

Sexual and Related Misconduct

Policy and Procedures

For the Fordham University Community

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I. Policy Statement

Fordham University is committed to maintaining a community in which its members live, work, and learn in a safe and respectful environment that is free from all forms of sex- and gender-based discrimination. In furtherance of this commitment, 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-A and Article 129-B of the New York State Education Law (“Enough is Enough”), the University prohibits the following forms of sexual or related misconduct: sex and gender discrimination, sexual assault, sexual harassment, stalking, dating violence, domestic violence, prohibited consensual relationships, sexual exploitation and other sexual misconduct, and intimidation and retaliation for reporting as defined in Section IV below.

Sexual and related misconduct can occur between strangers, acquaintances, or people who know each other well, including people who are involved in an intimate or sexual relationship, and sexual and related misconduct can be committed by anyone regardless of sex, gender, gender identity, gender expression, or sexual orientation. Fordham will take prompt and effective steps to end the sexual and related misconduct, eliminate the hostile environment, prevent its recurrence, and remedy its effects.

II. Scope

The Sexual and Related Misconduct Policy and Procedures for the Fordham University Community (“Policy and Procedures”) explain: (i) options for reporting sexual and related misconduct (on- and off-campus); (ii) the University’s process and procedures for responding to reports of prohibited conduct under this policy (including its fair and equitable process for conducting investigations and reaching resolutions); and (iii) the rights and options available to community members under the Policy and Procedures. For additional information on resources available to students, you may refer to the student brochure entitled [Campus Assault and Relationship Education \(CARE\)](#). For additional information on resources available to faculty, staff, and administrators, you may access the Employee Assistance Program (EAP) at: <https://www.liveandworkwell.com/content/en/public.html>

The Policy and Procedures applies to conduct by all students, faculty, staff, and administrators taking place on campus or at Fordham University sponsored programs, activities, or events, including study abroad programs and academic, learning, and service programs located at off-campus sites. This policy also covers any conduct that has a continuing effect on campus or in

an off-campus education program, activity, or event sponsored by the University.

The Policy and Procedures applies regardless of race, color, national origin, religion, creed, age, disability, sex, gender, gender identity, gender expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, or any other protected class recognized under federal, state, or local law.

III. Notice of University-Wide Nondiscrimination Policy and the Duties of 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.

The Title IX Coordinator oversees the University's Title IX compliance efforts and is responsible for coordinating the University's response to all reports of sexual and related misconduct, including sex- or gender-based discrimination involving educational programs, gender equity in athletic programs, employment, and admission. The Title IX Coordinator also collects data from all of the University's Title IX reports to monitor the process, including outcomes, to identify and address any patterns or systemic issues that may arise.

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. You may 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 <https://www.ed.gov/> or 646-428-3800.

Fordham's Title IX coordinator may be contacted at:

Kareem Peat
Title IX Coordinator
Faculty Memorial Hall
Second Floor
Rose Hill Campus
718-817-3112

IV. Conduct Covered by the Sexual and Related Misconduct Policy and Procedures

The definitions of prohibited sexual and related misconduct and affirmative consent are listed below.

- A. Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. 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.
- B. Domestic Violence:** Violence committed by a current or former spouse or intimate partner of the complainant by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant under New York domestic or family violence laws, or by any other person against an adult or youth complainant who is protected from that person's acts under New York domestic or family violence laws.
- C. Intimidation and Retaliation for Reporting:** Attempts, either directly or indirectly, to violate a University No Contact Restriction or to intimidate, threaten, retaliate against, interfere with, restrain, coerce, discriminate against, or harass any person for attempting to report misconduct, reporting misconduct, pursuing a complaint, serving as a witness, or being a potential witness in a University investigation regarding possible violations of any of the University's policies regarding sexual and related misconduct is prohibited. Members of the University community who engage in this conduct will be subject to prompt and appropriate disciplinary action, including possible termination or expulsion from the University. Individuals engaging in this conduct who are not members of the University community will be subject to campus bans and other actions deemed appropriate by the Title IX Coordinator or their designee.
- D. Prohibited Consensual Relationships:** When individuals are involved in a consensual romantic or sexual relationship and they are in positions of unequal authority or power, there is the potential for a conflict of interest, favoritism, or exploitation of power that impacts the integrity of the University's living, working, and learning environments. For this reason, this policy prohibits the following consensual romantic or sexual relationships between and among faculty, staff,

administrators, and students:

- Regardless of consent by all parties involved, 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 the person they control or influence.
- Regardless of consent by all parties involved, faculty members, staff members, and administrators are prohibited from having a romantic or sexual relationship with any undergraduate student, regardless of whether the faculty member, staff member, or administrator currently exercises, or expects to have, any pedagogical or supervisory responsibility over the undergraduate student.
- Regardless of consent by all parties involved, if a graduate student teaches courses to any undergraduate students for a semester, then starting the semester in which the graduate student begins teaching any undergraduate students, that graduate student is prohibited from having a romantic or sexual relationship with any undergraduate student. This prohibition applies to that graduate student for as long as the graduate student is enrolled at the University, even if that graduate student is no longer instructing undergraduates.

Any individual who is promoted into a position or has a change of circumstances that results in a conflict with this section on prohibited consensual relationships must report this change in circumstances to their supervisor, their Vice President, or to the Vice President of Human Resources, who will contact the Title IX Coordinator for assistance in resolving the conflict.

- E. Sex and Gender Discrimination:** Any severe, pervasive, or persistent conduct that denies a person access to, the benefits of, or the ability to participate in any education program or activity on the basis of sex or gender.

For the definition of Sex and Gender Discrimination applicable to employees, please see the Fordham University Anti-Harassment and Anti-Discrimination in Employment Policy.

- F. Sexual Assault:** Engaging in the following sexual acts without affirmative consent:
- 1) Vaginal, anal, or oral sexual intercourse with another person;
 - 2) Inserting a foreign object, however slight, into any sexual or intimate parts of another person;
 - 3) Intentionally touching the sexual or intimate parts of another person, directly, through material, or through the use of an object, including making a person touch themselves or another person; or
 - 4) Intentionally touching another person's body for the purpose of sexual arousal, humiliation, degradation, or gratification.

****This definition includes attempts to engage in such conduct.**

Affirmative Consent

Definition: 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, gender, gender identity, gender expression, or sexual orientation.

Six Guiding Principles Regarding Consensual Sexual Activity: The following principles, along with the above definition, will be used to evaluate whether sexual activity was consensual or violates the Sexual and Related Misconduct Policy and Procedures:

- 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 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: 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 with minors for conduct occurring on-campus or off-campus regardless of out-of-state laws.

G. Sexual Exploitation and Other Sexual Misconduct: Taking advantage of another person, or attempting to take advantage of another person, without that person's consent. The following activities are prohibited under this provision:

1. Voyeurism or Peeping: Intentionally watching, videotaping, or recording an individual who is undressing, completely or partially naked, or engaging in sexual activity. This includes allowing others to observe such conduct.
2. Sexual Exhibitionism: Engaging in sexually explicit activity in public

spaces, including online.

3. Displaying or distributing nude or sexually explicit images of another person without that person's consent.
4. Writing or marking of graffiti on University property that is sexually graphic in nature.
5. Prostituting another person or soliciting a prostitute to campus, or a campus event, to engage in prostitution.
6. Knowingly exposing another person to a sexually transmitted infection or virus without that person's knowledge.
7. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
8. Stealthing: The act of removing a condom during sexual intercourse without affirmative consent of the sexual partner; or the act of intentionally misleading a sexual partner to believe a condom is being used during sexual intercourse.

H. Sexual Harassment: Unwelcome conduct of a sexual nature that is severe, pervasive, or persistent, including but not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, and:

1. Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's employment, academic standing, or status in a program, course, or activity; or
2. Submission to or rejection of such conduct by a person is used as the basis for employment or educational decisions affecting that person, or for academic evaluation, grades, or advancement; or
3. Such conduct is sufficiently severe, pervasive, or persistent to have the purpose or reasonable effect of interfering with a person'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.

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

- Stating an intention or threat to expose another person's sexual orientation or sexual experiences with others;
- A direct or implied threat that submission to sexual advances is a condition to participate in a living, working, or learning group or activity; and
- Severe, pervasive, or persistent comments of a sexual nature, including jokes and

remarks about sexual experiences.

For the definition of Sexual Harassment applicable to employees, please see the Fordham University Anti-Harassment and Anti-Discrimination in Employment Policy.

- I. Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.

For purposes of this definition “course of conduct” means two or more acts, including acts in which the respondent, directly, indirectly, or through third parties, by any method 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 circumstances and with similar identities to the complainant. “Substantial emotional distress” means significant mental anguish or suffering that may, but does not necessarily, require professional treatment or counseling.

V. Reporting

The University encourages all members of the community to report incidents of sexual and related misconduct. Consistent with Section V(E) below - “Mandatory Reporting: The University’s Requirement for Faculty, Staff, and Administrators” - the University requires all faculty, staff, and administrators who learn of sexual and related misconduct within the University community, including potential sexual and related misconduct, to share that information with the Title IX Office. Reporting enables the University to provide a uniform approach to informing community members of: (i) their rights and options; and (ii) the resources available to them. Reporting also enables the University to take action that will stop the discrimination, prevent its recurrence, and remedy its effects.

A. Submitting Reports

If you wish to submit a detailed report of sexual or related misconduct, please contact the Title IX Office, the Department of Public Safety, Human Resources, or the Associate Head of the London Centre as outlined below. The individuals in these departments are trained to receive detailed reports of sexual and related misconduct and respond to those reports.

In addition, reports of sexual and related misconduct involving students may be made to the Associate Vice President for Student Affairs/Deputy Title IX Coordinator, the Assistant Vice

President and Dean of Students at Rose Hill, and the Assistant Vice President and Dean of Students at Lincoln Center as outlined below. Individuals who submit reports to the individuals listed in this paragraph will be directed to the Title IX Office, the Department of Public Safety, Human Resources, or the Associate Head of the London Centre if they wish to submit a detailed report of sexual and related misconduct.

Individuals who possess a Fordham Access IT ID may use that ID to submit a **confidential online report**. These reports will not receive an immediate response from the Department of Public Safety or emergency responders. These reports are not completely confidential - the ID associated with the report will be kept on file by the University. However, the University will maintain privacy to the greatest extent possible.

i. Submitting a Report at Any Time of Day or Night

The Department of Public Safety can receive detailed reports of sexual and related misconduct at any time of day or night. The Department of Public Safety is open 24 hours a day, 7 days a week, 365 days a year. The Department of Public Safety supervisors have extensive experience and training working with individuals who have experienced sexual and related misconduct.

The Department of Public Safety

Rose Hill: (718) 817-2222

Lincoln Center: (212) 636-6076

Westchester: (914) 367-3001

If necessary, calls made to the **Department of Public Safety** at any of the campuses will be routed to the appropriate campus.

For Fordham community members, the phone number for the Department of Public Safety can be found on the back of the Fordham University identification card that was issued to you by the University.

Individuals who possess a Fordham Access IT ID may use that ID to submit a **confidential online report**. These reports will not receive an immediate response from the Department of Public Safety or emergency responders. These reports are not completely confidential - the ID associated with the report will be kept on file by the University. However, the University will maintain privacy to the greatest extent possible.

Confidential Online Reporting

(Using Your Fordham Access IT ID)

http://my.fordham.edu/site/web/content/security/incident_report.jsp

ii. Submitting a Report During Fordham Business Hours in the United States - Reports Involving Any Member of the University Community

In addition to the reporting options listed in the preceding section (“*Submitting a Report at Any Time of Day or Night*”) all reports can be submitted to the following individuals during Fordham business hours in the United States.

The Title IX Office can receive detailed reports of sexual and related misconduct during business hours. The individuals in the Title IX Office have extensive experience and training working with individuals who have experienced sexual and related misconduct.

Title IX Coordinator

Kareem Peat
Faculty Memorial Hall
Second Floor
Rose Hill Campus
(718) 817-3112
titleix@fordham.edu

Human Resources can receive detailed reports of sexual and related misconduct during business hours. The individuals in the Human Resources have extensive experience and training working with individuals who have experienced sexual and related misconduct.

Senior Director of Human Resources Policy and Practice

Nancy Hark
Faculty Memorial Hall, Room 506
Rose Hill Campus
(718) 817-4090
nhark@fordham.edu

Manager of Employee and Labor Relations

Gülay Siouzios
Faculty Memorial Hall, Room 417
Rose Hill Campus
(718) 817-3897
siouzios@fordham.edu

iii. Submitting a Report During Fordham Business Hours in the United States - Reports Involving Students

Fordham University students have the right to make a report to the Department of Public Safety, local law enforcement, and/or state police, or choose not to report; to report the incident to the University; to be protected by the University from retaliation for reporting an incident; and to receive assistance and resources from the University.

In addition to the reporting options listed in the preceding sections (“*Submitting a Report at Any Time of Day or Night*” and “*Submitting a Report During Fordham Business Hours in the United States - Reports Involving Any Member of the University Community*”) reports involving students can be submitted to the Dean of Students for the campus at which the student is enrolled and the Associate Vice President for Student Affairs/Deputy Title IX Coordinator.

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

Assistant Vice President and Dean of Students at Rose Hill

Christopher Rodgers
McGinley Campus Center 242
(718) 817-4755
deanrogers@fordham.edu

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

Assistant Vice President and Dean of Students at Lincoln Center

Keith Eldredge
140 W62 Building G33
(212) 636-6250
eldredge@fordham.edu

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

Associate Vice President for Student Affairs/Deputy Title IX Coordinator

Michele C. Burris
Keating Hall 100
(718) 817-4750
mburris@fordham.edu

Individuals who submit reports to the individuals listed in this section will be directed to the Title IX Office, the Department of Public Safety, Human Resources, or the Associate Head of the London Centre if they wish to submit a detailed report of sexual and related misconduct.

iv. Submitting Reports Originating Outside the United States

In addition to the reporting options listed in the section above entitled “*Submitting a Report at Any Time of Day or Night*,” a reporting individual should contact the person who is leading the relevant program or activity if an incident happens at an off-campus program or activity, including any programs or activities abroad during a Fordham academic or service program, or abroad during a Fordham-sponsored activity or program. The person who is leading the Fordham program or activity is required to report this information to Public Safety.

Complaints occurring at London Centre should be brought to:
Assistant Head of the London Centre, Director of Student Affairs

Matthew Holland

mholland16@fordham.edu

All reports, regardless of location, may also be brought to the New York-based Department of Public Safety at +1-718-817-2222. All complaints are submitted centrally to the Department of Public Safety after submission to the Assistant Head of the London Centre.

Students may also refer to the CARE brochure [Campus Assault and Relationship Education](#) for detailed information on the steps to take to be aware of potential sex- and gender-based discrimination and how to address misconduct if it occurs.

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

A reporting individual acting in good faith or a bystander acting in good faith that discloses any incident of sexual or related misconduct 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 sexual or related 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 recreational/illicit 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 sexual and related misconduct to institution officials.

All reported incidents are centrally tracked in order to be reviewed for patterns and to assist in stopping the recurrence of similar incidents.

C. 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 student-complainant:

Fordham University students have the right to make a report to the Department of Public Safety, local law enforcement, and/or state police, or choose not to report; to report the incident to the University; to be protected by the University from retaliation for reporting an incident; and to receive assistance and resources from the University.

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, which is available at www.fordham.edu/CARE

D. Communications that are Not Treated As Reports to the University - Speaking with a Confidential Resource

Communications with the Confidential Resources listed below will not be shared with the Department of Public Safety, the Title IX Office, the Deputy Title IX Coordinator, or the Deans of Students. The University provides Confidential Resources because individuals who experience sexual and related misconduct may find it helpful to talk in a supportive, confidential context in which they can discuss feelings of acute stress, self-blame, shame, anger, or confusion. Confidential Resources are designated University staff members and administrators who are available for people to speak with when they choose not to report an incident.

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

The following are the Confidential Resources offered by the University:

Counseling and Psychological Services - Clinical Counselors:

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 - Pastoral Counselors:

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 - Medical Providers:

Rose Hill Campus: (718) 817-4160

Lincoln Center Campus: (212) 636-7160

Westchester Campus: Please use the Rose Hill Phone Number

Calder Center: Please use the Rose Hill Phone Number

Consistent with the following section, all faculty, staff, and administrators not listed above are required to report incidents of potential sex- or gender-based discrimination relayed to them.

E. Mandatory Reporting: The University's Requirement for Faculty, Staff, and Administrators

When faculty, staff, and administrators observe, obtain knowledge of, learn about, or reasonably suspect a student has experienced sexual or related misconduct, they must report all relevant details about the incident to the Title IX Coordinator, the Deans of Students for the campuses, the Deputy Title IX Coordinator, the Department of Public Safety, or Human Resources. This information will then be subject to centralized review by the Title IX Coordinator. When a faculty member, staff member, or administrator is told, observes, obtains knowledge of, learns of, or reasonably suspects that another employee of the University has experienced sexual or related misconduct, the following reporting procedures apply. It is imperative that the Title IX Coordinator, the Department of Public Safety, the Deans of Students, the Deputy Title IX Coordinator, and/or Human Resources are informed of reports to ensure the complainant is provided with notification of their rights and options as well as the full range of resources available to them.

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 all University employees, including all faculty, staff and administrators who are not designated Confidential Resources. **If you are unclear whether information must be reported, please contact the Title IX Coordinator, Deputy Title IX Coordinator, Deans of Students, the Department of Public Safety, or Human Resources to assist you with the proper steps to take.**

The only Fordham employees who are exceptions to the mandatory reporting requirement are Confidential Resources. This group consists of the University's:

- 1) Clinical counselors at Counseling and Psychological Services;
- 2) Pastoral counselors in Campus Ministry; and
- 3) Medical providers in Health Services.

**For more information see Section V(D), "Communications that are Not Treated As Reports to the University - Speaking with a Confidential Resource"*

State law requires professional counselors to report when:

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

When faculty members, staff members, and administrators observe, learn of, or reasonably suspect a student has experienced **any type of sexual or related misconduct** they must report the incident.

When faculty members, staff members, and administrators observe, learn of, or reasonably suspect a faculty member, staff member, or administrator has experienced **any type of sexual or related misconduct** they must report the incident. Faculty members, staff members, and administrators are not required to report their own experiences.

When department heads, area chairs, and employees with supervisory authority over others learn of any form of prohibited sexual and related misconduct, that individual **MUST** report the information to the Title IX Coordinator, Human Resources, or the Department of Public Safety. The employee may simultaneously report this information to their own supervisor.

F. Good Faith Reporting

Even if a respondent is not ultimately found responsible, an individual who files a complaint in good faith will not be subject to discipline.

G. False or Malicious Reporting

The use of this policy for false or malicious purposes is strictly prohibited. Anyone who knowingly brings a false or malicious complaint against another University community member may be subject to disciplinary action.

VI. How the University Will Respond to Reports

Complaints to the University will be looked into immediately upon receipt. This review will take the form of an initial inquiry or formal investigation. Both the initial inquiry and the formal investigation will be thorough, reliable, and impartial. During a formal investigation, both parties will have an equal opportunity to provide the names of relevant witnesses and other information to the investigator. The investigator will weigh the reliability and credibility of information obtained. The complainant has the right to withdraw their complaint or their involvement in the process at any time. In the interest of the community, the University reserves the right to conduct its own investigation and proceedings notwithstanding the status or resolution of any civil or criminal proceedings (see Section VI(C)(3), “*Not Honoring a Request to Not Investigate*”).

A. Privacy and Confidentiality

The University strongly supports a person’s interest in confidentiality in matters involving sexual and related misconduct. In instances in which confidentiality is not sought or available, the University will maintain the person’s privacy to the greatest extent possible.

Confidential Resources. The University offers a number of confidential resources for all members of the community, including complainants who are unsure whether to report prohibited conduct and complainants and respondents who seek counseling or other emotional support (see Section V(D), “*Communications that are Not Treated As Reports to the University - Speaking with a Confidential Resource*”).

Only those officials in [Campus Ministry, Counseling and Psychological Services, and University Health Services](#) who are providing pastoral counseling, clinical counseling, or medical services can accommodate requests for **confidentiality**. The University requires all other employees, including all faculty, staff, and administrators, to report learned instances of sexual and related misconduct to appropriate University officials (see Section V(E) for more details).

Privacy: 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, Human Resources, or their designee to investigate and/or seek a resolution in a Title IX matter. 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. 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 ensure the privacy of the parties concerned.

The Family Educational Rights and Privacy Act (FERPA) allows the 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 income tax 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.

B. Remedial Actions and Remedies

The University will consider remedial actions and remedies that are appropriate to the nature and severity of the reported misconduct.

Interim Measures. Interim measures may be imposed if requested or if the University deems them necessary to ensure safety, prevent retaliation, or 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 Policy and Procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure or accommodation that directly affects them, and shall be allowed to submit evidence in support of their request. A formal complaint need not be pursued for interim measures to be provided.

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

1. The specific needs expressed by the complainant;
2. The age of the students involved;
3. The severity or pervasiveness of the allegations;
4. Whether the complainant and respondent share the same residence hall, class, or job locations; and
5. 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.

No Contact Restrictions. 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 third party. After a complainant reports sexual or related misconduct to the Title IX Coordinator, Deputy Title IX Coordinator, Deans of Students, the Department of Public Safety, or Human Resources, a written or oral No Contact Restriction may be put in place restricting the respondent from having contact with the complainant. The complainant may also be encouraged not to have contact with 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, or their administrative support person if applicable. If the complainant and respondent observe each other in a public place, it shall be the responsibility of the respondent to leave the area immediately without contacting the complainant. Individuals who violate a No Contact Restriction are subject to a separate disciplinary charge of “Intimidation and Retaliation for Reporting” and may be subject to adjudication and discipline (see Section IV(C)).
- Both the complainant and respondent will, upon request and consistent with the Policy and Procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure, including potential modification, and will be allowed to submit evidence in support of their request. The Title IX Coordinator, Deputy Title IX Coordinator, Deans of Students, or their designee will determine within a reasonable timeframe whether there will be any modification.

Orders of Protection Issued by Criminal Courts and Civil Courts (Including Family Court). In addition to University No Contact Restrictions, which are exclusively issued to community members, victims of stalking, dating violence, domestic violence, or any other crime under federal, state, or local law can seek orders of protection against any individual through both the criminal and civil courts.

The Department of Public Safety or another designated University staff member is available to assist in obtaining a court-issued order of protection (or, if outside New York State, an equivalent protective force or restraining order) and explain the consequences of an individual violating such an order (*e.g.*, arrest, additional conduct charges, and interim suspension). The parties are entitled to receive a copy of the order of protection or its equivalent when one has been shared with the University. Respondents may speak with a Department of Public Safety representative, or other appropriate individual, who can explain the order and answer questions about it, including information regarding 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.

C. Investigations Involving Students in the Student Conduct Process

The following is a description of the resources, rights, and options available to students during the student conduct process.

i. Administrative Support Person

Administrative Support Persons (ASPs) are trained professionals assigned to assist and support

student-complainants and student-respondents when a report of sexual assault, stalking, dating violence, domestic violence, or sexual exploitation is received. At the discretion of the Associate Vice President for Student Affairs/Deputy Title IX Coordinator, an ASP may be assigned to student-complainants and student respondents for reports of other types of sexual and related misconduct. An ASP will be assigned to a student-respondent once a formal complaint has been initiated or when interim measures are being issued. An ASP will be available to a student-complainant even if the student-complainant decides not to proceed with an investigation and/or the student conduct process.

ASPs are not a confidential resource, and information shared by a student with an ASP may be provided to University administrators involved in the investigation and conduct processes. Fordham administrators who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. The information provided to a non-confidential resource will be shared only as necessary for the University to investigate and/or seek a resolution.

The ASP will, using the information contained in the Campus Assault and Relationship Education (CARE) brochure, explain the various options and support resources available, including but not limited to:

- The right to have emergency access to a supervisor or investigator in the Department of Public Safety;
- Medical, counseling, and pastoral resources;
- The University's prohibition against intimidation and retaliation;
- The standard of proof during the internal conduct process;
- How to report incidents to the local police or a prosecutor or to seek other types of relief through the legal system;
- Interim measures for possible accommodations and options for changing academic, living, transportation, and work commitments if such changes are warranted under the circumstances and reasonably available.

Non-students will not be provided an ASP during the student conduct process. However, the Title IX Coordinator, or their designee, will assist non-student respondents with assistance obtaining medical and counseling support, interim measures when warranted, or other services as appropriate.

ii. Advisor of Choice

The complainant and respondent may each be accompanied by an Advisor of Choice. The Advisor of Choice may assist, advise, and support the party throughout the conduct process and be present for related meetings or proceedings. Advisors of Choice are not permitted to communicate with University officials participating in the Title IX process. The decision to select an Advisor of Choice is solely that of the complainant or respondent. An Advisor of Choice may not serve in that capacity if they are involved in the underlying matter, including, serving as a witness, co-complainant, or co-respondent.

The complainant and respondent are encouraged to provide the contact information of the Hearing Officer (in student conduct proceedings) 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 any advisor's conduct is not consistent with these guidelines, they 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.

iii. Requesting that the University Not Investigate

If a person reports an incident of sexual or related misconduct to a non-confidential resource at the University but then wishes not to participate as a party or witness, or does not want the University to proceed with an investigation, the University will attempt to honor that person's wishes. Please note that:

- The University may provide an ASP for the Complainant even if a formal investigation is not conducted.
- The University will take all reasonable steps to respond to the complaint consistent with the complainant's request and will determine whether interim measures are appropriate or necessary.
- The University will still consider broader remedial action, such as increased monitoring, supervision of security at locations where the reported sexual and related misconduct occurred, increased training, education, and prevention efforts, and conducting climate surveys.
- By honoring the request, the University will not be able to meaningfully investigate and pursue misconduct or disciplinary proceedings to find anyone responsible for the violation.

In limited circumstances, the University may be unable to honor a request that it not investigate a report of sexual or related misconduct. The University may conduct its own investigation when it determines in good faith that it is in the best interest of the complainant or University community to do so. When deciding whether the request can be honored, the University will weigh the request not to proceed against its obligation to provide a safe, non-discriminatory environment for the entire community. The factors that are considered when determining whether the University has an overriding responsibility to proceed despite a reporting party's wishes include:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor;
- Whether the institution possesses other means to obtain evidence such as security footage; and
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.

If possible, the University will make attempts to inform the complainant prior to proceeding with an investigation after that 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.

Under certain circumstances, the University may 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 with the police (*e.g.*, speaking with the police, which is not required).

iv. Sexual Assault Public Awareness Events

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

v. Resolving Complaints

If a person chooses to proceed with the University process under the Policy and Procedures, they have two options to resolve their complaint:

1. The Informal Approach to Resolution, *which cannot be used for matters involving allegations of sexual assault, dating violence, domestic violence, or any other form of sexual violence.*

(OR)

2. The Formal Approach to Resolution

a. Informal Approach to Resolution

The informal Approach to Resolution cannot be used for matters involving allegations of sexual assault, dating violence, domestic violence, or any other form of sexual violence. Resolution reached through the informal process 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 address the complaint.

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

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 Section VI (C)(ii) above. 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 staff member, administrator, 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, appropriate Vice President, or their designee, will recommend one or more sanctions, which the respondent can accept or reject. The sanctions that may be imposed as a result of the Informal Resolution process are the same as those outlined in the Formal Resolution process below. If the recommended sanction 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 other party. The University will allow a complainant or respondent to withdraw from the Informal Resolution process at any time. 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, they 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.

b. Formal Approach to Resolution

If a matter cannot be resolved through the informal approach or the complainant chooses to proceed with formal resolution, the complainant may seek the assistance of trained, qualified investigators to serve as fact finders for each campus. The results of the investigation will then be provided to the Deputy Title IX Coordinator, the Dean of Students, or their designee for cases involving student-respondents. The results of the investigation will then be passed to the appropriate official for all other respondents involved in an adjudication proceeding.

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

The Deputy Title IX Coordinator, the Dean of Students for the campus where the respondent is enrolled, or their designee, conducts the student conduct process in those cases in which a student is alleged to be in violation of the Policy and Procedures and, if necessary, imposes student conduct sanctions for students found in violation of the Policy and Procedures. The Deputy Title IX Coordinator and the Deans of Students are responsible for record keeping in these matters. Should a student have any questions about the specific office or staff member with whom they should speak about sexual and related misconduct, please contact the Deputy Title IX Coordinator and the Deans of Students. They will refer the student to the proper office or staff member. The contact information for the Deputy Title IX Coordinator and the Deans of Students is as follows:

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

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.

Administrators involved in the investigation and conduct process receive training, at least annually, on issues relating to sexual misconduct, including sexual assault, sexual harassment, dating violence, domestic violence, and stalking. These administrators are also trained in conducting an investigation that protects the safety of the participants and promotes accountability.

i) Notification of Proceedings and Meetings

Once an initial inquiry has been conducted showing that a more formal investigation is warranted (meaning the behavior in question may constitute prohibited conduct under the Sexual and Related Misconduct Policy and Procedures), the complainant and respondent are:

- Informed that there is a formal investigation into the conduct in question;
- Provided information as to the behavior that will be evaluated;
- Informed of which provisions of the Sexual and Related 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 each student is afforded the right to a fair process in all student conduct cases involving sexual and related misconduct. This right to process includes: (1) notice to a respondent describing the date, time, and location of the reported misconduct as well as relevant facts addressing the elements of the allegation; (2) a reference to the specific provisions of this policy that are alleged to have been violated; and (3) notice of possible sanctions. In advance of any meeting they are requested to attend, students will receive written or electronic notice of that meeting.

ii) 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 complaint, holiday closures of the University, breaks in class schedule, midterm and final examinations, as well as the need to coordinate multiple parties for interview meetings and hearings.

iii) 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. Furthermore, the University may refuse to issue a degree to a student who is serving a suspension or has been permanently dismissed from the University.

iv) Individuals Conducting the Investigation and Conduct Process

Members of the Department of Public Safety are responsible for investigation of the facts/fact-finding process in matters in which both parties are students and/or where a student is subject to possible student conduct sanctions by this Sexual and Related Misconduct Policy. The University may, at its discretion, designate another trained/experienced person 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. The Title IX Coordinator, or their designee, conducts investigations of complaints in which a student is the complainant and a non-student is the respondent.

- In cases in which a student is the respondent, the Deputy Title IX Coordinator, Dean of Students, or their designee serves as the Hearing Officer, completes the student conduct process, and, if necessary, imposes appropriate student conduct sanctions.
- In cases involving faculty, staff, or administrators as respondents, the Title IX Coordinator, or their designee, will make a finding of the facts, make a recommendation for resolution, and provide possible disciplinary sanctions to either the area Vice President, or their designee, or the appropriate decision-maker as per the applicable collective bargaining agreement, or the University Statutes. The applicable decision maker has the authority and responsibility to impose discipline or other resolution they deem appropriate based upon the circumstances and severity of the findings of fact.

v) Information and Evidence Used During the Conduct Process

The conduct process is designed to obtain information that will be used to determine: (1) the conduct that occurred; and (2) whether that conduct violates the terms of the Policy and Procedures.

- a) **Presumption of “Not Responsible” for Violating the Sexual Misconduct Policy:** The respondent is presumed not to have violated the Policy and Procedures until an outcome is issued. However, depending upon the circumstances of the initial allegation, the respondent can be suspended on an interim basis pending the outcome of the conduct process. Depending upon the allegations and need for the University to keep the community and complainant safe, other interim measures may be imposed upon the respondent pending the outcome of the conduct process (see Section VI(B), *“Remedial Actions and Remedies, Interim Measures”* above).
- b) **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.* that it is more likely than not that the alleged misconduct occurred).
- c) **Opportunity to Review Evidence and Offer Information:** The 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. The opportunity to review evidence is also subject to federal, state, and local laws, including FERPA. Evidence must be relevant to the allegation, and the parties will be provided a meaningful opportunity to respond to the evidence, including providing reasonable opportunity to provide responsive evidence and information.
- d) **Past Findings:** Past findings of domestic violence, dating violence, stalking, or sexual assault are only admissible in the portion of the conduct process in which the sanction is determined.
- e) **Prior Sexual History/Mental Health Diagnosis:** Generally, a student’s prior sexual history or mental health diagnosis and/or treatment may not be introduced in the portion of the conduct process in which responsibility is determined. Determinations on exclusions and redactions are made by the investigator.
- f) **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.

vi) Possible Sanctions

Employees. 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.

Students. Students who have been found to have violated the University's sexual misconduct policy may be subject to sanctions, which may include, but are not limited to: disciplinary reprimand, residence hall probation, student life probation, University disciplinary probation, suspension or expulsion from the University and/or suspension or expulsion from University housing. Additional sanctions include meeting with an administrator, parent notification, reflective or research paper, apology letter, no-contact restriction, special project or program with a Resident Assistant, mandatory study hall, suspension of privileges, and weekend suspension from the residence halls.

*When a person maintains multiple roles, a determination of the person's status in a particular situation will be made in the context of the surrounding facts. Where an individual represents both roles in a matter, employee and student sanctions may be issued.

vii) Remedies

In addition to possible disciplinary or conduct sanctions, the University may impose additional remedies where appropriate for the University community.

viii) 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

Disclosure of Outcomes: The University considers Title IX matters to be sensitive and private. Unless required by law, the University does not publicly release underlying information regarding investigations. Disclosures of facts to witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. The University does not provide

witnesses with the resolution of the proceeding. 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 the outcome, either party may choose to disclose or discuss the outcome of the conduct process.

ix) Appeal

Appeals must be presented in writing to the Senior Vice President of Student Affairs within two (2) business days of notification of the sanction imposed. All appeals will be conducted in a fair, impartial, and equitable manner by decision makers who are free of any conflict of interest.

A complainant or respondent may file a written appeal of a case eligible for formal investigation 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) discovery of material, relevant evidence that was previously unavailable and could significantly impact the outcome of a case. The complainant and respondent will be notified in writing of any appeal and the final outcome post-appeal.

(a) Appeal when a Student is the Respondent

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 Hearing Officer; uphold the decision but change the sanction; or remand the case back to the Hearing Officer 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 Hearing Officer and the person filing the appeal will present their respective versions of the case to the SCRC. The appealing student represents themselves in the hearing and can have one Advisor of Choice present. The Advisor of Choice may not actively participate during the hearing and must adhere to all rules set forth for Advisors of Choice in the Policy and Procedures.

- 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 required.
- 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) Appeal When an Employee is the 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 respondents other than those 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, or designee, 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 Policy and Procedures.
- 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 will 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 (if applicable) 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.

x) Records of Investigations and Outcomes

Records of Reports and Investigations: Personal information about any party or 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 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, administrator or third party records are maintained for six years. When there is an outcome that involves discipline of an employee, Human Resources 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 a crime 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:
"EXPULLED 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 allegations 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 of 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 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:

- A. One year has passed since the conclusion of the suspension;
- B. The term of suspension has been completed and any conditions thereof; and
- C. 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.

D. Investigations Involving Employee as Complainant

Investigations involving an employee as the complainant will be performed in the same manner as described in Section V.C unless specifically modified below.

i. Administrative Support Person

Not applicable.

ii. Advisor of Choice

The complainant and respondent may each be accompanied by an Advisor of Choice. The Advisor of Choice may assist, advise, and support the party throughout the conduct process and be present for related meetings or proceedings. Advisors of Choice are not permitted to communicate with University officials participating in the Title IX process. The decision to select an Advisor of Choice is solely that of the complainant or respondent. An Advisor of Choice may not serve in that capacity if they are involved in the underlying matter, including, serving as a witness, co-complainant, or co-respondent.

If any advisor’s conduct is not consistent with these guidelines, they 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.

iii. Requesting that the University Not Investigate

If a person reports an incident of sexual or related misconduct to a non-confidential resource at the University but then wishes not to participate as a party or witness, or does not want the University to proceed with an investigation, the University will attempt to honor that person’s wishes. Please note that:

In limited circumstances, the University may be unable to honor a request that it not

investigate a report of sexual or related misconduct. The University may conduct its own investigation when it determines in good faith that it is in the best interest of the complainant or University community to do so. When deciding whether the request can be honored, the University will weigh the request not to proceed against its obligation to provide a safe, non-discriminatory environment for the entire community. The factors that are considered when determining whether the University has an overriding responsibility to proceed despite a reporting party's wishes include:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the institution possesses other means to obtain evidence such as security footage; and
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.

If possible, the University will make attempts to inform the complainant prior to proceeding with an investigation after that 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.

Under certain circumstances, the University may 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 with the police (*e.g.*, speaking with the police, which is not required).

iv. Resolving Complaints

If an Employee chooses to proceed with the University process under the Policy and Procedures, they have two options to resolve their complaint:

1. The Informal Approach to Resolution, *which cannot be used for matters involving allegations of sexual assault, dating violence, domestic violence, or any other form of sexual violence.*

(OR)

2. The Formal Approach to Resolution

a. Informal Approach to Resolution

The informal Approach to Resolution cannot be used for matters involving allegations of sexual assault, dating violence, domestic violence, or any other form of sexual violence. Resolution reached through the informal process 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 address the complaint.

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

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 Section VI (C)(ii) above. 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 staff member, administrator, 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, appropriate Vice President, or their designee, will recommend one or more sanctions, which the respondent can accept or reject. The sanctions that may be imposed as a result of the Informal Resolution process are the same as those outlined in the Formal Resolution process below. If the recommended sanction 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 other party. The University will allow a complainant or respondent to withdraw from the Informal Resolution process at any time. 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, they 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.

b. Formal Approach to Resolution

If a matter cannot be resolved through the informal approach or the complainant chooses to proceed with formal resolution, the complainant may seek the assistance of trained, qualified investigators to serve as fact finders for each campus. The results of the investigation will then be provided to the Deputy Title IX Coordinator, the Dean of Students, or their designee for cases involving student-respondents. The results of the investigation will then be passed to the appropriate official for all other respondents involved in an adjudication proceeding.

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

The Deputy Title IX Coordinator, the Dean of Students for the campus where the respondent is enrolled, or their designee, conducts the student conduct process in those cases in which a student is alleged to be in violation of the Policy and Procedures and, if necessary, imposes student conduct sanctions for students found in violation of the Policy and Procedures. The Deputy Title IX Coordinator and the Deans of Students are responsible for record keeping in these matters.

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.

Administrators involved in the investigation and conduct process receive training, at least annually, on issues relating to sexual misconduct, including sexual assault, sexual harassment, dating violence, domestic violence, and stalking. These administrators are also trained in conducting an investigation that protects the safety of the participants and promotes accountability.

i) Notification of Proceedings and Meetings

Once an initial inquiry has been conducted showing that a more formal investigation is warranted (meaning the behavior in question may constitute prohibited conduct under the Sexual and Related Misconduct Policy and Procedures), the complainant and respondent are:

- Informed that there is a formal investigation into the conduct in question;
- Provided information as to the behavior that will be evaluated;
- Informed of which provisions of the Sexual and Related 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 both parties are afforded the right to a fair process in all cases involving sexual and related misconduct. This right to process includes: (1) notice to a respondent describing the date, time, and location of the reported misconduct as well as relevant facts addressing the elements of the allegation; (2) a reference to the specific provisions of this policy that are alleged to have been violated; and (3) notice of possible sanctions. In advance of any meeting they are requested to attend, the parties will receive written or electronic notice of that meeting.

ii) 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 complaint, holiday closures of the University, breaks in class schedule, midterm and final examinations, as well as the need to coordinate multiple parties for interview meetings and hearings.

VII. Non-University Resources

The following are selected non-university resources that may be of assistance to members of the University community.

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/>

Medical Treatment: Anyone who is sexually assaulted or physically injured is encouraged to 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 020 3299 9000

Law Enforcement / Local Prosecutor: A victim/survivor of any criminal sexual offense has legal recourse outside the University and can commence civil or criminal proceedings against the offending person. 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 State, 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 and related misconduct under this Policy and Procedures 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. Department of Public Safety supervisors are former ranking members of law enforcement who have prior experience and training working with victims of all crimes.

A Plain Language Explanation of Distinctions Between the New York State Penal Law and the Fordham University Student 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/Privacy</u>	A criminal charge and trial must be public.	Fordham offers confidential resources and 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

VIII. 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.

IX. Glossary

The following are words and phrases relevant to the Sexual and Related Conduct Policy and Procedures for the Fordham University Community.

Bystander - A person who observes misconduct, or impending misconduct, conflict, potential violence, or conduct that is in violation of rules or policies of an institution.

Clery Reporting - The data collected by the Department of Public Safety on violent crimes (including sexual assault, dating violence, domestic 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.

Complainant - The person initiating the complaint or the person who is reported to have experienced sexual or related misconduct."

Confidentiality - 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. The Confidential Resources at the University are the mental health counselors at Counseling and Psychological Services, medical providers at University Health Services, and the pastoral counselors at Campus Ministry.

Minor - Anyone less than 17 years of age

Privacy - 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 Policy and Procedures, including informing appropriate institution officials. All designated as Campus Security Authorities must report information and should so inform the individual reporting.

Reasonable Person - A reasonable person under similar circumstances and with similar identities to the relevant Fordham community member.

Respondent - The person whose conduct are being reviewed to determine whether there was a violation of the Sexual and Related Conduct Policy and Procedures for the Fordham University Community.

Third Party - A person who is on campus or participating in a Fordham sponsored program, activity, or event.

Date of Policy: Updated: 8-27-19

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.