sanctions. Students are entitled to receive written or electronic notice, provided in advance, of any meeting they are required to or are eligible to attend.

Time Frame for Investigation, Conduct Process and Resolution:

While the time to resolve a reported incident will vary from case to case, depending on the specific facts and circumstances, it is expected that in most cases, complaints will be resolved within 60 days of the day the complainant requests that the University's investigation and student conduct processes commence. If these processes will take longer than 60 days, both the complainant and the respondent will be notified in writing as to the delay and the reason for the delay. Delay can sometimes, but not always, be imposed by complexity of the incident/complaint, holiday closures of the University, breaks in the class schedule, midterm and final examinations, as well as the need to coordinate multiple parties for interview meetings and hearings.

Who Conducts the Investigation and Conduct Process:

Members of the Department of Public Safety are responsible for investigation of the facts/fact-finding process. *The University may, at its discretion, designate another trained / experienced person(s) to act as the investigator, finder of fact, and/or adjudicator in a conduct process. If there is a designation, the parties involved will be informed.*

- In cases involving only students, the Deputy Title IX Coordinator, Dean of Students, or his or her designee serves as the Hearing Officer, completes the student conduct process and, if necessary, imposes appropriate student conduct sanctions.
- In cases involving employees, faculty or third parties as Respondents, the Title IX Coordinator, or his or her designee, makes a finding of the facts and a recommendation for resolution, including recommending possible disciplinary sanctions to the appropriate University Vice President or designee. The officer receiving the recommendation has the authority and responsibility to impose discipline or other resolution he/she deems appropriate based upon the circumstances and severity of the findings of facts.

Advisor of Choice:

The respondent and complainant can each be accompanied by one Advisor of Choice who may assist, advise, and support the person throughout the conduct process and be present for related meetings or proceedings but cannot actively participate. The choice whether or not to invite an advisor is solely that of the complainant and respondent. An advisor may not participate in the conduct process in any other capacity in reference to the same incident, including, but not limited to, serving as a witness, co-complainant, or co-respondent.

The complainant/respondent is encouraged to provide the contact information of the Hearing Officer to their advisor of choice in advance of the meeting or proceeding. The Hearing Officer (student conduct proceedings) or Title IX Coordinator must be advised in writing that an advisor

will be present at least 48 hours before the scheduled meeting or proceeding. This notification must include:

- Full name and title of the advisor of choice
- Contact information for the advisor of choice (phone, email and address)

If the advisor is an attorney, this must be disclosed to the University in advance. The University reserves the right to have its own legal counsel present during the conduct process.

If any advisor's conduct is not consistent with these guidelines, he or she may be excluded from the conduct process. The availability of an advisor to attend a conduct meeting, interview or hearing shall not unreasonably interfere with or delay the proceedings.

Information and Evidence Used During the Conduct Process: The conduct process is designed to gather information to be used in the determination as to whether the conduct violated the University's policy definitions for sexual misconduct.

- Presumption of "Not Responsible" for Violating the Sexual Misconduct Policy:** The respondent is presumed not to have violated the policy until there is an outcome decision communicated. However, depending upon the circumstances of the initial allegation, the person can be suspended on an interim basis pending the outcome of the conduct process. Additionally, other interim measures may be imposed upon the person, pending the outcome of the conduct process, depending upon the allegations and need for the University to keep the community safe and the complainant safe; these may include the issuance of a University No Contact Restriction (see Interim Measures above), change in housing, and / or other limitations.
- The "Preponderance of Evidence" Standard of Review:** The evidentiary standard in determining the facts will be based upon a Preponderance of Evidence Standard, i.e. a finding that it is more likely than not that the alleged sexual discrimination and/or misconduct occurred or did not occur.
- Opportunity to Review Evidence and Offer Information:** Both parties are provided an opportunity to review and present relevant evidence and information that will be used during the conduct meetings and proceedings, consistent with the University's policies and procedures, where appropriate and in accordance with the federal state, and local laws including FERPA. The evidence must be relevant to the allegation as to permit a meaningful opportunity to respond and an opportunity to offer responsive evidence and information.
- Prior Sexual History:** Past findings of domestic violence, dating violence, stalking or sexual assault may only be admissible in the conduct process stage in which the sanction is determined. A student's prior sexual history or mental health diagnosis and/or treatment from admittance may not be introduced at the conduct stage of the resolution process where responsibility is determined.

- e) **Impact Statement:** Student respondents and student complainants are entitled to provide an impact statement if and when the Hearing Officer is deliberating on any appropriate sanctions and, in any case, at least 48 hours in advance of the scheduled meeting to provide notification to complainants and respondents as to the outcome of the conduct process. Opportunities for similar impact statements will be provided for the complainants and respondents if the matter involves imposing sanctions upon faculty, staff or third party.
- f) **Possible Sanctions:** Possible sanctions for employees include (but are not limited to) a letter of reprimand or warning letter, a reduction in pay, probation, suspension, termination of employment from the University or other appropriate sanctions.

Possible sanctions for students include (but are not limited to) a disciplinary reprimand, residence hall probation, suspension or expulsion from University housing, student life probation, university disciplinary probation, and suspension or expulsion from the University.

Notification of Outcome: Both the complainant and the respondent will be simultaneously advised in writing of the outcome, including:

- Written notice of the findings of fact
- Decision and any sanctions
- Rationale for the decision and any sanctions
- Information on how to file an appeal

An employee who is disciplined as a result of violating this policy will be informed by his or her Vice President or designee. The University does not provide any eye witnesses or witnesses (other than the complainant and the respondent) with the outcome of the decision and resolution of the proceeding.

Disclosure of Outcomes: The University considers these matters confidential and does not publicly release underlying information regarding investigations unless required by law. Disclosures of facts to witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protecting the integrity of the investigation and will be advised that it is usually best to refrain from discussing the matter during the pending investigation. After the parties are provided with an outcome, either party can choose whether to disclose or discuss the outcome of the conduct process.

Remedies: In addition to possible disciplinary or conduct sanctions, the University may also impose additional remedies if needed and where appropriate for the University community.

3. Appeal

All appeals will be conducted in a fair, impartial, and equitable manner by decision maker(s) free of any conflict of interest. A respondent and complainant can file a written appeal based upon: (1) a material procedural error that could significantly impact the outcome of a case; (2) a claim that the sanction is substantially disproportionate to the finding(s); or (3) material relevant evidence that was previously unavailable that could significantly impact the outcome of a case.

All respondents and complainants will be notified in writing of any appeal and the final outcome post-appeal.

a) Appeal when a Student is the Respondent

Appeals must be presented in writing to the Senior Vice President of Student Affairs within 2 business days of notification of the sanction imposed. Both a complainant and respondent may file an appeal.

The appeal is heard by the Student Conduct Review Council (SCRC) which is comprised of five members: two faculty members appointed by the President of the Faculty Senate, one of whom is appointed as chairperson; one administrator appointed by the Senior Vice President for Student Affairs; and two students appointed by the President of the United Student Government. In the event that the respondent or complainant are graduate students, the students on the SCRC will be appointed by the Dean of the particular graduate school. If the Chair of the SCRC determines that there is a conflict of interest with any panel member, that panel member will be excused and replaced by another panel member to ensure a fair and impartial proceeding.

The SCRC shall have the power to: uphold the decision of the Dean of Students; uphold the decision but change the sanction; or remand the case back to the Dean for further hearing. The decisions and sanctions of the SCRC are determined by majority vote, and are final and not appealable.

SCRC Appeal Review Process

- 1) The Dean of Students and the person filing the appeal will present their respective versions of the case to the SCRC. The appealing student represents himself or herself in the hearing and can have one Advisor of Choice present. However, the Advisor of Choice may not actively participate during the hearing and must adhere to all rules set forth in the Advisor of Choice policy.
- 2) The SCRC may pose questions to the Hearing Officer and to the appealing student. Both the complainant and respondent will be given an opportunity to be heard, if they so choose.
- 3) The SCRC may choose to ask the Hearing Officer to return to the meeting to answer specific questions about the case or ask the Senior Vice President for Student Affairs or the Associate Vice President for Student Affairs at any time to answer questions on the process of the Council.
- 4) The SCRC hearing is conducted in closed session.
- 5) When and if the SCRC decides by majority vote that it needs more information in order to

reach its decision, it may call relevant witnesses or request information to the extent it requires.

- 6) As soon as possible, the Chairperson of the SCRC will inform all parties, including the Senior Vice President of Student Affairs of the final decision.
- 7) A timely final outcome letter will be simultaneously provided to both the complainant and respondent.

b) Student Appeal When an Employee is a Respondent

An intent to appeal must be presented in writing to the Vice President for Human Resources within 5 business days of notification of the sanction imposed, if any. Both complainants and respondents may file an appeal.

Title IX Review Committee

The appeal is heard by the Title IX Review Committee (TIXRC). The Committee's makeup will differ based on the constituency of the Respondent:

If the Respondent is an adjunct or full-time non-tenured track faculty member who is also a member of a collective bargaining unit, the TIXRC will consist of an administrator selected by the Senior Vice President for Student Affairs, a full-time tenured or tenure-track faculty member selected by the Faculty Senate, and a bargaining unit member of the Respondent's collective bargaining unit. The full-time tenured or tenure track faculty member will serve as Chair of the Committee.

For all other Respondents than described above, the TIXRC will consist of a representative selected by the Senior Vice President for Student Affairs, a representative selected by the Vice President for Human Resources, and a representative of the Respondent's constituency. If the Respondent is a faculty member who is not a member of a union, the constituency representative will be selected by the Faculty Senate. If the Respondent is an administrator, the constituency representative will be selected by the Vice President for Administration (or designee). If the Respondent is a member of Local 810 or Local 153, the constituency representative will be selected by the respective unions. The representative selected by the Vice President for Human Resources will serve as Chair.

If the Chair of the TIXRC determines that there is a conflict of interest with any panel member, that panel member will be excused and replaced by another panel member to ensure a fair and impartial proceeding.

Procedures

- 1) The Hearing is conducted in a closed session.
- 2) The TIXRC will review the full case record, including the Title IX Coordinator's investigative report, the sanctions (or lack thereof) imposed by the issuing Vice President and the related rationale, and any and all evidence in the case file.
- 3) The Vice President (or designee) issuing the sanctions (or lack thereof) and the appealing party will present their respective versions of the case to the TIXRC. The TIXRC may ask questions to the Vice President (or designee), the appealing party or other relevant parties. Both the appealing party and the non-appealing party will be given an opportunity to be heard.
- 4) Each party will be given an opportunity to submit questions to the other party and relevant witnesses. To do so, the party must submit questions to the TIXRC Chair, who will then ask the questions.
- 5) The parties may choose to have one (1) Advisor of Choice present. However, the Advisor of Choice may not actively participate during the hearing and must adhere to all rules set forth in the Advisor of Choice policy.
- 6) After hearing from all relevant parties, the TIXRC will present its findings in a report to a panel of three University Vice Presidents (or their designees). The TIXRC report shall include a recommendation to uphold the sanctions imposed (if any) by the issuing vice President, modify the sanctions imposed (if any), or to remand the case for further investigation to the Title IX Coordinator.
- 7) The panel of three Vice Presidents (or their designees) may either accept the recommendations of the TIXRC or reject them. In the event this panel rejects the TIXRC's recommendations to modify the sanctions, the sanctions of the issuing Vice President remain in effect. The panel's decision is final and binding except as noted below.
- 8) The Vice President for Human Resources will simultaneously provide the Complainant, Respondent, and the Vice President issuing the sanctions (or lack thereof) with a copy of the TIXRC's findings and the panel of three Vice Presidents' (or their designees') decision.
- 9) A record of the Hearing will be preserved for the case file with the Title IX Coordinator's Office.

c) Further Review

Employees may have the right to a limited review of the final decision per the process above.

Faculty

Bargaining Unit Faculty Members

Bargaining unit faculty members should follow the grievance and arbitration procedures in the applicable collective bargaining agreements as limited for Title IX purposes.

Non-Bargaining Unit Faculty Members

Faculty not a member of a bargaining unit should follow the procedures as limited for Title IX purposes as outlined in Article IV of the University Statutes.

Staff

Administrators

Administrators who would like to appeal a determination may follow the Grievance Procedures set forth in the Administrator's Handbook. It should be noted that Administrators who have not successfully completed the introductory period, are on grant funded positions or contracts that have expired or have been terminated for cause (violating the University's Code of Conduct) are not entitled to an appeal.

Clerical / Maintenance Union Members

Those employees who are members of either the Clerical or the Maintenance Union should follow the grievance procedures in their respective Collective Bargaining Agreements.

d) Records of Investigations and Outcomes

Records of Reports and Investigations: Personal information about any witness and records regarding these matters will remain confidential insofar as it does not interfere with the University's right to investigate allegations of misconduct and take corrective action where appropriate and practicable. Written records will be retained with regard to the complaint, the investigation and fact finding, and the resolution. However, the University will comply with criminal legal subpoenas or other civil court ordered requests for information or paperwork in compliance with Family Educational Rights and Privacy Act (FERPA) and other laws.

Records of Outcomes and Resolutions: In all student cases, all information and other appropriate records will be maintained for a minimum of six (6) years from the outcome of an investigation. Any faculty, staff or third party records are maintained for six years. When there is an outcome that involves discipline of an employee, the Human Resources Department is notified of the discipline.

Findings or Responsibility Listed on Transcripts for Violations of Violence Fordham Transcript Notation Policy for Violent Crimes: Pursuant to Article 129-B §6444.6 of the New York State Education Law, if a student is found responsible through the University’s conduct process for crime(s) of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. § 1092(f)(1)(F)(i)(I)-(VIII) (“Clery crimes of violence”), and the student is suspended or expelled from the University, the Hearing Officer will direct that a notation be placed on the student’s transcript.

- Where the sanction is a suspension, the following notation will be listed: “SUSPENDED AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION.”
- Where the sanction is expulsion, the following notation will be listed: “EXPELLED AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION.”

If a student respondent withdraws from the University, while such University conduct charges are pending for allegation(s) related to Clery crimes of violence and the student declines to complete the student conduct process, the Hearing Officer will direct that the following notation be placed on the student’s transcript: “WITHDREW WITH CONDUCT CHARGES PENDING.”

- Those students who withdraw from the University and decline to complete the student conduct process forfeit any right to resume the conduct proceedings at any point in the future.
- Conduct charges are considered “pending” once a student is informed in writing that there are allegations that the student may have violated the University’s Code of Conduct.

Vacating a Finding of Responsibility: If definitive proof a student respondent’s non-responsibility can be determined, any such transcript notification shall be removed. Only definitive proof can vacate a finding a responsibility. A not-guilty verdict in a criminal court is not, in itself, definitive proof of non-responsibility, nor is a failure to prosecute. If there is a student complainant in the conduct process, the University will notify the student complainant and the student complainant will have an opportunity to be heard if a respondent provides definitive proof resulting in vacating a responsibility determination.

Further Appeals: A student whose transcript states “SUSPENDED AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION” may appeal, in writing, to the appropriate Hearing Officer to have the notation removed. Appeals may be granted provided that:

- i. One year has passed since the conclusion of the suspension;
- ii. The term of suspension has been completed and any conditions thereof; and
- iii. The Hearing Officer has determined that the student is once again “in good standing” with all applicable University and academic and non-academic standards.

A student whose transcript states “EXPELLED AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION” or “WITHDREW WITH CONDUCT CHARGES

PENDING” is ineligible to appeal to have the notation removed.

Those students who were expelled or withdrew with such notifications on their transcripts will leave the University with the status “not in good standing” and will be ineligible for readmission to Fordham University, absent any vacating of a finding of responsibility.

IX. Rights Afforded to Students

Students’ Bill of Rights

In accordance with New York State law, all students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearing related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution.

Date of Policy: Updated: 8-24-18

The University may amend and revise these policies and procedures from time to time to comply with applicable laws, regulations, and governmental guidance. Nothing in these policies shall affect the inherent authority of Fordham University to take actions as it deems appropriate to further its educational mission or to protect the safety and security of our community.