



<b>SUBJECT:</b> PROHIBITED DISCRIMINATION & HARASSMENT	<b>Effective Date:</b> 8-14-20	<b>Policy Number:</b> 1.15	
	<b>Supersedes:</b> Policy 1.15 Prohibited Sexual Misconduct	<b>Page</b> 1	<b>Of</b> 12
	<b>Responsible Authority:</b> Vice President, Administrative Affairs Executive Director, Office of Equity & Inclusion		

**I. APPLICABILITY:**

This policy applies to all Florida Atlantic University (“University” or “FAU”) students, faculty and staff, including applicants for admission and employment and third parties present on campus (contractors, vendors, alumni or visitors), who are both protected by and subject to this policy with regards to claims of prohibited discrimination and harassment.

**II. DEFINITIONS:**

(a) *Advisor*: A person chosen by a party, or appointed by the University in Title IX Matters, to accompany the party to meetings related to the resolution process, to advise the party on that process. In Title IX Matters, the advisor may conduct cross-examination for the party at the hearing, if any.

(b) *Business day*: Monday-Friday, excluding official University holidays.

(c) *Complainant*: An individual who is alleged to be the victim of the conduct that could constitute harassment, discrimination, or sexual misconduct, or retaliation for engaging protected activity.

(d) *Discrimination (unlawful or prohibited)*: A difference in treatment based on a person’s status in a protected class. Harassment based on one’s membership in a protected class is a form of unlawful discrimination. Prohibited discrimination includes unlawful discrimination and discrimination based on other protected classes defined by University regulation or policy. A violation of this policy may occur regardless of any finding of “unlawful” conduct, as the standards for finding a violation of this policy are independent. Discrimination includes disparate treatment and disparate impact.

(1) *Disparate impact*: When policies, practices, rules or other systems that appear to be neutral result in a disproportionate impact on a protected group. Disparate impact may be unintentional.

(2) *Disparate treatment*: When a person is treated differently than others who were similarly situated based on a protected characteristic and is denied a benefit under FAU's educational program or activities or a benefit of employment. Disparate treatment on the basis of a class not protected by federal, state or local law shall not constitute discrimination or harassment if such disparate treatment is required by federal or state law.

(e) *Educational Program or Activity*: Location, events, or circumstances where the University exercised substantial control over both the Respondent and the context in which the allegations occurred, including but not limited to any building owned or controlled by a student organization that is officially recognized by the University.

(f) *Formal Complaint*: A complaint that has been signed by a Complainant or by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation based on a protected activity against a Respondent and requesting that OEI investigate the allegation. A Formal Complaint is required for investigations in Title IX Matters.

(g) *Investigator*: The person or persons charged by OEI with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the evidence, and compiling information into an investigative report.

(h) *Parties*: Complainant and Respondent. Witnesses are not parties.

(i) *Respondent*: An individual reported to be the perpetrator of conduct that could constitute harassment, discrimination, or sexual misconduct, or retaliation for engaging in protected activity.

(j) *Retaliation*: Intimidating, threatening, coercive, or discriminatory behavior by the University or any person over whom the University holds jurisdiction against any individual for the purpose of interfering with any right or privilege secured by this policy, because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Retaliation may be a claim under Title IX or under other harassment or discrimination.

(k) *Hostile environment harassment*: Unwelcome verbal and/or physical conduct based on a person's protected class that: is severe or pervasive and has the purpose or effect of: (a) creating an objectively intimidating, hostile or offensive work or educational environment; (b) unreasonably interfering with an individual's work or learning performance; or (c) otherwise unreasonably adversely affects an individual's employment or educational opportunities. Examples could include making comments ("humorous" or "non-humorous") based on a protected characteristic, objectionable epithets/slurs, threatened or actual physical harm or abuse, the display of hostile symbols/objects, and other intimidating or insulting conduct directed against the individual because of their membership in a protected class.

(l) *Quid pro quo harassment*: Submission or rejection of conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a University program or activity.

(m) *Title IX Matters*: Complaints in which the alleged violation includes sexual harassment, sexual assault, domestic violence, dating violence, or stalking, and where the University's response and procedures are governed by Title IX of the Education Amendments Act of 1972 and its implementing regulations, FAU Regulation 7.008, and this University Policy.

### **III. DEFINITIONS SPECIFIC TO TITLE IX MATTERS:**

(a) *Consent*: An agreement between two or more individuals for activity that is affirmative, informed, freely given and mutually understood. Consent shall be determined based on consideration of the following factors: (i) it is the responsibility of each person involved in any sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity; (ii) the existence of a dating or sexual relationship between the persons involved, or the fact of past sexual relations, should never by itself be assumed to be an indicator of consent for any current or future sexual encounter; (iii) consent cannot be obtained by force, threat, coercion, manipulation, reasonable fear of injury, intimidation, use of position of influence, or through the use of one's mental or physical helplessness or incapacity; (iv) consent must be ongoing throughout a sexual activity and can be revoked at any time; (v) within each sexual encounter, there may be separate individual sexual acts involved. Consent to one act by itself does not constitute consent to another act; (vi) consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another; (vii) lack of protest or resistance does not mean consent; and (viii) silence does not mean consent has been granted.

(b) *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 length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

(c) *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 as a spouse or intimate partner; by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Florida; By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Florida.

(d) *Sexual assault*: Includes Sex Offenses, Forcible or Nonforcible.

(1) *Sex Offenses, Forcible*: Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent. Includes Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling.

(a) *Forcible Rape*: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

(b) *Forcible Sodomy*: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(c) *Sexual Assault with an Object*: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(d) *Forcible Fondling*: The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

(2) *Sex Offenses, Nonforcible*: Nonforcible sexual intercourse, including Incest and Statutory Rape.

(a) *Incest*: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Florida law.

(b) *Statutory Rape*: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

(e) *Sexual harassment*: Conduct on the basis of sex that satisfies one or more of the following: (i) an employee of FAU conditioning the provision of an aid, benefit, or service of FAU on an individual's participation in unwelcome sexual conduct; or (ii) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to FAU's educational program or activity.

(f) *Stalking*: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, 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; and substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

#### **IV. POLICY:**

The University does not tolerate acts of discrimination or harassment based on protected status, or retaliation based on protected activities. Violations of this policy that occur within the jurisdictional limits of the University will be subject to discipline, up to and including separation, expulsion, or removal from University property. The University will respond to complaints or reports of violations with measures designed to stop the behavior, eliminate any harassment or discrimination, prevent the reoccurrence of the prohibited conduct, and remediate any adverse effects.

*Notice of Non-Discrimination:* The University will comply with applicable federal, state and local discrimination/harassment laws to provide an educational, employment, and business environment free of all forms of discrimination or harassment. Unlawful discrimination or harassment based upon an individual's race, color, religion, sex, national origin, age, disability, military or veteran status, marital status, pregnancy or parental status, sexual orientation, gender identity or expression, or other protected status is prohibited.

The scope of this policy includes: (i) conduct that occurs on University-controlled property, and (ii) conduct that occurs away from University-controlled property where one or more of the following applies: the conduct occurred at a University-sponsored event, the continued presence of the respondent on University-controlled property represents a danger to the health, safety, or welfare of the University Community, the conduct is disruptive to the orderly processes and functions of the University, or the conduct is specifically prohibited by law or violates University policies or regulations.

In Title IX Matters, the University may take action where the alleged violations occurred in locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the allegations occurred, including but not limited to any building owned or controlled by a student organization that is officially recognized by the University. Investigations pursuant to Title IX and its implementing regulations will only be conducted when the alleged sexual misconduct occurs against a person in the United States who is participating or attempting to participate in the educational program or activities of the University

Any reports of discrimination or harassment may be reported through the methods provided in University Regulation 7.008. Complaints will be investigated in a reasonably prompt manner as stated in University Regulation 7.008. The University uses the preponderance of the evidence standard of proof, which seeks to determine whether it is more likely than not that the Respondent violated University Policy or Regulation.

The Office of Equity and Inclusion (OEI) has primary responsibility for administering this policy. OEI conducts investigations and assists in the University's response and resolution of all reports of prohibited discrimination or harassment. OEI will maintain all discrimination reports in accordance with applicable laws and regulations. For concerns and questions related to discrimination or harassment, please contact OEI at 561-297-3004 or visit to OEI website at [www.fau.edu/eic](http://www.fau.edu/eic).

The OEI Executive Director is the University's designated Title IX Coordinator. The Title IX Coordinator is: (i) knowledgeable and trained in University policies and procedures and relevant state and federal laws; (ii) available to advise any individual including a reporting party, a responding party, or a third party, about University and community resources and reporting

options; (iii) available to provide assistance to any University employee regarding how to respond appropriately to a report of Sexual Misconduct; (iv) participates in ensuring the effective implementation of this Policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and (v) responsible for overseeing training, prevention, and assessments.

The Title IX Coordinator may delegate responsibilities under this policy to administrators who will be appropriately trained. Inquiries or concerns about Title IX may be referred to the Title IX Coordinator, located in Administration Bldg 10, Room 265, Boca Raton Campus, 561-297-3004; <https://www.fau.edu/eic>. Contact information for the University's [Deputy Title IX Coordinators](#) can be found within OIE's Title IX website at [www.fau.edu/eic](http://www.fau.edu/eic).

Concerns about the University's application of Title VI and IX under this policy may be addressed to: United States Department of Education, Office for Civil Rights, 61 Forsyth Street S.W., Suite 19T10, Atlanta, GA 30303-8927, Telephone: (404) 974-9406, Facsimile: (404) 974-9471, Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov).

Reasonable efforts will be made to respect and safeguard the privacy and interests of all individuals involved in a manner consistent with the need for careful assessment of the allegation(s) and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Information related to a report under this policy will be shared with those University employees who "need to know" to assist the active review, investigation, or resolution of the report.

## **V. SUPPORTIVE MEASURES:**

Once a report has been received by OEI, the University may implement reasonable and appropriate supportive measures to protect the safety of the parties of the alleged harassment or discrimination, and provide support to succeed academically or professionally. Supportive measures are temporary action(s) taken by the Title IX Coordinator in consultation with other administrators to ensure equal access to its education programs and activities and foster a safe climate during the investigation process.

The specific supportive measures implemented and the process for implementing those measures will vary depending on the facts of each case. The University will consider a number of factors in determining the supportive measures to implement, including but not limited to: the specific needs of the individuals involved; the severity or pervasiveness of the allegation; any continuing effect on the individuals involved; and whether other measures have been taken to protect the individuals involved. Supportive measures are available to all parties in a case.

Supportive measures are not intended to be permanent, and may be modified or withdrawn as additional information is collected. Supportive measures are non-disciplinary and non-punitive and shall be kept confidential except to the extent necessary to provide the supportive measures. OEI, in conjunction with other administrators, will maintain contact with the parties involved. If a person needs a supportive measure not listed below, the Title IX Coordinator will work with the individual to explore options.

Supportive measures for students may include, but are not limited to: access to counseling services and assistance setting up initial appointments; imposition of a campus no-contact order; rescheduling exams or assignments; providing alternative course completion options;

change in class schedule, including the ability to drop a course without penalty or to transfer section; change in work schedule or job assignment; change in student campus housing; assistance from University support staff in completing housing relocation; limiting access to certain University facilities or activities pending resolution of the matter; voluntary leave of absence; providing an escort between classes; arranging for medical services; providing academic support services, such as tutoring; University-imposed leave, suspension, or separation for the Respondent, including emergency removal. In Title IX Matters, if emergency removal is deemed appropriate, the University will follow Regulation 4.007(9)(g). Emergency removal includes an individualized safety and risk analysis and allows the Respondent to challenge the decision.

Supportive measures for faculty and staff may include, but are not limited to: the Employee Assistance Program; changing work schedules, job assignments, or job locations; providing an escort to assist with safe movement on campus; or University-imposed leave, or physical separation from particular individuals or locations.

## **VI. INVESTIGATIONS:**

(a) Upon receipt of a report of harassment or discrimination, OEI will promptly respond to the Complainant to:

1. Discuss availability of supportive measures with or without the filing of a formal complaint.
2. Consider the Complainant's requests with respect to supportive measures.
3. Explain the process for filing a formal complaint.
4. Provide information about an advisor of choice, including the right to choose an attorney.
5. Provide information about the victim advocate.
6. Provide information about the right to utilize processes outside the University.
7. Provide information about the investigative process and their rights.
8. Notify Complainant that all parties are treated equitably; and
9. Provide Complainant with notice of the standard of proof.

After this initial meeting, should Complainant wish to file a formal complaint, they may do so and, for Title IX Matters, the formal complaint must be signed by the Complainant. Should the Complainant not wish to move forward, the Title IX Coordinator may consider signing the formal complaint and moving forward with investigation where appropriate.

(b) Upon receipt of the formal complaint in Title IX Matters, written notice will be provided to all parties. That written notice will contain the following:

1. Notice of University process under this policy and University Regulation 7.008, including any available informal resolution procedures.
2. Notice of the allegations of alleged policy violation with sufficient details known at the time and with information scheduling an interview with sufficient time to prepare a response. Such notice will contain the following information, if known: the identities of the parties involved; the conduct alleged; and the date and location of the incident.
3. A statement that the Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

4. Right to an advisor of their choice, who may be an attorney.
5. The right to inspect and review evidence.
6. For students, knowingly making false statements or submitting false information during the grievance process is prohibited pursuant to the Student Code of Conduct (University Regulation 4.007) Section 5(i); and
7. Should any allegations be added, changed, or deleted after this initial notice, such information will be sent to all parties.

(c) OEI shall investigate complaints that contain enough information to substantiate investigation and allege prohibited discrimination or harassment. The investigation may include, but shall not be limited to, interviewing the Complainant and Respondent and any relevant witnesses. Each party shall have an equitable opportunity to present the names and contact details of witnesses and other relevant evidence.

(d) Both the Complainant and the Respondent will be permitted to ask an advisor of their choosing to be present during all relevant meetings, hearings, and interviews related to alleged violations of this policy. The advisor may accompany the Complainant or Respondent and may confer privately with them, but the advisor may not speak on behalf of the Complainant or Respondent or otherwise participate in any meeting during the investigation. An advisor's failure to comply with these guidelines may result in the termination of the meeting and the meeting being rescheduled to allow time for the parties to understand the purpose of the advisor's presence. Although the parties are allowed an advisor of choice, University personnel employed in the offices responsible for the disciplinary proceedings described in this policy, personnel employed by the Office of the General Counsel, and others whose participation could create a conflict of interest with their University duties are not eligible to serve as advisors. If there is a question or concern about a possible advisor, please consult with OEI. It is not advisable to choose an advisor who may also act as a witness in the investigation.

(e) OEI may attempt informal resolution before or during an investigation of a complaint. If a resolution is not achieved, OEI shall continue to investigate the complaint, and shall issue a final report. Informal resolution must be with the written consent of both parties. Informal resolution is not available in cases where there is a student Complainant and employee Respondent in Title IX Matters.

(f) The burden for gathering evidence lies with OEI, and OEI will not rely on privileged material without the written voluntary consent of the party holding the privilege. The University will provide parties with written notice of the date, time, location, participants, and purpose of all hearings, meetings, and interviews with sufficient time to prepare to participate. Parties are not restricted from discussing the allegations under investigation or from gathering or presenting any relevant evidence.

(g) The investigation will include an objective evaluation of all relevant evidence, inculpatory and exculpatory, and credibility will not be based on a party's status as a Complainant, Respondent, or witness.

(h) Complainant and Respondent shall have equivalent rights, including but not limited to, the right:

- To be informed of their rights under this Policy and University Regulation 7.008.
- To a fair, prompt, and impartial investigation.

- In Title IX Matters, not to be forced to present testimony or statements in the same room as the other party.
- In Title IX Matters, to be informed of the nature of any disciplinary action taken against the other party, and to request reconsideration of University action as long as appropriate and in accordance with University procedures.

(i) In Title IX Matters, parties will be given a chance to inspect and review all evidence obtained, so they can meaningfully respond to the evidence prior to the conclusion of the investigation and prior to completion of the investigative report, the University will send to each party and their advisor the evidence subject to inspection and review in electronic format or hard copy, and the parties shall have 10 days to submit a written response, which the investigator will consider prior to the completion of the investigative report.

(j) OEI shall attempt to conclude its final report within seventy-five (75) days of the filing of the formal complaint in all investigations. Upon completion of the investigation, a final investigation report shall be prepared which includes a summary of the complaint, a description of the investigation, analysis of the facts and evidence presented based on a preponderance of the evidence, and in matters other than Title IX Matters, recommendations for disposition.

(k) After the inspection and review period for evidence, the assigned investigator will complete an investigative report that fairly summarizes relevant evidence. In matters other than Title IX, the investigator will include in the report a determination as to whether a violation of University policy or regulation occurred, and the investigative report will be sent to the parties concurrently. In Title IX Matters, no determination is made in the investigative report.

(l) In Title IX Matters, at any point during the investigation, if the conduct alleged would not constitute sexual misconduct, even if proved, did not occur in the University's educational programs or activities, or did not occur against a person in the United States, the University is required to dismiss the complaint. In addition, the University may dismiss a Title IX complaint or any of the allegations in the complaint if the Complainant notifies the Title IX Coordinator that they would like to withdraw the complaint, in whole or part, if the Respondent is no longer enrolled or employed by the University, or if there are specific circumstances which prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or specific allegations in the formal complaint. In the event of a dismissal as described herein, the University will promptly send written notice of the dismissal and the reason to the parties simultaneously. The parties will have the right to appeal to the University as to why the claim should not be dismissed. Notice of Appeal may be filed through the reporting page under "Appeal" at [www.fau.edu/report](http://www.fau.edu/report). Such a dismissal does not preclude the University from action under another provision of its regulations or policies.

## **VII. POST-INVESTIGATION PROCEDURES FOR NON-TITLE IX MATTERS:**

Reconsideration of the determination in the investigation report may be filed by either party within five (5) business days after receiving notice of the determination by filing a written request with the Executive Director of OEI for the following reasons: (a) new evidence is available that was not available at the time of the investigation, or (b) relevant evidence was submitted and not considered or reviewed. After the reconsideration period, and any subsequent decision, the final report by OEI shall be submitted to the appropriate Vice President, Provost or designee if an employee is involved, and/or to the Dean of Students or designee if a student is involved. The Respondent and Complainant will each be notified in writing of the outcome of any reconsideration, if applicable.

For employee respondents, corrective or disciplinary action up to and including dismissal will be considered and implemented, if warranted, by a Vice President, Provost or Dean of Students or their respective designee. Corrective or disciplinary action may also be considered and implemented if OEI determined the complaint was unfounded and made maliciously or recklessly. For University students, the report will be provided to the Dean of Students Office for any action appropriate under Regulation 4.007. For K-12 students, the report will be provided to the K-12 administrator for appropriate sanctions, if applicable.

#### **VIII. POST-INVESTIGATION PROCEDURES FOR TITLE IX MATTERS:**

(a) For University students, all investigative reports with a student Respondent will be forwarded to the Office of the Dean of Students for appropriate actions, including hearing. The hearing will be conducted as set forth in University Regulation 4.007.

(b) For K-12 students, the investigative report shall be sent to the parties before reaching a final determination. The final decision-maker must allow each party to submit written relevant questions that a party wants to ask of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker must issue a final written determination as required under law.

(c) Investigative reports involving faculty or staff will be forwarded to the Office of the Provost or Human Resources, respectively, and the appropriate supervisor for hearing and appropriate action. Hearings must be live and comply with the requirements of University Regulations and/or the applicable Collective Bargaining Agreement, and shall include the following:

1. The parties must be provided the investigative report and all materials to be used in the hearing at least 10 days in advance of the hearing.
2. The hearing must be conducted by a hearing panel or hearing officer.
3. The hearing officer or panel (“decision maker”) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions.
4. Any cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor and not the party personally.
5. At the request of either party, separate rooms are allowed, all participants, including the hearing panel or officer, will have the ability to view Complainant and Respondent via live video.
6. Only relevant cross-examination and other questions may be asked of a party or witness.
7. Before any answer is provided, the decision maker must first determine whether the question is relevant and provide a reason for exclusion of any question.
8. If a party does not have an advisor present at the time of the live hearing, the University must provide, without fee or charge to that party, an advisor of the University’s choice to conduct cross examination.
9. Questions about complainant’s sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or concerns specific incidents with respect to the Respondent and are offered to prove consent.

10. If a party or witness does not submit to cross-examination at the live hearing, the decision maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility.
11. The decision maker cannot draw an inference about determination regarding responsibility solely based on a party's or witness's absence.
12. The University must create an audio recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

(d) In all Title IX Matters, the decision-maker, who may not be the Title IX Coordinator or the investigator, must issue a written determination regarding responsibility. The written determination must include the following:

1. Identification of the allegations defined.
2. A brief description of the procedural steps taken, including notifications to the parties, interviews and methods used to gather other evidence, site visits, and hearings held.
3. Findings of fact supporting the determination.
4. Conclusions regarding application of the definitions provided in regulation, code, or policy to the facts.
5. Statements of rationale for the results as to each allegation, including a determination regarding responsibility, and sanctions imposed on Respondent and remedies designed to restore or preserve equal access to the recipient's education programs or activities.
6. Procedures and permissible bases for parties to appeal.
7. The University shall provide the final date upon which the written determination of the result becomes final if no appeal filed, or the date by which an appeal must be filed and after such date, the appeal would no longer be timely.

## **IX. APPEALS:**

All parties are allowed to appeal a determination regarding responsibility, and a dismissal of a formal complaint or any allegations of a complaint, within five (5) business days of the dismissal or determination. In cases involving students, appeals shall be submitted as required by Regulation 4.007. In all other cases, appeals may be submitted through the reporting page under "Appeal" at [www.fau.edu/report](http://www.fau.edu/report), on the following basis:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not available at the time of determination regarding responsibility or dismissal that could affect the outcome of the matter;
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or a bias for or against complainant(s) or respondent(s) generally or the individual complainant or respondent that affected the outcome of the matter.

For all appeals, all parties will be notified in writing when an appeal is filed. The decision-maker for the appeal is not the same decision-maker regarding responsibility or dismissal, the investigator(s) or the Title IX Coordinator in Title IX Matters, and must have no conflict or bias against Respondents or Complainants. Parties will have five days to respond, either in support of or challenging the appeal. The decision-maker shall then have up to twenty days to issue a written decision regarding the appeal and the rationale. The decision shall be provided to all parties simultaneously. No further appeal is allowed.

**X. SANCTIONS:**

Violations by University students may result in any sanction listed in University Regulation 4.007 Student Code of Conduct, Section 13. Violations by K-12 students may result in sanctions as described in the applicable code of conduct or disciplinary matrix. Violations by employees may result in counseling which shall be constructive with the primary purpose of identification and correction of a problem. Employee violations may also result in disciplinary action pursuant, but not limited, to University Regulation 5.012, other University regulations and policies, and any applicable Collective Bargaining Agreement. Violations by outside parties may result in violations appropriate to the University relationship, including without limitation exclusion from University property or University services.

**XI. INITIATING AUTHORITY:** Vice President, Administrative Affairs

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POLICY APPROVAL  
(For use by the Office of the President)

Policy Number:   1.15  

*Initiating Authority*  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Stacy Volnick

*Policies and Procedures  
Review Committee Chair*  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Elizabeth Rubin

*President*  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Dr. John Kelly

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Executed signature pages are available in the Office of Compliance