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## ANNUAL SECURITY REPORT

SEPTEMBER 2023

REPORT A CRIME : [REPORTCRIME@FXUA.EDU](mailto:REPORTCRIME@FXUA.EDU)

TITLE IX REPORTING: [TITLEIX@FXUA.EDU](mailto:TITLEIX@FXUA.EDU)

## TABLE OF CONTENTS

<b>Introduction &amp; Preparation of Disclosure of Annual Crime Statistics .....</b>	<b>4</b>
<b>Security Officer Authority &amp; Jurisdiction .....</b>	<b>4</b>
<b>Memoranda of Understanding .....</b>	<b>4</b>
<b>Security &amp; Access to Campus Facilities.....</b>	<b>4</b>
<b>Reporting .....</b>	<b>5</b>
<b>Emergencies &amp; Urgent Incidents or Crimes .....</b>	<b>5</b>
<b>Other Incidents &amp; Non-Emergencies .....</b>	<b>5</b>
<b>Professional Counselors .....</b>	<b>6</b>
<b>Anonymous &amp; Confidential Reporting .....</b>	<b>6</b>
<b>Response to Reports .....</b>	<b>6</b>
<b>Notifications &amp; Alerts .....</b>	<b>7</b>
<b>Timely Warnings .....</b>	<b>7</b>
<b>Emergency Response &amp; Evacuation.....</b>	<b>8</b>
<b>Safety Awareness &amp; Crime Prevention Programming.....</b>	<b>8</b>
<b>Weapons Policy .....</b>	<b>9</b>
<b>Alcohol &amp; Drug Policies .....</b>	<b>10</b>
<b>Alcohol Policy .....</b>	<b>10</b>
<b>Drug Policy .....</b>	<b>11</b>
<b>Health &amp; Behavioral Risks.....</b>	<b>11</b>
<b>Federal &amp; Commonwealth of Virginia Penalties.....</b>	<b>12</b>
<b>Limited Amnesty.....</b>	<b>12</b>
<b>Non-Smoking Policy.....</b>	<b>12</b>
<b>Sexual Misconduct &amp; Interpersonal Violence Policies .....</b>	<b>12</b>
<b>Oversight of Sexual Misconduct Policy .....</b>	<b>13</b>
<b>Prohibited Conduct Under the Sexual Misconduct Policy .....</b>	<b>14</b>
<b>Commonwealth of Virginia Criminal Statutes .....</b>	<b>20</b>
<b>Reporting of Sexual Misconduct.....</b>	<b>22</b>
<b>Privacy &amp; Confidentiality .....</b>	<b>25</b>
<b>Notice of Investigation .....</b>	<b>27</b>
<b>Meeting with a Title IX Coordinator.....</b>	<b>27</b>
<b>Interim Measures .....</b>	<b>28</b>

<b>Investigation</b> .....	29
<b>Final Determination</b> .....	31
<b>Final Report</b> .....	31
<b>Informal Resolutions</b> .....	32
<b>Sanctions</b> .....	32
<b>Appeals</b> .....	34
<b>Advisors</b> .....	35
<b>Timeline</b> .....	36
<b>No Contact Orders &amp; Protective Orders</b> .....	36
<b>Preservation of Evidence</b> .....	39
<b>Risk Reduction</b> .....	39
<b>Bystander Intervention</b> .....	41
<b>Educational Programs to Promote Awareness &amp; Prevent Sexual Violence</b> ....	41
<b>XI) Sex Offender Registry</b> .....	42
<b>XII) Clery Act</b> .....	43
<b>Crime Statistics</b> .....	45

## **Introduction & Preparation of Disclosure of Annual Crime Statistics**

The Office of Institutional Effectiveness and the Campus Title IX Coordinator(s) prepared this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The full text of this report is available on the university's website: <https://www.fxua.edu/our-university/about-fxua/institutional-effectiveness/safety-planning/fxua-annual-security-report/>

This report is prepared in cooperation with local law enforcement and the relevant campus officials. In compliance with the Clery Act, these school officials provide updated information on their educational efforts and programs to be included in the Annual Security Report.

This report contains campus crime, arrest, referral statistics including those reported to local law enforcement and designated campus officials. These statistics may include crimes that have occurred off university property. These statistics may include crimes reported to confidential employees or through the university's anonymous reporting tool.

Each year, an email will be sent to all employees and enrolled students that contains a link to access the Annual Security Report online. Any member of the university community (including all students, staff, faculty, or prospective students, staff, or faculty) may obtain a hard copy of this report by contacting the Office of Institutional Effectiveness by emailing [oiie@fxua.edu](mailto:oiie@fxua.edu) to request a copy.

The Annual Security Report is published in the fall semester and is current as of the time of printing. Any links in this report may change if outside bodies delete the information or move the location. The Title IX Coordinator should be contacted at [titleix@fxua.edu](mailto:titleix@fxua.edu) concerning any changes, errors, or clear discrepancies.

## **Security Officer Authority & Jurisdiction**

University staff have the authority to ask persons for identification and to determine whether individuals have lawful business at the university.

All victims of crime and witnesses are strongly encouraged to immediately report the crime to the Facility & Property Management Office or the Campus Security Authority. To report via telephone, call (703)865-6457, by email at [reportcrime@fxua.edu](mailto:reportcrime@fxua.edu), or in person at 4401 Village Drive by asking the front desk to contact the Facility & Property Management Office.

The Facility & Property Management Office and the Campus Security Authority maintain contact with local law enforcement to monitor the community surrounding its educational facilities/properties. FXUA has communicated to local law enforcement agencies the request for their cooperation in informing the university about situations reported that may warrant an emergency response from the university. All student organizations officially recognized by the university that have events off-campus, have a university representative with them, and any criminal activity that occurs will be reported to the appropriate authority, and a report will be submitted to the Facility & Property Management Office (FPM). A follow-up will occur from FPM to the Office of Institutional Effectiveness for review and possible disciplinary actions.

### **Memoranda of Understanding**

FXUA does not currently have a Memoranda of Understanding with any law enforcement agency, state or local. The security personnel at FXUA work closely with the state and local law enforcement agencies. In the event of a crime or emergency, campus security personnel will alert local law enforcement officials.

## **Security & Access to Campus Facilities**

All entrances to the building are under camera surveillance and are monitored at all times.

The university has an installed badge access control and CCTV system throughout the premises. The main doors of the facility are open during normal business hours. During these hours, students, faculty, and the general public have access to areas of the building such as classrooms, the student center, and student services. All other areas of the building require an authorized badge to gain access. During periods of extended closing, the university will only admit those with prior written approval to the building.

When the campus is regularly scheduled to be open, the front desk is staffed at all times. If an individual would like to gain access to a restricted area, individuals must check in with the front desk to be provided with access. The badge system is monitored continuously by the Facility & Property Management Office to ensure only appropriate individuals and badge numbers have access.

The university does not have on-campus housing or residences.

Campus facilities are patrolled daily to allow the university to respond to any safety and security concerns such as nonworking lights, malfunctioning security locks, and other unsafe or insecure conditions. Anyone recognizing unsafe conditions should notify the Facility & Property Management Office by emailing [fpm@fxua.edu](mailto:fpm@fxua.edu).

Members of the staff, faculty, and student body should immediately report all crimes, hazards, emergencies, or dangerous situations to the Facility & Property Management Office on the 3<sup>rd</sup> Floor of the Village Drive building by calling (703) 865-6457 or by calling 911 for emergencies that may require immediate attention.

## **Reporting**

All members of the university community and visitors are encouraged to accurately and promptly report all crimes, suspicious activities, safety-related incidents, or other emergencies occurring on campus to the Facility & Property Management Office. To report via telephone call (703) 865-6457, email at [reportcrime@fxua.edu](mailto:reportcrime@fxua.edu), or in person at 4401 Village Drive. A report may also be made on our confidential submission form (<https://www.fxua.edu/our-university/about-fxua/institutional-effectiveness/suggestion-form/>), and you do not have to include your name in the report. All incidences of prohibited conduct under Title IX must be immediately reported to the Title IX Coordinator at [titleix@fxua.edu](mailto:titleix@fxua.edu).

### **Emergencies & Urgent Incidents or Crimes**

Is there a serious crime or incident that may cause an imminent danger or ongoing threat to yourself and the FXUA community? If yes, **immediately call 911**.

Remain calm and ensure your own safety. When reporting an incident, make sure to first share your location.

If you're unsure as to whether an ongoing threat exists, immediately contact the Facility & Property Management Office at (703) 865-6457 or call 911.

### **Other Incidents & Non-Emergencies**

If the crime has already taken place and you or others in the FXUA community are not in immediate danger, please email [reportcrime@fxua.edu](mailto:reportcrime@fxua.edu) to report the crime or incident. Include all known information in the report, such as the date, time, location, persons involved, and a description of what happened.

In addition, you may report to the following people:

<b>Title</b>	<b>Email</b>	<b>Phone</b>	<b>Extension</b>
Director of Institutional Effectiveness	<a href="mailto:grado@fxua.edu">grado@fxua.edu</a>	(703) 865-8784	334
Executive Dean	<a href="mailto:nshasan@fxua.edu">nshasan@fxua.edu</a>	(703) 865-6420	336
Human Resources	<a href="mailto:hrrsupport@fxua.edu">hrrsupport@fxua.edu</a>	(202) 567-6788	704
Information Technology	<a href="mailto:it@fxua.edu">it@fxua.edu</a>	(703) 591-7042	333
Director of Business Services/Operations	<a href="mailto:bayarjargal@fxua.edu">bayarjargal@fxua.edu</a>	(703) 591-7042	353

## Professional Counselors

If a victim is not ready to report an incident of Prohibited Conduct to FXUA administration, they may choose to seek out the assistance of a Professional Counselor.

FXUA does not have licensed professional counselors on staff. Students will be given a referral to an outside provider. The university can assist with connecting students to counseling services in the area upon request. If you are struggling with feeling homesick, depressed, anxious, stressed, need advice, or just need someone to listen, please contact [studentexperience@fxua.edu](mailto:studentexperience@fxua.edu). All information shared is kept confidential.

If you are referred to an outside counseling service, please be advised that under Virginia law there are situations which require a Professional Counselor to disclose some information to the proper authorities. Such as situations that involve a minor or there is the threat of imminent physical harm to the individual or others.

FXUA may collect non-identifying, aggregate data of crimes and other incidents, on an annual basis from Professional Counselors. This data is used to identify widespread patterns and safety concerns on campus and in the community. This data is included in the Annual Security Report which is required by the Clery Act.

## Anonymous & Confidential Reporting

If you are a victim of a crime and do not want to pursue action with the university or the criminal justice system, you may still make a confidential report. You can file a confidential report with the Facility & Property Management Office. To report via telephone call (703) 865-6457, by email at [reportcrime@fxua.edu](mailto:reportcrime@fxua.edu), or in person at 4401 Village Drive by asking the front desk to contact the Facility & Property Management Office.

The purpose of confidential reporting is to comply with the wish to keep a reporter's identity confidential while also taking steps to enhance the safety of the university community. With the information provided by confidential reporting, the university can keep an accurate record of the number of incidents involving students, employees, and visitors; determine where there is a pattern of crime regarding a location, method, or assailant; and alert the FXUA community to any potential dangers.

Reports submitted confidentially are counted and disclosed in the annual crime statistics for the institution, and when they involve allegations of sexual misconduct or interpersonal violence, are made available to FXUA's Title IX Coordinator.

## Response to Reports

All reported crimes will be reviewed by the Facility & Property Management Office and will be assigned for investigation as appropriate. Reports may become a matter of public record and any additional information obtained through any investigation will be forwarded to the Facility & Property Management Office. If assistance is required from other local agencies (i.e., local police, fire, EMT, etc.), FXUA will contact the appropriate unit.

If sexual misconduct or interpersonal violence should occur, the victim will be offered a variety of resources and services, including a notice of Student Rights. FXUA will provide the victim of a crime of sexual misconduct or interpersonal violence with the outcome of any disciplinary proceeding conducted by the university against a student who is the alleged perpetrator of such crime or offense. If the victim is deceased, the next of kin of the victim shall be treated as the alleged victim.

## **Notifications & Alerts**

### **Timely Warnings**

A “timely warning” will be issued to the FXUA community if a situation arises, either on or off campus that constitutes an ongoing threat to the university community. The Facilities & Property Management Office will issue a timely warning to the university community.

The timely warning will be issued through the university email system and by utilizing the university SMS Alert System. The timely warning may also be disseminated through a notice on the university website and relevant social media outlets. The timely warning will withhold the names of all parties involved. However, the suspect’s personally identifiable information may be disclosed to ensure the safety of the entire FXUA community. FERPA regulations (34 CFR 99.36) outline when disclosure of information in health and safety emergencies is permissible.

The decision to issue a timely warning will be considered on a case-by-case basis depending on when and where the incident occurred, when the incident was reported, and the amount of information known to the university. Timely warnings will be issued for the following crime classifications: criminal homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, and hate crimes. There are other crimes that do not require the dissemination of a timely warning under the Clery Act, however, in the interest of promoting safety, an alert may be issued to keep the community informed.

All members of the FXUA community and visitors are encouraged to report all crimes, suspicious activities, safety-related incidents, or other emergencies occurring on campus to the Facilities & Property Management Office. To report via telephone call (703) 865-6457, by email at [reportcrime@fxua.edu](mailto:reportcrime@fxua.edu) or in person at 4401 Village Drive by asking the front desk to contact the Facilities & Property Management Office. A report may also be made, and you do not have to include your name in the report. To make a report online, please visit <https://www.fxua.edu/our-university/about-fxua/institutional-effectiveness/title-ix-at-fxua/submitting-a-report/online-reporting-tool/>

### **Emergency Notifications**

The Facility & Property Management Office will immediately send emergency notifications to the FXUA community upon confirmation of an emergency or ongoing situation on campus which may pose an immediate threat to the safety of students, employees, or visitors. Emergencies or ongoing threats are typically confirmed by the Facility & Property Management Office and may involve the consultation of other departments and local first responders. Examples of emergencies and ongoing threats that would warrant an emergency notification include, but are not limited to: a fire, hostage situation, active shooter, tornado, hurricane, bomb threat, earthquake, other extreme weather, structural damage to the facility, gas leak, biological threat, or flooding.

Emergency notifications will be issued through a variety of channels to ensure that all members of the FXUA community are informed of an emergency or ongoing threat. These channels include the university SMS Alert System, an alert on the university website, email, and appropriate social media platforms. Students should take responsibility for regularly checking their email, as campus-wide email announcements and alerts will only be sent to university email. Members of the campus learning community are responsible for subscribing to the SMS alerts. If an emergency notification is sent out to the university community, a follow-up notification will be sent out to inform the university community that the threat or emergency is over.

The Facility & Property Management Office will determine the content of the emergency notification and will initiate the appropriate notification system, unless issuing a notification will compromise efforts to assist a victim or to contain, respond to, or otherwise control the situation. If it is determined that the community surrounding the campus needs to be notified of an emergency or ongoing threat, the Facilities & Property Management Office will communicate with the county and local first responders to inform them of the emergency or ongoing threat.

## **Emergency Response & Evacuation**

FXUA has an Emergency Preparedness Plan in place, which outlines the institutional response to serious incidents that could affect the campus. This Preparedness Plan includes specific plans for different emergencies and situations the university may face and performance expectations during these emergencies.

FXUA's emergency response information is available on our website at <https://www.fxua.edu/our-university/about-fxua/institutional-effectiveness/safety-planning/emergency-preparedness-plan/>. To request a hardcopy of the Emergency Preparedness Plan, email [oe@fxua.edu](mailto:oe@fxua.edu). The university conducts tests of its emergency response plan. These tests are designed to evaluate the emergency plans of the institution.

During the reporting years covered in this report (2020 – 2022) as well as the current calendar year, FXUA conducted the following tests:

<b>Date of Test</b>	<b>Description of Test</b>	<b>Time Started</b>	<b>Time Ended</b>	<b>Announced or Unannounced</b>
03/29/2020	Test of university's mass notification systems: SMS Alert System and website alert system.	3:20 PM	3:20 PM	Unannounced
08/19/2020	Sounding all building fire alarms and a full sweep of the building to ensure that all individuals vacated the premises.	2:15 PM	2:45 PM	Unannounced
09/08/2021	Test of university's mass notification systems: SMS Alert System and website alert system.	10:02 AM	10:02 AM	Unannounced
09/15/2021	Sounding all building fire alarms and a full sweep of the building to ensure that all individuals vacated the premises.	2:30 PM	3:00 PM	Unannounced
04/01/2022	Sounding all building fire alarms and a full sweep of the building to ensure that all individuals vacated the premises.	1:00 PM	1:30 PM	Unannounced
09/28/2022	Test of university's mass notification systems: SMS Alert System and website alert system.	10:54 PM	10:55 PM	Unannounced
09/29/2022	Sounding all building fire alarms and a full sweep of the building to ensure that all individuals vacated the premises.	1:30 PM	2:00 PM	Unannounced
04/06/2023	Sounding all building fire alarms and a full sweep of the building to ensure that all individuals vacated the premises.	10:10 AM	10:20 AM	Unannounced

## **Safety Awareness & Crime Prevention Programming**

Fairfax University of America offers a wide array of awareness and prevention programs designed to inform the university community about safety, health, and security policies and procedures. All members of the FXUA community are reminded to be responsible for their own safety and security, and the safety and security of others.

Information is disseminated through a variety of means, including, but not limited to events, flyers, and displays. Event topics vary and may include personal safety, travel safety, sexual assault, drug awareness and prevention, alcohol awareness and prevention, and internet safety. Examples of events offered in the past have included:



<b>Programming</b>	<b>Audience</b>	<b>Frequency</b>
New student orientation sessions	New students	Each semester
Employee onboarding orientation	New employees	Upon hire
Building Supportive Communities: Clery Act and Title IX – Vector Solutions Online Training	Current students & employees	Upon hire and each year
Clery Act Basics – Vector Solutions Online Training	Current students & Employees	Fall of each year
Title IX informational emails	Current students & employees	As needed throughout the year
Campus safety informational emails – SMS Alert System	Current students & employees	As needed throughout the year
Fire safety drills	Current students & employees	Twice a year
Campus Safety Newsletter	Current students & employees	Once a semester, starting Fall 2023

## **Weapons Policy**

The use, possession, or sale of firearms, other weapons, or any dangerous explosives or explosive elements or component parts on university property is strictly prohibited.

Weapons are defined as, but not limited to:

- a) Any gun, bow, crossbow, or other weapon designed or intended to propel a missile or projectile of any kind, including any pistol, revolver, rifle, musket, long gun, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; or any object similar in appearance whether capable of being fired or not, in such a manner as to induce fear in the mind of a reasonable person;
- b) Any stun weapon, including any device that emits a momentary or pulsed output, which is electrical, audible, optical, or electromagnetic in nature and is designed to temporarily incapacitate a person;
- c) Any knife, including but not limited to any dirk, bowie knife, switchblade knife, ballistic knife, machete, sword, saber, or razor, except a pocket knife having a folding metal blade less than three inches;
- d) Any slingshot, spring stick, metal knucks, or blackjack;
- e) Any flailing instrument consisting of one or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nunchaku, nun chuck, nunchaku, shuriken, or fighting chain;
- f) Any disc, of any configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart;
- g) Any frame, receiver, muffler, silencer, missile, projectile or ammunition designed for use with a dangerous weapon, including any cartridge, pellet, ball, missile or projectile adapted for use in a firearm;
- h) Any explosive substance or explosive device, if such substance or device is intended to be used as a weapon that causes but not limited to bodily harm of another person; any person who constructs, uses, places, sends, or causes to be sent any hoax explosive device so as to intentionally cause another person to believe that such device is a bomb or explosive;
- i) Any tear gas, mustard gas, phosgene gas or other noxious or nauseating gases or mixtures of chemicals designed to, and capable of, producing vile or injurious or nauseating odors or gases, if such gas or chemical is intended to be used as a weapon to cause bodily injury to another person(s).

No student, faculty, staff, visitor, or affiliate shall carry, possess, maintain, or conceal weapons on any property owned or controlled by Fairfax University of America. This includes concealed handgun carry permits.

## **Alcohol & Drug Policies**

Fairfax University of America is committed to providing an environment free of alcohol and drug abuse in compliance with the Drug Free Schools and Communities Act and the Higher Education Act of 1965.

FXUA does not condone the illegal or otherwise irresponsible use of alcohol and other drugs. It is the responsibility of every member of the university community to know the risks associated with substance use and abuse. This responsibility obligates students and employees to know all relevant FXUA policies and federal, state, and local laws and to conduct themselves in accordance with those laws and policies. To ensure the availability of this information, the university publishes the following information regarding university policies and sanctions; laws and penalties associated with substance use and abuse; health and behavioral risks of drug use; and resources for treatment and educational programming. The dissemination of this information is in support of the Drug Free Schools and Communities Act and the Clery Act.

### **Alcohol Policy**

FXUA hopes the Alcohol Policy will encourage students and employees to make responsible decisions regarding the consumption of alcoholic beverages. As such, FXUA is a dry campus and expressly prohibits the sale, consumption, or use of alcoholic beverages on university property.

All members of the FXUA community are expected to know and act in accordance with Virginia laws concerning the purchase, possession, consumption, sale, and storage of alcoholic beverages. Ignorance of the law is not a viable defense. Thus, the FXUA community is reminded of the following:

1. Any sale of an alcoholic beverage in Virginia requires an ABC license.
2. Alcoholic beverages are not to be given or sold to persons who are under the legal drinking age, which is 21 years of age.
3. Alcoholic beverages are not to be given to persons who are intoxicated.
4. State law prohibits drinking in unlicensed public places; public intoxication; possession of an alcoholic beverage by someone under the legal drinking age; falsely representing one's age for the purpose of procuring alcohol; and purchasing an alcoholic beverage for a person who is under the legal drinking age.
5. Violations of state alcohol laws are criminal misdemeanors punishable by fines up to \$2,500, imprisonment up to 12 months, and suspension of a driver's license.
6. The use of alcoholic beverages as a prize in a contest, drawing, lottery, etc., is prohibited.
7. The use of alcoholic games (e.g., quarters, drink-offs, beer-pong, etc.) is prohibited.
8. FXUA recognizes the value of group-sponsored social events that take place off-campus. The university acknowledges that some of these group-sponsored events that take place off-campus may be at establishments that serve alcohol. The university does not prohibit the consumption of alcohol at these events. However, groups or individual group members may be held accountable for the underage possession or consumption of alcohol, and unsafe or irresponsible behavior that occurs during a group-sponsored event.

Unsafe behavior includes, but is not limited to, consuming alcohol through beer bongs, participating or facilitating drinking games, or consuming an excessive quantity of alcohol in a short amount of time. Irresponsible behavior includes, but is not limited to, the use or attempted use of fraudulent identification to obtain alcohol or making alcohol available to underage persons.

9. FXUA funds may not be used to purchase or obtain alcohol.

Members of the FXUA community, and their invited guests, who reside in any property leased or owned by the university and who are lawfully permitted to purchase, possess, and consume alcohol, may do so in the residence.

Any member of the university community who violates state alcohol laws is subject to disciplinary

action. Whether or not criminal charges are brought, all students are subject to disciplinary action for any violation of state alcohol laws that occur:

1. On FXUA owned, controlled, or leased property;
2. At FXUA sponsored functions; or
3. Under other circumstances involving a direct and substantial connection to the university.

Any student found to have engaged in such conduct is subject to the entire range of sanctions, including suspension and expulsion. Staff or faculty engaged in such conduct could be subject to suspension or even termination.

The entire learning community is expected to conduct themselves in accordance with the laws of the Commonwealth of Virginia and the policies of FXUA, and as such assume full responsibility for their activities and events.

## **Drug Policy**

The unauthorized manufacture, sale, distribution, and possession of “controlled substances” (illegal drugs), including marijuana, cocaine, heroin, and LSD, are prohibited by both state and federal law and are punishable by severe penalties. FXUA does not tolerate or condone such conduct.

Any member of the university community who violates state or federal drug laws is subject to disciplinary action. Whether or not criminal charges are brought, all students are subject to disciplinary action for any violation of state or federal laws that occur:

1. On FXUA owned, controlled, or leased property;
2. At FXUA sponsored functions; or
3. Under other circumstances involving a direct and substantial connection to the University.

Any student found to have engaged in such conduct is subject to the entire range of sanctions, including suspension and expulsion. Students and employees who are found to be in violation of state or federal drug laws may be referred to the appropriate authorities for criminal prosecution.

## **Health & Behavioral Risks**

The negative physical and mental effects of the use of alcohol and other drugs are well-documented. Use of these drugs may cause: blackouts, poisoning and overdose; death; physical and psychological dependence; damage to vital organs such as the brain, heart and liver; inability to learn and remember information; and psychological problems including depression, psychosis and severe anxiety. Other risks include impaired judgment and coordination which can lead to: DUI/DWI arrests; hazing; falls, drowning and other injuries; contracting sexually transmitted diseases including AIDS; and unwanted or unplanned sexual experiences and pregnancy.

The substance abuse of family members and friends may also be of concern to students and employees. Patterns of risk-taking behavior and dependency not only interfere in the lives of the substance abuser, but can also have a negative impact on the affected students' academic work, emotional well-being and adjustment to college life.

Substance Abuse and Mental Health Services' Treatment Referral Routing Service provides referrals to local treatment facilities, support groups, and community-based organizations. Callers can also order free publications and other information. It is a confidential, free, 24/7/365 information service.

### **Substance Abuse and Mental Health Services' Treatment Referral Routing Service**

Hotline: 1-800-662-4357

Online treatment locators: <https://findtreatment.samhsa.gov/>

Helpline website: <https://www.samhsa.gov/find-help/national-helpline>

Organization website: <https://www.samhsa.gov/>

## **Federal & Commonwealth of Virginia Penalties**

Federal and Virginia law penalizes the unlawful manufacturing, distribution, use, and possession of controlled substances, including prescription drugs. Synthetic designer drugs such as “bath salts,” “plant food,” and “carpet cleaner,” contain mixtures of many different chemicals, including those that resemble cocaine, methamphetamine, and MDMA or “ecstasy.” Federal law makes the distribution of “analogue” substances marketed for human consumption illegal if those substances are chemically similar to a scheduled illegal drug and have the same pharmacological effect on a user.

Federal law sets penalties for first offenses ranging from less than one year to life imprisonment and/or fines up to \$10 million. Penalties may include forfeiture of property, including vehicles used to possess, transport, or conceal a controlled substance, and the denial of professional licenses or federal benefits, such as student loans. The punishment for the possession and/or distribution of a controlled substance analogue is up to twenty years in prison and a fine of up to \$1 million.

Convictions under Virginia law may be a misdemeanor or felony crimes with sanctions ranging from probation to life imprisonment and/or fines of up to \$1 million. Virginia law specifically prohibits the sale, gift, distribution, and possession of synthetic cannabinoids, which carry penalties as a Class 6 felony.

Federal law holds that any person who distributes, possesses with intent to distribute, or manufactures a controlled substance in, or within one thousand feet of an educational facility is subject to a doubling of the applicable maximum punishments and fines. A similar Virginia law carries sanctions of between one and five years imprisonment and up to a \$100,000 fine for similar violations.

## **Limited Amnesty**

Fairfax University of America encourages the reporting of all potential violations of Prohibited Conduct under the Sexual Misconduct Policy that can be found at <https://www.fxua.edu/our-university/about-fxua/institutional-effectiveness/title-ix-at-fxua/sexual-misconduct-policy/>. FXUA does not condone underage alcohol consumption or the use of illegal drugs. However, because it is of the utmost importance to FXUA to protect the wellbeing of its students and employees, the university may extend limited amnesty from disciplinary action for the illegal consumption of alcohol or illegal drug use by victims, witnesses, and those reporting incidents or assisting victims of Prohibited Conduct. These individuals must have acted in good faith, and any such violation must not have placed the health or safety of any other person(s) at risk.

The Title IX Coordinator and the President, or their designees, will determine if amnesty will be applied and to what extent. Alcohol and drug amnesty are intended to encourage students and employees to seek assistance for themselves and others by reducing the fear of facing FXUA’s Students Rights & Responsibilities Policy/Employee Handbook Policies for such conduct. It is an attempt to remove barriers that may prevent an individual from reporting, seeking medical assistance, or other assistance.

## **Non-Smoking Policy**

Smoking or vaping are not permitted within facilities owned or leased by the university nor in university-owned vehicles. Smoking or vaping are not permitted within 50 feet of any university facility.

## **Sexual Misconduct & Interpersonal Violence Policies**

Fairfax University of America does not discriminate on the basis of sex in its education programs or activities. Prohibited Conduct under this policy constitutes sex discrimination prohibited by Title IX of the Education Amendments of 1972 (Title IX), sections of the Violence Against Women Reauthorization Act (VAWA), Title VII of the Civil Rights Act of 1964 (Title VII), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and the Virginia Human Rights Act.

Title IX prohibits sex discrimination in all aspects of university activities and programs. This means that students and employees are entitled to an environment that is free from sex discrimination. Any individual,

regardless of their gender or gender identity, can be a victim of sex discrimination and sex discrimination can occur between members of the same or opposite sex.

Individuals who have been found to have violated this policy will face disciplinary action up to, and including, suspension, termination, or expulsion. It is the responsibility of every member of the university community to create and foster an environment free from sex discrimination. As such, all members of the community are encouraged to take reasonable actions to stop or prevent an act of sex discrimination. Anyone who takes such actions will receive the full support of FXUA.

FXUA is committed to maintaining a safe educational and work environment in which no member of the community is, on the basis of sex, gender, sexual orientation, gender identity, or gender expression, excluded from the participation in, denied the benefits of, or subjected to discrimination in any FXUA program or activity.

This policy applies to any form of sex or gender-based discrimination, which includes, but is not limited to, sexual assault, domestic violence, dating violence, stalking, and harassment. The term **Prohibited Conduct** will be used to refer to all forms of sex and gender-based discrimination.

FXUA provides ongoing prevention, awareness, and training programs for employees and students in an effort to:

- Eliminate, prevent, and address sex discrimination and its effects;
- Encourage reporting;
- Make available timely services for those affected by Prohibited Conduct; and
- To provide the prompt and equitable investigation and resolution of Prohibited Conduct cases.

Any question regarding the interpretation and application of this policy shall be referred to the Title IX Coordinator. The Title IX Coordinator may designate a Title IX Deputy Coordinator to serve as the Title IX Coordinator for any procedures outlined in this policy.

## **Oversight of Sexual Misconduct Policy**

FXUA has designated a Title IX Coordinator who is responsible for the oversight of this policy and any procedures related to it. The Title IX Coordinator is responsible for overseeing and resolving all Title IX reports, as well as identifying and addressing any patterns or systemic concerns that arise during the review of such reports. The Title IX Coordinator evaluates trends on campus by using information reported and provides campus-wide training and education programs and other remedial actions designed to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. For any questions or concerns regarding Title IX, please email [titleix@fxua.edu](mailto:titleix@fxua.edu).

Title IX Coordinators and Deputy Title IX Coordinators serve as designees of the Title IX Coordinator in any case where there is a conflict of interest that would prohibit the Title IX Coordinator from providing fair and impartial oversight. The Title IX Coordinator and any Deputy Title IX Coordinator(s) are annually trained on the issues related to Title IX. Topics can include sexual harassment, domestic violence, dating violence, sexual assault, and stalking as well as the grievance process and how to conduct an impartial investigation free of bias and conflict of interest.

**Title IX Coordinator**  
**Dr. Amy Buras**  
**Learning Resource Manager**  
Village Drive, 2nd Floor  
Telephone: (703) 865-8735  
Email: [aburas@fxua.edu](mailto:aburas@fxua.edu)

**Deputy Title IX Coordinator**  
**Dr. NS Hasan**  
**Executive Dean for Academic**  
**Programs/Administration**  
Village Drive, 2<sup>nd</sup> Floor

Telephone: (703) 865-6420 ext. 336  
Email: [nshasan@fxua.edu](mailto:nshasan@fxua.edu)

**Deputy Title IX Coordinator**  
**George Rado**  
**Accreditation & Regulatory**  
**Compliance Officer**  
Village Drive, 2<sup>nd</sup> Floor  
Telephone: 703-865-8784 ext. 334  
Email: [grado@fxua.edu](mailto:grado@fxua.edu)

## **Prohibited Conduct Under the Sexual Misconduct Policy**

Fairfax University of America prohibits all types of sexual misconduct and sex discrimination. Such conduct is referred to as “Prohibited Conduct” in this policy. Prohibited Conduct has been broadly defined to include any unwelcome conduct of a sexual nature. The university will review all allegations of Prohibited Conduct on a case-by-case basis, in the totality of the circumstances.

Prohibited Conduct is listed in alphabetical order and defined below. FXUA uses the following definitions to recognize, classify, and report Prohibited Conduct at an institutional level. These definitions may differ from those of the Commonwealth of Virginia. Virginia’s laws on sexual and domestic violence can be accessed here: <https://law.lis.virginia.gov/vacode/title18.2/chapter4>

### **(A) Complicity**

Complicity is any action taken with the intent or purpose of aiding, facilitating, promoting, or encouraging an act of Prohibited Conduct by another person or persons.

### **(B) Dating Violence**

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating violence includes sexual, emotional, or physical abuse, or the threat of such abuse. Dating violence may include any of the Prohibited Conduct contained in this policy, including physical assault.

Physical Assault is threatening to or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of another person. Dating violence can include the use or threat of physical force or restraint carried out with the intent of causing pain or injury to another.

The existence of a social relationship of a romantic or intimate nature shall be determined based on the following factors:

- a) The reporting party’s statement;
- b) The length of the relationship;
- c) The type of relationship; and
- d) The frequency of interaction between the persons involved in the relationship.

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

Below are examples of behavior that may be dating violence:

- **Physical Abuse:** hitting, slapping, kicking, hurting or killing pets, denying medical treatment, throwing things, interrupting sleep, or shoving.

- **Sexual Abuse:** being forced to have sex, being afraid to say “no” to sex, violence or name calling during sex, or denying contraception or protection from sexually transmitted diseases and infections.
- **Emotional Abuse:** constant put downs or criticisms, name-calling, minimizing abuse or blaming the victim for their behavior, isolating the victim from friends and family, or monitoring where you go and whom you talk to.
- **Financial Abuse:** being given an allowance, hiding assets, and money, or interfering with your job.

For more information about domestic violence, visit the National Network to End Domestic Violence’s website at <https://nnedv.org/>.

### **(C) Domestic Violence**

Domestic violence is defined as violence committed by

- a) a current or former spouse or intimate partner of the victim; or
- b) a person whom the victim shares a child in common; or
- c) a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or
- d) by any other person against an adult or minor who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

To be considered domestic violence the relationship between the victim and perpetrator must be more than two people living as roommates. They must be current or former spouses, or have had an intimate relationship.

Domestic violence includes sexual, emotional, or physical abuse, or the threat of such abuse. Domestic violence may include any of the Prohibited Conduct contained in this policy.

Physical Assault is threatening to or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of another person. Domestic violence can include the use or threat of physical force or restraint carried out with the intent of causing pain or injury to another.

Below are examples of behavior that may be domestic violence:

- **Physical Abuse:** hitting, slapping, kicking, hurting or killing pets, denying medical treatment, throwing things, interrupting sleep, or shoving.
- **Sexual Abuse:** being forced to have sex, being afraid to say “no” to sex, violence or name calling during sex, or denying contraception or protection from sexually transmitted diseases and infections.
- **Emotional Abuse:** constant put downs or criticisms, name calling, minimizing abuse or blaming the victim for their behavior, isolating the victim from friends and family, or monitoring where you go and who you talk to.
- **Financial Abuse:** being given an allowance, hiding assets and money, or interfering with your job.

For more information about domestic violence, visit the National Network to End Domestic Violence’s website at <https://nnedv.org/>.

## **(D) Providing False Information**

Any individual who knowingly submits a complaint that is not in good faith or provides false or misleading information in any review, investigation, or resolution of a complaint will be subject to disciplinary action.

## **(E) Retaliation**

Retaliation includes threatening, intimidating, harassing, coercing, or any other conduct that would discourage a reasonable person from engaging in any activity that is protected under this policy. The presence of retaliation is not dependent on a finding of “responsibility” for any allegations of Prohibited Conduct. Under this policy, retaliation means **any** adverse action taken against a person for making a good-faith report of Prohibited Conduct or participating in any procedure under this policy.

Retaliation may include the following types of behavior; however, it is not limited to these examples:

- a) Any action such as an assault or unfounded institutional complaints, civil or criminal charges that are likely to deter reasonable people from engaging in their rights or seeking assistance;
- b) Actions that affect the academic standing of a student;
- c) Employment actions such as refusal to hire, denial of promotion, or termination; and
- d) Other actions that affect a person’s employment, academic, or school-related activities such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance or supervision.

Retaliation does NOT include:

- a) Annoyances and petty snubs;
- b) Stray negative comments in an otherwise positive or neutral evaluation;
- c) Slighting a colleague;
- d) Not talking to a student;
- e) Negative comments that are justified by a student or employee’s poor academic or work performance or history; or
- f) Good faith actions lawfully pursued in response to a report of Prohibited Conduct.

Any retaliation against any person who raises an allegation of Prohibited Conduct, cooperates in an investigation, or opposes discriminatory practices is strictly prohibited under this policy and is a violation of federal law. FXUA considers acts or threats of retaliation to be a serious violation of this policy. Violations of this prohibition will be addressed through this policy and potentially other university disciplinary procedures, as deemed appropriate.

Anyone who believes they have been subjected to retaliation because of making a report or assisting in an investigation of this policy, should file a report with a Title IX Coordinator.

Any other allegations of retaliation that are **not** related to this policy should be immediately reported to Human Resources by emailing [hrsupport@fxua.edu](mailto:hrsupport@fxua.edu).

## **(F) Sexual Assault**

Sexual assault is actual **or** attempted sexual contact, however slight that contact is, with another person without that person’s consent. Sexual assault includes, but is not limited to:

- 1) The intentional touching of another person’s intimate parts without that person’s consent;
- 2) Other intentional sexual contact with another person without that person’s consent;
- 3) Coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts without that person’s consent; or
- 4) Penetration, no matter how slight, of



- i. the vagina or anus of a person by any body part of another person or by an object, or
- ii. the mouth of a person by a sex organ of another person or an object, without that person's consent.

## (1) Consent

Consent is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent can be withdrawn at any time during a sexual act or encounter. Silence does not establish consent. The absence of resistance does not establish consent. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used.

Past consent to sexual activities does not imply ongoing or future consent. Current or previous dating relationships do not imply consent. Consent to one sexual activity is not consent for other sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person. A person's attire does not constitute consent.

An individual who is under the age of consent **cannot** consent. If a person is mentally or physically impaired so that person cannot understand the fact, nature, or extent of the sexual situation, there is **no** consent. This includes impairment due to drug or alcohol consumption that meets the legal standard of impairment. There is **no** consent when a person is asleep or unconscious.

Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.

## (2) Stealthing

Engaging in the act of stealthing is a violation of consent. Stealthing is the non-consensual removal of a condom during intercourse, or the purposeful use of a faulty condom. Under this policy stealthing is a form of sexual assault.

## (G) Sexual Exploitation

Sexual exploitation occurs when an individual takes advantage of a person in a sexual way for the benefit of anyone other than that person and takes places without that person's consent. Any sexual exploitation, regardless of the medium in which it occurs, including physical and digital exploitation, shall be treated as an incident of equal severity under this policy.

Examples of behavior that could be considered sexual exploitation:

- Causing the incapacitation of another person (through drugs, alcohol, or other means) for the purpose of compromising that person's ability to consent to sexual activity.
- Prostituting another person.
- Recording images or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent.
- Distributing images or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and it is

reasonable to assume the person would object to such disclosure. This includes what is referred to as “revenge porn.”

- Allowing third parties to view private sexual activity from a hidden location or through electronic means (such as Skype, Facebook Live, Snapchat, etc.).
- Viewing another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s consent, and for the purpose of sexual arousal or gratifying sexual desire.
- Inducing another person to expose their intimate body parts without their consent.
- Knowingly transmitting or exposing another person to a sexually transmitted infection (STI), sexually transmitted disease (STD), venereal disease, or HIV.

## **(H) Sexual or Gender-based Harassment**

**Sexual Harassment** is any unwelcome conduct or harassment of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other conduct whether verbal, nonverbal, physical, or graphic when the conditions outlined below in (a), (b), or (c) are present.

**Gender-Based Discrimination** is harassment based on a person’s actual or perceived sex or gender, sexual orientation, gender identity, gender expression, or non-conformity with gender stereotypes. This harassment may include intimidation, acts of aggression, or hostility, or other conduct whether verbal, nonverbal, physical, or graphic when the conditions outlined below in (a), (b), or (c) are present.

- (a) The submission or rejection of such conduct is explicitly (meaning clearly stated, leaving no confusion or doubt) made a term or condition of a person’s employment, academic standing, or participation in any of FXUA’s programs or activities **or** is used as the basis for any decision affecting the individual;
- (b) The submission or rejection of such conduct is implicitly (meaning suggested or not directly expressed) made a term or condition of a person’s employment, academic standing, or participation in any of FXUA’s programs or activities **or** is used as the basis for any decision affecting the individual; **or**
- (c) Such conduct creates a hostile environment.

A **Hostile Environment** exists when sex discrimination interferes with, limits, or deprives a person from participating or benefiting from FXUA’s programs or activities, or interferes with a person’s work or program performance.

A hostile environment can be created by anyone involved in FXUA’s programs or activities, such as administrators, faculty members, students, and campus visitors. To determine if the conduct in question has created a hostile environment, the university will consider the conduct from both a subjective and objective perspective to determine if the conduct is severe, persistent, and pervasive enough to have created a hostile environment. FXUA will also need to find that a reasonable person in the same or similar position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To make the ultimate determination of whether a hostile environment exists, FXUA will consider a variety of factors related to the severity, persistence, or pervasiveness of the harassment, including but not limited to:

- a) the type, frequency, and duration of the conduct;
- b) the severity and nature of the conduct;
- c) whether the conduct was physically threatening;
- d) the identity and relationships of persons involved;

- e) the number of individuals involved;
- f) the location of the conduct and the context in which it occurred;
- g) whether the conduct interfered with the individual's educational performance, work performance, or participation in FXUA programs or activities and to what degree that interference occurred;
- h) the effect of the conduct on the individual's mental or emotional state;
- i) Whether the conduct occurred in the context of other discriminatory conduct; and
- j) Whether the conduct raises concerns related to academic freedom or protected speech.

The more severe the sex discrimination, the less need there is to show a repetitive series of incidents to find a hostile environment. A single occurrence of sexual assault or violence may be sufficient to create a hostile environment. Similarly, a series of incidents may be sufficient even if the incidents are not particularly severe.

Below are examples of behavior that may constitute sexual harassment and gender-based discrimination:

- Giving someone unwanted gifts of a sexual nature.
- Displaying sexually suggestive or explicit materials.
- Sending sexually suggestive or explicit notes, emails, or other communications.
- Calling someone by a sexually suggestive or demeaning name.
- Touching someone without their consent.
- Brushing up against someone repeatedly.
- Continuing to ask out a person who previously said they are not interested.
- Exposing your genitals to another person.

## **(I) Sexual Violence**

Sexual violence means physical sexual acts perpetrated against a person's will or against a person incapable of giving consent.

## **(J) Stalking**

Stalking is engaging in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

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

### **(1) Course of Conduct**

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

### **(2) Significant Emotional Distress**

Significant emotional suffering means significant mental suffering or anguish. A person can suffer from significant emotional distress without seeking or requiring mental health assistance.

### **(3) Reasonable Person**

Reasonable person means a person under the same or similar circumstances and with similar identities to the victim.

### **(K) Unwelcome Conduct**

Conduct is unwelcome if the person did not request or invite it and considered the conduct to be undesirable or offensive.

Unwelcome conduct does not have to include the intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex.

Participation in the conduct or the failure to complain or report the conduct does not mean that the conduct was welcome. The fact that a person welcomed some conduct does not necessarily mean that the person welcomes other conduct. The fact that a person requested or invited conduct on one occasion does not mean that the conduct is welcome in the future.

Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the internet), or other conduct that may be physically threatening, harmful, or humiliating.

## **Commonwealth of Virginia Criminal Statutes**

### **Virginia Code § 18.2-366. Sexual intercourse by persons forbidden to marry; incest.**

- A. Any person who engages in sexual intercourse with any person whom he or she is forbidden by law to marry shall be guilty of a Class 1 misdemeanor except as provided by subsection B.
- B. Any person who engages in sexual intercourse with his daughter or granddaughter, or with her son or grandson, or her father or his mother, shall be guilty of a Class 5 felony. However, if a parent or grandparent engages in sexual intercourse with his or her child or grandchild, and such child or grandchild is at least thirteen years of age but less than eighteen years of age at the time of the offense, such parent or grandparent shall be guilty of a Class 3 felony.
- C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes a step-child, and grandchild includes a step-grandchild.

### **Virginia Code § 18.2-63. Carnal knowledge of child between thirteen and fifteen years of age.**

- A. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age, such person shall be guilty of a Class 4 felony.
- B. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age who consents to sexual intercourse and the accused is a minor and such consenting child is three years or more the accused's junior, the accused shall be guilty of a Class 6 felony. If such consenting child is less than three years the accused's junior, the accused shall be guilty of a Class 4 misdemeanor.

In calculating whether such child is three years or more a junior of the accused minor, the actual dates of birth of the child and the accused, respectively, shall be used.

- C. For the purposes of this section, (i) a child under the age of thirteen years shall not be considered a consenting child and (ii) "carnal knowledge" includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate and inanimate object sexual penetration.

### **Virginia Code § 18.2-61. Rape.**

If any person has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim, he or she shall be guilty of rape.

### **Virginia Code § 18.2-67.1 Forcible sodomy.**

An accused shall be guilty of forcible sodomy if he or she engages in cunnilingus, fellatio, anilingus, or anal intercourse with a complaining witness whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person, and

1. The complaining witness is less than 13 years of age; or
2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

### **Virginia Code § 18.2-57.2. Assault and battery against a family or household member.**

Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

### **Virginia Code § 18.2-67.4. Sexual battery.**

An accused is guilty of sexual battery if he sexually abuses, as defined in § 18.2-67.10, the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse, or through the use of the complaining witness's mental incapacity or physical helplessness.

### **Virginia Code § 18.2-67.4:1. Infected sexual battery.**

- A. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with the intent to transmit the infection to another person is guilty of a Class 6 felony.
- B. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person is guilty of a Class 1 misdemeanor.
- C. "HIV" means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

### **Virginia Code § 18.2-67.10. General definitions.**

"Sexual abuse" means an act committed with the intent to sexually molest, arouse, or gratify any person, where:

- a. The accused intentionally touches the complaining witness's intimate parts or material directly covering such intimate parts;
- b. The accused forces the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts;
- c. If the complaining witness is under the age of 13, the accused causes or assists the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts; or

- d. The accused forces another person to touch the complaining witness's intimate parts or material directly covering such intimate parts.

### **Virginia Code § 16.1-288. Definitions.**

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

### **Virginia Code § 18.2-60.3. Stalking.**

Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, and a registered private investigator, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and acting in the course of his legitimate business, who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor. If the person contacts or follows or attempts to contact or follow the person at whom the conduct is directed after being given actual notice that the person does not want to be contacted or followed, such actions shall be prima facie evidence that the person intended to place that other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

**Virginia has no criminal statute regarding dating violence.**

**Virginia has no criminal statute defining consent.**

## **Reporting of Sexual Misconduct**

An individual has the option to report to FXUA, to local law enforcement, or not at all. An individual may choose to report to FXUA and not local law enforcement. Or to report to local law enforcement and not to FXUA. Or to report to both. Or to make a report anonymously. The decision to report, and to whom, is the individual's decision. FXUA fully supports and respects whatever decision an individual makes, but the university encourages prompt reporting that allows for immediate investigation and remedial action.

### **Reporting to FXUA**

#### **(a) Reporting to a Responsible Employee**

An individual may report an incident of Prohibited Conduct to a Responsible Employee. A Responsible Employee is any employee who:

- a) Has the authority to redress sexual violence;
- b) Has been given the duty to report to appropriate school officials about incidents of Prohibited Conduct, or any other misconduct by students; or
- c) A student could reasonably believe has the authority or the responsibility to report.

Title IX operates under the theory of “notice.” A school is on notice when a Responsible Employee knew, or should have known, that an incident of Prohibited Conduct has occurred. Responsible Employees must report to the Title IX Coordinator all alleged incidents of Prohibited Conduct that have been reported to them or which they have witnessed. The Title IX Coordinator is required to investigate and take reasonable action to address and remedy the effects of any incidents of Prohibited Conduct.

Responsible Employees are required by law to report to the Title IX Coordinator all information they receive regarding an alleged Prohibited Conduct incident as soon as is practical, but the report **must** be made within 24 hours of receiving the information. While a Responsible Employee must disclose information to the Title IX Coordinator, they are required to maintain the privacy of the parties involved and should not disclose any information to anyone unless the Title IX Coordinator authorizes such a disclosure.

A Responsible Employee will make every effort to inform an individual of the employee's reporting obligations and ensure that the individual understands the meaning of these obligations *before* any information is revealed. If an individual decides to share information with the Responsible Employee but also wants to maintain anonymity, the Responsible Employee will inform the individual that FXUA will consider the request, but may not be able to honor it. Requests for anonymity are addressed below on pages 18-19, along with other potential requests an individual may make.

A Responsible Employee **will not** pressure an individual to:

- 1) Reveal any information they are not comfortable disclosing;
- 2) Not pursue disciplinary action;
- 3) Discourage them from filing a report with law enforcement;
- 4) Pursue disciplinary action; or
- 5) To file a report with local law enforcement.

A Responsible Employee **will**:

- 1) Honor and support the individual's wishes while abiding by their obligations as a Responsible Employee;
- 2) Provide the individual with their rights and resources, in writing;
- 3) Provide the individual with information about their options, in writing;
- 4) Provide the individual with a copy of the grievance and disciplinary procedure, in writing;
- 5) Inform the individual that this information will be shared with the Title IX Coordinator; and
- 6) Inform the individual of the next steps that will be taken, in writing.

Failure of a Responsible Employee to report an incident, or incidents, of prohibited Sexual Misconduct that they knew about, or should have known about, is a violation of this policy and federal law and may result in disciplinary action, up to and including termination of employment.

If an employee has any questions about this policy and its application or is in doubt as to whether certain conduct violates the Sexual Misconduct Policy, they should contact the Title IX Coordinator.

## **(b) Reporting to Campus Security**

All crimes that take place on campus should be reported to the Facility & Property Management Office and Campus Security, this includes any Prohibited Conduct. FXUA fully

encourages prompt reporting that allows for an immediate investigation. All reports may be made by telephone by calling (703) 865-6457, by email at [reportcrime@fxua.edu](mailto:reportcrime@fxua.edu) or in person at 4401 Village Drive by requesting at the front desk to speak with someone from the Facility & Property Management Office.

### **(c) Reporting to a Title IX Coordinator**

If an individual would like to report an incident of Prohibited Conduct directly to the Title IX Coordinator, or a Title IX Coordinator, they may do so. It is also possible to report an incident by emailing [titleix@fxua.edu](mailto:titleix@fxua.edu).

**Title IX Coordinator**  
**Amy M. Buras, JD, MLS**  
**Learning Resource Manager**  
Village Drive, 2nd Floor  
Telephone: (703) 865-8735  
Email: [aburas@fxua.edu](mailto:aburas@fxua.edu)

Telephone: (703) 865-6420 ext. 336  
Email: [nshasan@fxua.edu](mailto:nshasan@fxua.edu)

**Deputy Title IX Coordinator**  
**NS Hasan, JD**  
**Executive Dean for Academic Programs/Administration**  
Village Drive, 2<sup>nd</sup> Floor

**Deputy Title IX Coordinator**  
**George Rado**  
**Accreditation & Regulatory Compliance Officer**  
Village Drive, 2<sup>nd</sup> Floor  
Telephone: 703-865-8784 ext. 334  
Email: [grado@fxua.edu](mailto:grado@fxua.edu)

### **Reporting to Local Law Enforcement**

#### ***If you have an emergency, dial 911.***

An individual may choose to make a report to local law enforcement. In case of an emergency, **always dial 911**. The contact information for local law enforcement is below for non-emergency situations. For all emergency situations, **dial 911 immediately**.

**City of Fairfax Police Department**  
10455 Armstrong St.  
Fairfax, VA 22030  
Dispatch: (703) 385-7924

**Fairfax County Police Department**  
Fair Oaks District Police Station  
12300 Lee Jackson Memorial Hwy,  
Fairfax, VA 22033.  
Dispatch: (703) 691-2131  
(703) 591-0966

The security personnel at FXUA work closely with state and local law enforcement agencies, but FXUA does not currently have any signed MOUs with these entities.

The report of or filing of a complaint of Prohibited Conduct under the Sexual Misconduct Policy is independent of any criminal investigation or proceeding. FXUA will not wait for the conclusion of any criminal investigation or proceeding to commence its own investigation or to put in place Interim Measures. The university's investigation may be temporarily delayed to allow the gathering of evidence for a criminal investigation at the request of law enforcement. If FXUA's investigation is delayed so as not to compromise any criminal investigation, FXUA will take Interim Measures



to ensure the safety of the reporting individual and the university community. In the event that FXUA's investigation is delayed by a criminal investigation, the Title IX Coordinator will contact the necessary parties to inform them of the delay and what measures are being taken during this period.

The standards for finding a violation of criminal law are different from the standards for finding a violation under this policy. As a result of this difference, the university will investigate an incident and may pursue disciplinary action even if law enforcement agencies lack sufficient evidence of a crime or declines to prosecute. FXUA's resolution of an incident of Prohibited Conduct may differ from the resolution of a criminal investigation. If FXUA learns that a court has entered a lawful order relating to any incident of Prohibited Conduct, such as a protective order or a restraining order, the Title IX Coordinator will review the order and take actions to comply with the applicable law.

Prohibited Conduct may constitute both a violation of the Sexual Misconduct Policy *and* criminal activity. FXUA encourages students to report Prohibited Conduct to the university, as well as the Fairfax County Police Department. An individual can pursue both an FXUA disciplinary action and a criminal investigation. Nevertheless, an individual is not required to report the incident to local law enforcement. The university respects the choice of an individual to not report to local law enforcement, however, FXUA may be required to notify law enforcement under Virginia law.

Upon request, FXUA will provide assistance to an individual that wishes to make a report to local law enforcement. Individuals will be informed of this option and the resources available to them.

## **Privacy & Confidentiality**

FXUA respects the privacy of its community members. As such, the university will make every effort to preserve and protect the privacy of the individuals involved in an incident of Prohibited Conduct. This includes the identities of and information shared by all parties involved in an investigation of an allegation of Prohibited Conduct.

Under this policy, privacy and confidentiality are treated differently and have distinct meanings. Strict confidence and confidentiality are only available when speaking to Confidential Employees. Confidential Employees cannot reveal information to a third party except when an applicable law or court order requires such disclosure. Privacy means that the information shared about the alleged Prohibited Conduct will be shared with a limited number of third parties and only when it is deemed necessary.

## **Standard of Privacy**

In order to comply with FERPA and to provide for the consideration of relevant information without undue intimidation or harassment, the investigation and any information related to the complaint are not available to the general public. Those documents that are prepared or received by the university, including but not limited to the complaint, written statements, Investigator notes, Interim Measures, ongoing accommodations, and the final report will not be discoverable or disclosed unless required or authorized by law.

Due to privacy being of the utmost importance to FXUA, information regarding Prohibited Conduct typically will only be disclosed by university personnel as follows:

1. Responsible Employees must report information regarding any alleged Prohibited Conduct to the Title IX Coordinator as soon as is practical after addressing the needs of the victim. The Responsible Employee must report all relevant details about the alleged Prohibited Conduct that has been shared with them.
2. FXUA personnel must handle information regarding Prohibited Conduct in accordance with applicable local, state, and federal laws.

- a. Under conditions of potential imminent harm to the community, the university may be required by federal law to inform the community of the occurrence of the alleged incident of Prohibited Conduct. FXUA will provide the necessary information to protect the community while making every effort to protect the privacy of the parties involved.
  - b. Under the Clery Act, **anonymous, statistical** information regarding Prohibited Conduct will be compiled for data collection.
- 3. FXUA personnel may report alleged Prohibited Conduct to local law enforcement if warranted by the nature of the allegations.
  - a. Pursuant to Virginia state law, in cases in which the alleged Prohibited Conduct would constitute a felony sexual assault, the university will contact the attorney responsible for prosecuting the crime within 24 hours.
  - b. Pursuant to Virginia state law, if the university determines that disclosure of an act of sexual violence is necessary to protect the health and safety of the victim or other individuals, FXUA is required to disclose information to local law enforcement. This disclosure will include personally identifiable information.
- 4. FXUA administrators will share information regarding alleged Prohibited Conduct, where appropriate and necessary, so as to implement temporary measures, address and resolve the complaint, prevent the recurrence of similar Prohibited Conduct, and address the effects of Prohibited Conduct on the parties and the community.

FXUA takes seriously all unauthorized sharing of private information and FXUA will take disciplinary action if unauthorized sharing of information occurs. The university is not responsible for and cannot control disclosures made by students or third parties.

## Responsible Employees

Responsible Employees are required by law to report to the Title IX Coordinator all information they receive regarding an alleged incident of Prohibited Conduct as soon as is practical, but the report **must** be made within 24 hours of receiving the information.

While a Responsible Employee must disclose information to the Title IX Coordinator, they are required to maintain the privacy of the individual and should not disclose any information unless the Title IX Coordinator authorizes such a disclosure.

Responsible Employees are any employees (a) who have the authority to redress sexual violence, (b) who have been given the duty to report to appropriate school officials about incidents of Prohibited Conduct or any other misconduct by students, or (c) who a student could reasonably believe has the authority or the responsibility.

Failure of a Responsible Employee to report an incident, or incidents, of prohibited Sexual Misconduct that they knew about or should have known about, is a violation of this policy and federal law and may result in disciplinary action, up to and including termination of employment.

If an employee has any questions about this policy and its application or is in doubt as to whether certain conduct violates the Sexual Misconduct Policy, they should contact the Title IX Coordinator.

## Professional Counselors

If a victim is not ready to report an incident of Prohibited Conduct to FXUA administration, they may choose to seek out the assistance of a Professional Counselor.

The university can assist with connecting students to counseling services in the area upon request. If you are struggling with feeling homesick, depressed, anxious, stressed, need advice,

or just someone to listen, please contact [studentexperience@fxua.edu](mailto:studentexperience@fxua.edu). All information shared is kept confidential.

### **Report Review**

The Title IX Coordinator will review a report of alleged Prohibited Conduct within one (1) day of the report being submitted to a Title IX Coordinator.

After reviewing the report, the Title IX Coordinator will make an initial determination as to whether the alleged conduct, if true, would constitute a violation of the Sexual Misconduct Policy. The Title IX Coordinator will make an initial determination within two (2) days of receiving the report.

If the initial determination is that the allegations, if true, would be a violation of the Sexual Misconduct Policy, the Title IX Coordinator will send a Notice of Investigation to the relevant parties within one (1) day of making the initial determination.

If the Title IX Coordinator's determination is that the alleged conduct would not be a violation of the Sexual Misconduct Policy, then the Title IX Coordinator will inform all parties involved within one (1) day of the initial determination. The adversely affected party may appeal for reconsideration. Any such appeal must be submitted to the Title IX Coordinator in writing within three (3) days of the parties being informed and must meet the requirements of an appeal.

### **Notice of Investigation**

If the initial determination is that the allegations, if true, would be a violation of the Sexual Misconduct Policy, the Title IX Coordinator will send a Notice of Investigation to the relevant parties within one (1) day of making the initial determination.

The Notice of Investigation will inform the parties that the university will be conducting an investigation into the incident, and contain the following information:

- What the allegations are;
- Information about an advisor;
- Request to schedule a meeting;
- Information on submitting a written statement and the names of individuals with information about the incident;
- Reminders about interim measures if any have been put in place; and
- Any other information that is relevant.

### **Meeting with a Title IX Coordinator**

The Notice of Investigation will contain a request for a meeting. The Title IX Coordinator will meet with each person individually unless the individual brings an advisor. The meeting is meant to gather information about the incident, inform the individual about their options, and what, if any, interim measures need to be put in place that have not already been put in place. An individual is not required to meet with the Title IX Coordinator, however, it is in their best interest to do so, so as to provide a more complete picture of the alleged incident. An individual will not be penalized for not scheduling a meeting with the Title IX Coordinator, however, a notation will be made in the investigative file that the individual chose not to meet with the Title IX Coordinator. The meeting will be conducted in a trauma-sensitive manner, as appropriate.

During this meeting, the Title IX Coordinator will, as appropriate:

- a) Provide a copy of the Sexual Misconduct Policy, in writing.
- b) Provide information on how to file a report with local law enforcement.
- c) Provide a copy of their rights, in writing.
- d) Provide information on how to obtain a civil protection order.

- e) Explain the potential outcomes of the investigation and grievance procedure process.
- f) Explain the next steps of the investigation and grievance procedure process.
- g) Discuss potential interim measures that could be provided during the investigation and grievance procedure process. Interim measures will be put in place as appropriate and reasonably available.
- h) Provide information about campus and community resources, in writing.
- i) Discuss retaliation and how to report it.
- j) Discuss privacy standards and concerns.
  
- k) Parties are free to share their own experiences regarding the report/complaint. Parties are not free to share any information they learn through the investigative process. However, sharing any information regarding the incident can potentially compromise the integrity of the investigation and grievance procedure, thus it is advisable that parties limit the number of people with whom they share information and confide in. Parties will be informed that sharing information could be construed as retaliation.

Following the initial meetings, the Title IX Coordinator will determine whether it is appropriate to implement any Interim Measures not already in place and that have not been requested by an individual or to revise any Interim Measures that are already in place. Any changes will be communicated to the affected parties.

## **Interim Measures**

FXUA may determine it is necessary to enact Interim (meaning temporary) measures at any time during the investigation. Interim Measures are intended to eliminate the Prohibited Conduct, prevent the recurrence of Prohibited Conduct, and remedy the effects of such conduct while the investigation and other procedures are taking place. These measures may be both remedial or protective and are designed to address the safety and well-being of all parties involved in the incident and the university community, and to provide continued access to educational opportunities.

These measures are available regardless of what an individual chooses to do under this policy. Upon receiving a report of alleged Prohibited Conduct, the reporting individual will be provided with a written explanation of Interim Measures available, report and complaint options, and on- and off-campus resources. If the victim requests an Interim Measure that is not already being provided or is not listed below, the Title IX Coordinator will consider the request and determine whether it is appropriate on a case-by-case basis. The Title IX Coordinator has the discretion to impose or modify any Interim Measures and is available to meet with any parties involved to address any concerns or questions about the measures.

FXUA will maintain the privacy of all parties involved to the extent that it is practical to do so. The Respondent and other parties will be informed of Interim Measures to the extent necessary to ensure that the measures are followed. The violation of any Interim Measures will be considered a violation of this policy and are subject to disciplinary action under the Sexual Misconduct Policy. The Title IX Coordinator will address the violation of any Interim Measures.

Interim Measures include, but are not limited to:

- No contact orders;
- Academic accommodations;
- Changes in supervisor or work location;
- Social restrictions;
- An escort to ensure safe movement between classes;
- Increased campus security;
- Increased monitoring or supervision;
- Assistance in arranging for alternative FXUA student employment;

- Change in work schedule; and
- Change in academic class schedule.

FXUA will provide Interim Measures to third parties (third parties are anyone who has been affected by the Prohibited Conduct but are not the victim or the Respondent) as appropriate and available. The availability of measures for third parties will be determined based on the role of the third party, the actions of the Respondent, and the nature of the relationship between the third party and FXUA.

When a Professional Counselor requests any of the above measures, or any other measure, on behalf of an individual without disclosing that Prohibited Conduct has occurred and is the basis of the request, then the Title IX Coordinator will consider those requests within the framework of general FXUA policies and with the acknowledgment that counselors can seek assistance for victims of trauma without being required to disclose any information.

Because Interim Measures are intended to protect and support all parties involved in the student conduct process and the university community, any Interim Measures put in place during the sexual misconduct proceeding may be continued regardless of a finding of responsibility against the responder or other party.

Interim Measures should be requested in writing. The university may choose to implement Interim Measures even if a party does not request any Interim Measures.

## **Investigation**

If the Initial Determination is that the alleged Prohibited Conduct, if true, would be a violation of the Sexual Misconduct Policy, then the Title IX Coordinator will appoint an Investigator to assist in conducting the investigation. The name and contact information of the Investigator will be shared with all parties. Title IX Investigators (Investigator) conduct thorough and impartial investigations into the facts of a case which includes interviewing the victim, Respondent, witnesses or others who may have relevant information, and collecting any other evidence deemed relevant to a case. The Investigator may be the Title IX Coordinator, Deputy Title IX Coordinator, or any other individual that is qualified.

If the Respondent acknowledges responsibility for the alleged incident of Prohibited Conduct, then there will be no further investigation. Instead, the process will move forward towards completing the Final Report.

The Investigator must remain neutral at all times. If a party has a basis to believe that an Investigator has a personal bias, a conflict of interest, or is otherwise unable to be fair or impartial to the party, they must promptly notify the Title IX Coordinator and the Associate Vice President of Institutional Effectiveness & Quality Assurance in writing and before the conclusion of the investigation. While the notification must occur before the conclusion of the investigation, the notification can occur at any time before the conclusion. The party must include the basis for their belief in this notification. The Title IX Coordinator and the Associate Vice President of Institutional Effectiveness & Quality Assurance will evaluate and respond to the information submitted by the party.

An investigation into the alleged Prohibited Conduct is to determine if a violation of the Sexual Misconduct Policy has occurred, the extent of any risk of ongoing or repeated harm, whether additional protective measures need to be enacted, and if changes to policy, practices, and training should be evaluated and implemented.

## **Investigative Process & Procedures**

If the Title IX Coordinator determines that the alleged conduct, if true, would constitute a violation of the Sexual Misconduct Policy then the Investigator will promptly begin their investigation. The Investigator has the discretion to determine what is and is not relevant, and what should be included in the Investigative File and Report.

The Investigator will contact all parties to conduct separate interviews. To facilitate the scheduling of these interviews, the Investigator will be provided with the class schedules of parties, as applicable. To ensure a prompt and equitable investigation, all parties are expected to adhere to deadlines set by the Investigator.

The Investigator will take steps such as:

- i) Interviewing all parties;
- ii) Interviewing any witnesses;
- iii) Reviewing law enforcement investigation documents where available;
- iv) Reviewing student and personnel files;
- v) Gathering and reviewing any other relevant documents or evidence; and
- vi) Visiting, inspecting, and taking photographs of relevant sites.

The Investigator will review all of the material information available and make a recommendation that will be included in the Investigative File and Report.

#### **(d) Notice**

All parties will be provided with at least two (2) days' notice of interviews, meetings, or other proceedings. The notice will include, as applicable, the date, time, and location of the interview, meeting, or proceeding. If a party makes a request to meet within forty-eight (48) hours of the meeting, a notice will not be sent out but a confirmation of the meeting time and place will be.

#### **(e) Failure to Appear**

If a party fails to attend any interview, meeting, or proceeding and the party was provided with proper notice of the meeting, absent any extenuating circumstances or prior request, then a notation of this absence will be made and the investigation will proceed so as to determine the resolution of the incident.

#### **(f) Evidence**

All parties will have an equal opportunity to provide information and present evidence related and material to the incident.

Information that is not permitted as evidence:

- a) An individual's manner of dress, style, or attire.
- b) Character assessments.
- c) Information from a third party investigator.
- d) Information regarding an individual's prior, or current, sexual history unless the individual makes a specific claim about his/her sexual history.

Information that is permitted as evidence:

- a) Evidence that the reporter has previously been disciplined for falsely filing complaints alleging that a violation of the Sexual Misconduct Policy has occurred.
- b) Evidence that shows the Respondent has previously been convicted in a criminal proceeding or found responsible by the university for Prohibited Conduct.
- c) Evidence that shows the Respondent has previously had complaints filed against her/him but was not found to be responsible for the Prohibited Conduct, provided that the Investigators are able to verify that the information is reliable and trustworthy, and that the previous conduct is sufficient and substantially similar enough to the conduct at issue in the current report to suggest a pattern of behavior.

### **(g) Accommodations**

As stated above, the university will provide any disability-related accommodation as appropriate. In addition to these accommodations, parties may request accommodation in connection with the investigation. These requests must be submitted in writing to the Title IX Coordinator. The Title IX Coordinator will determine if these requests will be granted and his/her decision is final. The Title IX Coordinator may also determine that accommodations may be necessary even when they have not been requested, in this situation these accommodations will be discussed with the affected party.

### **Investigative File**

As soon as is practical, the Investigator will turn over the Investigative File and Report to the Title IX Coordinator. The Investigative File and Report will include all evidence and documentation regarding the incident. The Investigative File and Report will also include the Final Sanctions form, which includes the recommended sanctions, as well as the rationale for the findings and recommended sanctions, as appropriate.

### **Final Determination**

Within seven (7) days of receiving the Investigative File and Report the Title IX Coordinator, or their designee, will make a Final Determination as to whether the Respondent is Responsible for the alleged Prohibited Conduct and determine the appropriate sanctions, as applicable. The Title IX Coordinator will review all of the information contained within the Investigative File and Report, and apply a preponderance of the evidence standard (or other standard required by law) in the totality of the circumstances, unless some other evidentiary standard is mandated by the U.S. Department of Justice.

If the Title IX Coordinator has any questions or concerns regarding the materials contained within the Investigative File and Report, the Title IX Coordinator may reach out to the Investigator or any of the involved parties for clarification. In this situation, all correspondence and information obtained from these questions or any clarification sought will be documented in an addendum to the Investigative File and Report.

### **Final Report**

Within one (1) day of the Final Determination, the Title IX Coordinator will provide all parties with a copy of the Final Report. All parties will be provided with the Final Report at approximately the same time.

The Final Report will include, but is not limited to:

- The findings of fact for each alleged violation;
- Application of the Preponderance of the Evidence Standard to the findings of fact, unless some other evidentiary standard is mandated by the U.S. Department of Justice;
- Determination of whether the Respondent is responsible for the Prohibited Conduct and the rationale for that determination;
- The sanction(s) imposed on the Respondent if a finding of Responsibility is found and the rationale of the sanctions imposed;
- Any protective measures or additional remedies that will be put in place to remedy the effect of the conduct;
- The Interim Measures that were put in place during the investigation and whether those Interim Measures will be continued or discontinued;
- Information on how to file an appeal; and
- Any other relevant and material information.

## Informal Resolutions

An Informal Resolution is a voluntary alternative approach designed to address Prohibited Conduct and its effects without taking disciplinary action against the Respondent. An Informal Resolution does not result in a finding of Responsibility.

A victim, or reporter, may request, in writing, for an Informal Resolution. This request should be submitted after a report has been made to FXUA. The Title IX Coordinator will review the request and all other known information about the alleged incident, consider the severity of the alleged Prohibited Conduct, and the potential risks to others in the university community to determine if an Informal Resolution is appropriate.

An Informal Resolution is not available for any incident of Prohibited Conduct that involves sexual violence or physical violence of any kind.

An Informal Resolution may be appropriate if:

- A) The victim or reporter requests it;
- B) The Respondent agrees to the Informal Resolution;
- C) Both parties are students;
- D) The Title IX Coordinator determines that an Informal Resolution is an appropriate method for resolving the incident; and
- E) The incident does not involve allegations of sexual violence or physical violence.

If an Informal Resolution is deemed appropriate, the mediator will consult with the individual that has requested the Informal Resolution so as to determine their desired outcome. Once the desired outcome is clear, the mediator (who will be designated by the Title IX Coordinator) will inform the Respondent and gather additional information as required. Interim Measures may be enacted, as appropriate, during the Informal Resolution process.

The mediator will aid the parties in finding a mutually agreeable outcome. If an agreement is reached between the parties, it will be put into writing and signed by both parties and the mediator. The incident will be considered resolved if both parties find the outcome agreeable and the Title IX Coordinator approves of the final outcome.

The Informal Resolution process can be terminated by either party at any point before reaching a written, signed agreement. The Title IX Coordinator may terminate the Informal Resolution process at any point before an express agreement is reached, and initiate the investigative process instead. In the event that the Informal Resolution process is terminated, all disclosures and statements made during the Informal Resolution process may be considered in the investigative process.

## Sanctions

If it is determined that the alleged Prohibited Conduct has occurred and finds the Respondent responsible for the Prohibited Conduct, the Title IX Coordinator may impose any sanction, or a combination of sanction(s), that is fair and proportionate to the violation. To determine the appropriateness of a sanction, the following factors may be taken into consideration:

- a) The nature of the Prohibited Conduct;
- b) Any record of past violations by the Respondent;
- c) Any past accusations of Prohibited Conduct against the Respondent;
- d) Whether the sanction will bring an end to the violation in question;
- e) Whether the sanction will reasonably prevent a recurrence of a similar violation;
- f) Whether the sanction will remedy the effects of the violation on the victim and the FXUA community; and



g) Any other aggravating, mitigating, or relevant factors.

Any sanction imposed on the Respondent will be described and included in the written decision of the Final Report. The failure to abide by, or complete, any sanction(s) imposed will result in additional sanction(s) that are unable to be appealed by the Respondent. This includes any failure to comply with the directions of a university official that is acting within their role as an official.

Any of the following sanction(s), or combinations of sanction(s), may be imposed for any Prohibited Conduct violation. Disciplinary action other than those outlined below may be taken as the situation warrants. Sanctions are intended to eliminate, prevent, and address sex discrimination and its effects, and to remedy the effects of the Prohibited Conduct on the effected individual and the university community.

### **Sanctions for Prohibited Conduct (Excluding Sexual Assault):**

1. **Written Statement.** A written statement that he/she has violated institutional rules and an acknowledgment that the continuation or repetition of inappropriate conduct will be cause for more severe disciplinary action.
2. **No Contact Order:** Prohibition of contact between a Respondent and victim including, but not limited to, in person and/or via a third party, phone, text, or any form of social media. The No Contact Order may be indefinitely or for a specific period of time. The length of the No Contact Order will be detailed in the Final Report.
3. **Change of Office Area:** Requires the relocation of the Respondent from one office area to another. The victim will only be relocated if they request to be relocated instead of having the Respondent relocated.
4. **Change of Academic Schedule:** The Respondent's academic schedule is changed so as to avoid, or minimize, contact with the victim. The victim's academic schedule will only be changed if they request to have their schedule changed instead of having the Respondent's schedule changed.
5. **Trespass Order:** The Respondent is prohibited from visiting or returning to part or all of any designated area of campus and any FXUA functions or activities. If the individual returns, he/she is subject to arrest.
6. **Temporary Trespass Order:** The Respondent is prohibited from visiting or returning to part or all of any designated area of campus and any university functions or activities for a specific period of time. If the individual returns before the end of that specific period of time, he/she is subject to arrest and further disciplinary action. The specific period of time will be detailed in the Final Report.
7. **Revocation of Honors or Awards:** The Respondent is stripped of any honors or awards they have received from FXUA. This may include their degree.
8. **Evaluation by Health or Mental Health Professional:** A requirement that the Respondent be evaluated by a health or mental health professional and comply with any treatment recommendations prior to returning to FXUA (if a period of suspension is imposed) or as a condition of continued enrollment/employment at FXUA (if a period of suspension is not imposed).
9. **Education:** The Respondent must complete educational training.
10. **Community Restitution:** The assignment of service hours and/or participation in educational programs or projects either on-campus or in the community.
11. **Loss of Privileges:** Restricting use of or loss of campus privileges.

12. **Disciplinary Probation:** Indicates the Respondent is not in “good standing” with FXUA for a period not exceeding one academic year. Note: This may result in exclusion from participation in privileged or extracurricular activities. The terms of the probation will be included in the Final Report.
13. **Suspension:** Suspension from all classes, including on-line, work, and other privileges or activities for a designated period of time.
14. **Expulsion:** Termination of Respondent’s student status.
15. **Termination of Employment:** Termination of Respondent’s employment status.

### **Minimum Sanction(s) for Sexual Assault:**

1. **Suspension:** Suspension from all classes, including on-line, work and other privileges or activities, or from the university for a designated period of time; or
2. **Expulsion:** Termination of Respondent student status; or
3. **Termination of Employment:** Termination of Respondent employee status with FXUA.

Any sanction(s) imposed will take effect five days after the release of the Final Report to all parties. If an appeal of the Final Report is filed, any sanction(s) imposed will not take effect until the appeal is finalized.

However, if it is determined that it is necessary to protect the welfare of the victim or the university community, then the sanction(s) may take effect immediately and continue to remain in effect until the appeal is resolved. If it is determined that the sanction(s) should take effect immediately then an Addendum will be added to the Final Report to reflect this decision and all parties will be immediately notified. If it has been determined that the appropriate sanction is expulsion or termination of employment, these sanctions may not take effect until the end of the appeal process. Other FXUA officials may be informed of the Final Report and the imposed sanctions so that the sanctions can be properly implemented. Regardless of any determination as to whether the sanction(s) should take immediate effect, the Title IX Coordinator may implement any temporary measures deemed appropriate until the appeal process is concluded or until the sanctions take effect.

If the matter is appealed, the appointed Appeals Officer may suspend the enacted sanction(s) by the Title IX Coordinator; or allow the Respondent to attend work, classes, or other activities on a supervised or monitored basis; or make any other modifications deemed advisable until the appeal process is concluded.

If the sanction imposed is expulsion or termination of employment, the President of the university, or his designee, will review the expulsion regardless of whether the Final Report is appealed.

## **Appeals**

All appeal decisions are final.

The victim or Respondent may file an appeal of the decision stated within the Final Report. The appeal must be filed within five (5) days of the Final Report becoming available to the parties. If an appeal is filed, the Title IX Coordinator will designate an individual as the Appeals Officer. The Appeals Officer will not be an individual that has participated in any proceeding surrounding the original complaint. The Appeal Officer will be reviewed for any potential conflicts.

The appeal must be in writing (this includes email) and addressed to the Title IX Coordinator. The individual who submits the appeal is the “Appellant.” The burden rests upon the Appellant to establish

that the Final Determination or investigative process was flawed. The Appellant must include the grounds of their appeal within the written appeal.

The only permissible grounds for an appeal are:

- 1) **New Material Information.** The discovery of significant or relevant information that was otherwise unknown or unavailable during the investigation and that may have substantially affected or altered the Final Determination had the information been available and known.
- 2) **Substantially Disproportionate Sanction.** The sanction appears to be substantially disproportionate to the Prohibited Conduct: that the sanction is too lenient and/or severe based on the facts of the case.
- 3) **Substantial Procedural Error.** A specific procedural or interpretational error of FXUA policies occurred that effected the investigation, determination, or sanction to the extent that the Appellant was denied a fair process.

Merely disagreeing with the Final Determination contained in the Final Report is not a valid or proper basis for an appeal.

Once the Appellant has filed their request for an appeal, the Appeals Officer will review the appeal to ensure it meets one of the permissible grounds for an appeal. The Appeals Officer will determine if the appeal falls within permissible grounds within two (2) days of the appeal being filed. If the Appeals Officer decides that the appeal falls within permissible grounds, the Appeals Officer will notify the other party in writing within one (1) day of this decision. The other party may submit a written response within three (3) days of receiving the notification. The response must respond to the specific grounds contained in the appeal.

The Appeals Officer will review all materials and reach a conclusion of the appeal within five (5) days of all appeal deadlines. The Appeals Officer will provide both parties with the Appeal Outcome within one (1) day of reaching a conclusion.

The Appeal Outcome may include, but is not limited to:

- a) Findings for each ground which the Appellant appealed;
- b) Any alterations to sanction(s);
- c) The rationale for the appeal conclusion.

If the sanctions in the Final Report are upheld, or new sanctions implemented, they will take effect three (3) days after the parties are informed of the Appeal Outcome.

The Appeals Officer will not be the same individual who made the Final Determination contained within the Final Report. The Appeals Officer will also be reviewed for any potential conflicts.

An appeal is only available to the victim and the Respondent.

## Advisors

Any individual included in a Prohibited Conduct proceeding may bring an advisor for support to any interview, meeting, or other proceeding under this policy. If an individual chooses to hire an advisor, they do so at their own expense. If a chosen advisor is a FXUA employee there is no cost; however, an employee may refuse to be an advisor if they so choose. An individual may choose anyone to be their advisor, however, there are some restrictions.

To be an individual's advisor, the advisor cannot:

- a) Have any firsthand knowledge of the incident;
- b) Be a Title IX Coordinator or Deputy Title IX Coordinator; or
- c) Be involved in the proceedings in any capacity.

An advisor must maintain complete confidentiality regarding any and all communications exchanged and information learned about the incident or parties. Timelines and deadlines will not be altered to accommodate an advisor's schedule. If an advisor becomes disruptive or disrespectful during any interview, meeting, or proceeding, they may be asked to leave. If the advisor will not leave when asked, they will be removed.

During the proceedings the advisor may:

- a) Consult with the advisee he/she is there to support; and
- b) Offer feedback on an advisee's written statements.

During the proceedings the advisor cannot:

- a) Participate by asking or answering questions;
- b) Make statements to the Investigator;
- c) Interview any witnesses; or
- d) Have any kind of speaking role except to speak directly to their advisee.

## **Timeline**

FXUA will make every reasonable effort to ensure that the investigation and resolution of a report occur in a timely manner. Typically, the investigation and resolution, including any potential appeal, will not exceed sixty (60) days of the receipt of the report. This timeframe is not rigid and may be extended for good cause. Good cause may exist if additional time is required to maintain the integrity of the investigation, ensure the completeness of the investigation, to comply with a request from local law enforcement to temporarily delay proceedings to gather evidence for a criminal investigation, or for other legitimate purposes.

Throughout this period, the parties will receive status updates from the Title IX Coordinator. All parties will be notified, in writing, if the timeframe is extended for good cause. This notification will include the projected length of the delay and the cause of the delay.

## **No Contact Orders & Protective Orders**

### **No Contact Orders**

A no contact order is a bilateral order that mandates none of the parties listed in the order may communicate with each other. Prohibited communication includes in-person communication, electronic communication of any kind, and communications through third parties. Other restrictions may be included on a case-by-case basis, such as a minimum distance requirement. The no contact order is in effect both on- and off-campus.

If a No Contact Order is issued it will remain in effect until it is determined to no longer be necessary. The termination of the No Contact Order is at the discretion of the university.

A No Contact Order is not a disciplinary sanction. However, failure to abide by a No Contact Order will be addressed immediately by the university and may result in further interim measures, which could include removal from or restriction on campus or other remedies, and may result in disciplinary sanctions and a conduct record.

Generally, the following steps will be taken if a No Contact Order is violated:

- 1) A Written Warning will be issued to the violating party.
- 2) A Written Final Warning will be issued to the violating party.
- 3) The violating party will be suspended until the completion of the investigation.

Depending on the severity of the violation, the university may, at its discretion, skip steps (1) or (2).

## Protective Orders

Fairfax University of America will put in place a No Contact Order at the request of any individual that is a party to an incident of Prohibited Conduct, or when the university deems it to be necessary to provide for the safety and well-being of an individual, or to guarantee the continued access of educational opportunities. A No Contact Order is different from a Protective Order.

A Protective Order is a civil court order meant to protect victims who have experienced physical violence, sexual assault, or stalking, or who has a reasonable fear that they may experience physical violence, sexual assault, or stalking. A Protective Order is free. The university will provide assistance to any individual seeking a Protective Order, upon request. An individual may also seek assistance from the Fairfax County Police Department or from the City of Fairfax Police Department, or any other law enforcement agency that is appropriate.

The information provided below is not legal advice and is specific to the state of Virginia. A Protective Order issued in one state is acknowledged and enforced in all other states and territories. If you would like to file a Protective Order in Maryland or the District of Columbia, the university can assist you in doing so.

For more information about requesting a Protective Order in Maryland, please visit <https://mdcourts.gov/sites/default/files/court-forms/courtforms/joint/ccdcdvpo001br.pdf/ccdcdvpo001br.pdf>. For more information about requesting a Protective Order in the District of Columbia, please visit <https://www.dccourts.gov/services/domestic-violence-matters/get-a-protection-order>.

FXUA will honor and enforce all Protective Orders from Virginia, other states, and territories of the United States. If you have a Protective Order, please inform FXUA as soon as possible. It is only possible for FXUA to honor Protective Orders if the university is made aware of them. To inform FXUA of any Protective Order (EPO, PPO, PO), email [titleix@fxua.edu](mailto:titleix@fxua.edu).

For more information about Protective Orders in Virginia, please visit [http://www.courts.state.va.us/forms/district/info\\_sheet\\_protective\\_order\\_stalking.pdf](http://www.courts.state.va.us/forms/district/info_sheet_protective_order_stalking.pdf)

### (h) Emergency Protective Orders

An Emergency Protective Order (EPO) aims to protect the health and safety of any person regardless of a decision to arrest by law enforcement. A police officer, or an individual, may request an EPO for any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury. Such acts include, but are not limited to, any forceful detention, stalking, domestic violence, or criminal sexual assault in violation of Virginia law.

An EPO is issued by a judge or magistrate upon the request of a law enforcement officer or individual. For the EPO to be granted the judge/magistrate must find:

1. That the individual requesting the EPO must have been subjected to an act of violence, force, or threat; and
2. One of the following:
  - a. There is probable danger of a further such act being committed by the Respondent against the individual; OR
  - b. A petition or warrant for the arrest of the Respondent has been issued for a criminal offense resulting from the commission of an act of violence, force, or threat.

An EPO can:

- Prohibit acts of violence, force, or threat, or criminal offenses resulting in injury to person or property;

- Prohibit contact by the Respondent with the individual/Complainant, the Complainant's family or household members; and
- Grant other conditions that the judge or magistrate deems necessary to prevent:
  1. Acts of violence, force, or threat;
  2. Criminal offenses resulting in injury to person or property; or
  3. Communication or other contact of any kind by the Respondent.

An EPO remains in effect for 72 hours after it has been issued or the next day court is in session, whichever is later. The EPO will have the date and time that the order will expire. If an individual feels that they need protection for a longer time period, they may ask the court for a Preliminary Protective Order.

### (i) Preliminary Protective Order

A Preliminary Protective Order (PPO) is issued by a judge or magistrate after an individual has filled out the necessary forms requesting a PPO. If the matter will be in the juvenile or domestic relations district court, the forms should be filed with the Court Services Unit. If the matter will be held in the general district court, the forms should be filed in the general district court clerk's office. Once the forms have been filed, you may then go into the courtroom where the judge or magistrate may ask questions to decide whether to grant you a PPO. An individual must appear before a judge for a PPO to be granted.

For the PPO to be granted the judge/magistrate must find:

1. That the individual requesting the EPO must have been subjected to an act of violence, force, or threat; or
2. A petition or warrant for the arrest of the Respondent has been issued for a criminal offense resulting from the commission of an act of violence, force, or threat.

#### UNSURE WHERE TO FILE THE FORMS FOR A PRELIMINARY PROTECTIVE ORDER?

If the person you want a protective order from is a family or household member, or a juvenile then you should go to the Juvenile and Domestic Relations District Court. For all other situations, you should go to the General District Court.

### (j) Full Protective Order

A Full Protective Order (Protective Order or PO) is issued by a judge following the full hearing that was scheduled at the time the PPO was issued. The date of the full hearing will be written on the PPO. If you do not go to the full hearing, the PPO ends on the date of the scheduled full hearing. If you believe the other person is not going to attend the full hearing, you should attend anyway and ask the court for a PO.

A PO can:

- Prohibit acts of violence, force, or threat, or criminal offenses resulting in injury to person or property;
- Prohibit contact by the Respondent with the individual/Complainant, the Complainant's family or household members; and
- Grant other conditions that the judge or magistrate deems necessary to prevent:
  1. Acts of violence, force, or threat;
  2. Criminal offenses resulting in injury to person or property; or
  3. Communication or other contact of any kind by the Respondent.

#### WHAT IS A FULL HEARING?

A full hearing is when both you and the other person (Respondent) get to present evidence to the court.

A PO takes effect when the other person is “personally served” and is valid for any period of time up to a maximum of two years. If you are granted a PO it is important that you keep a copy of it with you at all times. If the Respondent violates the order, show the PO to a police officer, magistrate, prosecutor, or judge.

## Preservation of Evidence

Preserving physical evidence is important if a victim ever decides to pursue a criminal report or protective order. In Virginia, a victim may request the collection of evidence even if the victim chooses not to make a report to law enforcement. Reported rape kits will be kept for at least ten (10) years, allowing a victim time to make a decision about pursuing legal action.

To preserve physical evidence, it is important to follow these suggestions:

- **Do not** bathe or shower
- **Do not** brush or comb your hair
- **Do not** douche
- **Do not** urinate (if possible)
- **Do not** change clothes – If you do change your clothes, take the clothes worn at the time of the assault to the hospital with you in a PAPER bag (plastic bags cause the deterioration of evidence)
- **Do not** eat or drink
- **Do not** brush your teeth or rinse your mouth out
- **Do not** touch items at the crime scene
- **Do not** put on or remove makeup

A victim should take a change of clothes to the emergency room if possible because some items of clothing may be kept as evidence. At the emergency room, the physician may collect hair samples, semen, other fluids, and other physical evidence. The police will be contacted to take possession of these samples and evidence. However, just because the police are being contacted does not mean that a victim has to file a report with them.

In cases of stalking or other harassment, save all communications and other documentation in both electronic and hard-copy form. Communications include but are not limited to: text messages, emails, Facebook messaging, Skype messages, Snapchat chats (take screenshots if possible), or any other possible communication tools. The dates and times of any contact with the perpetrator should be recorded. These communications should not be edited. All evidence should be preserved to aid in obtaining a protection order against the perpetrator.

Evidence may dissipate or become lost or unavailable after the passage of time, this makes an investigation and possible criminal prosecution or disciplinary proceeding, or obtaining a protective order, more difficult. If a victim chooses not to make a report with law enforcement or the university, a victim should speak with local law enforcement or the Title IX Coordinator about the best practices to preserve evidence. A victim does not have to divulge any information about the incident to learn about how to preserve evidence.

## Risk Reduction

It is a main priority of the university is to ensure the safety and security of all campus facilities at all times. We believe that this responsibility is shared by everyone in the FXUA community. Experiencing prohibited conduct is **never** the victim’s fault. Only abusers and perpetrators are responsible for the abuse they perpetrate.

The Rape, Abuse, & Incest National Network (<https://www.rainn.org>) and FXUA encourage individuals to adopt strategies that may reduce your risk and give you the confidence to help others:

- **Be alert and aware.** Knowing where you are and who is around you may help you find a way out of a bad situation. Avoid isolated locations when possible because it is difficult to get help when there is no one around.
- **Take precautions after dark.** Use the buddy system/have a friend walk with you. If you are by yourself, ask a security personnel to escort you. Security is located on the third floor of the Village Drive building.
- **Be careful about posting your location.** Many social media sites, like Facebook, Instagram, and Twitter, use geolocation to publicly share your location. Consider turning this option off and adjusting your privacy settings. Instructions and advice on how to engage in Social Media Safety can be accessed here: <https://www.rainn.org/articles/social-media-safety>
- **Make others earn your trust.** A university environment can create a false sense of security. It may feel like you have found your new best friends, but give people time before relying on them.
- **Have a Plan B.** Have plans for potential situations. If your phone dies, do you have several numbers memorized that you could call? Do you have your address memorized? If you drive, is there a spare key?
- **Walk with purpose.** Even if you don't know where you are going, act like you do.
- **Avoid putting headphones in both ears.** You will be more aware of your surroundings if you can hear everything going on around you.
- **Protect your drink.** Do not leave your drink unattended and try to watch out for your friends' drinks if possible. If you accidentally leave your drink unattended, throw it out. Only drink from unopened containers or drinks you watch being made.
- **Trust your instincts.** If something doesn't feel right, it probably isn't.
- **Make a plan.** If you are going to a social gathering, go with your friends and people that you trust. Arrive together and plan to leave together. Periodically check-in with each other. You can also share your location with the friends you trust so they will be able to find you, and vice versa. Instructions on how to share your location with an iPhone can be found at <https://support.apple.com/en-us/HT210514>. Learn how to share your location with an Android at <https://www.wired.com/story/how-to-share-your-location-android-ios/>. Sharing your location with only those you choose to share it with is not the same as posting your location on social media. Only share your location with those you trust.
- **Put yourself first.** You should never feel obligated to do something you do not want to do. "I don't want to" is a good enough reason. Always do what you feel is right for you and what you are comfortable with doing.
- **Immediately report any suspicious individual to security.**
- **In an emergency always dial 911.**

If you are in an uncomfortable or scary situation, here are some ideas to help you get out of the situation:

- **Have a safe word with your friends or family.** If you are in a situation where you do not feel safe then contact your family or friends and communicate to them that you do not feel safe by using the code word. Your family or friends can come get you or provide an excuse for why you need to leave.
- **Lie.** If you feel that you cannot get out of a situation safely by being honest or do not feel comfortable telling the truth, then lie. It is better to lie and make up a reason for leaving than to stay in a situation that makes you uncomfortable, scared, or worse. Some excuses are: you need to go take care of a friend/family member/pet, you don't feel well, or have somewhere else you promised you would be.

**Remember that being in this situation is not your fault.** You did not do anything wrong. It is the person who is making you uncomfortable or afraid that is to blame.



## Bystander Intervention

It takes the whole FXUA community to ensure the safety of everyone and to foster a culture of respect. All of us have the ability to look out for each other's safety, but the only person responsible for committing sexual misconduct is the perpetrator. We encourage every member of our community to be an **active bystander** to help prevent and address sexual misconduct.

### WHAT IS A BYSTANDER AND BYSTANDER INTERVENTION?

A bystander is a person who is present when an event takes place but isn't directly involved. Bystanders might be present when sexual misconduct occurs or they could witness the circumstances that led up to these incidents.

Bystander intervention refers to safe and positive ways that individuals who witness sexual harassment or misconduct can do to intervene and protect others. This can include identifying and stopping situations before they happen; stepping in during an incident; supporting an individual after an incident; or speaking out against ideas and behavior that support sexual misconduct.

The key to keeping your friends safe is learning how to intervene in a way that fits the situation and your comfort level. Having this knowledge on hand can give you the confidence to step in when something isn't right. Stepping in can make all the difference, but it should never put your own safety at risk.

### HOW CAN YOU BE AN ACTIVE BYSTANDER?

**C.A.R.E. Create a distraction. Ask directly. Refer to an authority. Enlist others.**

**Create a Distraction:** Do what you can to interrupt the situation. A distraction can give the person at risk a chance to get to a safe place.

**Ask Directly:** Talk directly to the person who might be in trouble. Ask if they're okay or who their friends are.

**Refer to an Authority:** Sometimes the safest way to intervene is to refer to a neutral party with the authority to change the situation, like a police officer or security office.

If you're at a restaurant or bar, talk to a security guard, bartender, or another employee about your concerns. It's in their best interest to ensure that their patrons are safe, and they are usually willing to step in.

**Enlist Others:** It can be intimidating to approach a situation alone. Enlist another person to support you.

Ask someone to come with you to approach the person at risk. Ask someone to intervene in your place. Enlist the friend of the person you are concerned about.

### YOUR ACTIONS MATTER.

Whether or not you were able to change the outcome of a situation, by stepping in you are helping change the way people think about their roles in preventing violence and sexual misconduct.

## Educational Programs to Promote Awareness & Prevent Sexual Violence

Fairfax University of America prohibits all forms of sex discrimination, including sexual violence such as dating violence, domestic violence, sexual assault, and stalking. FXUA is committed to increasing the awareness of and preventing sexual violence. The university provides comprehensive

programming and campaigns intended to reduce conduct prohibited under the university’s Sexual Misconduct Policy.

FXUA’s primary educational programming consists of prevention and awareness programs for all incoming students and new employees; ongoing awareness and prevention for students and employees that ensures:

- A statement that the university prohibits all forms of sex discrimination, including dating violence, domestic violence, sexual assault, and stalking;
- The definition of dating violence, domestic violence, sexual assault, and stalking under FXUA’s Sexual Misconduct Policy;
- The definition of dating violence, domestic violence, sexual assault, and stalking in the Commonwealth of Virginia;
- The definition of consent under FXUA’s Sexual Misconduct Policy;
- The definition of consent in the Commonwealth of Virginia;
- Safe and positive options for bystander intervention;
- Information on risk reduction; and
- Students’ rights under Title IX.

Our ongoing prevention and awareness campaigns that are planned for 2023 & 2024:

<b>Topic</b>	<b>Method</b>	<b>Target Audience</b>	<b>Frequency</b>
Responsible Employee Roles	Email notification	Responsible Employees	Upon hire
Campus Security Authority Roles	Email notification	Campus Security Authority	Once a year, and as needed upon hire or change.
Building Supportive Communities: Clery Act and Title IX - Vector Solutions Training	Web-based training	Employees	Upon hire
Clery Act Basics – Vector Solutions online training	Web-based training	Campus Community	Once a year – Fall 2023
Building Supportive Communities: Clery Act and Title IX - Vector Solutions Training	Web-based training	Students	Spring 2024
Safety & Security Newsletter	Email newsletter	Campus Community	Beginning Fall 2023

## **XI) Sex Offender Registry**

The Campus Sex Crimes Prevention Act (CSCPA) was enacted on October 28, 2000 and is a federal law that requires institutions of higher education to issue a statement advising the campus community where information on registered sex offenders in the Commonwealth of Virginia can be obtained. In Virginia, convicted sex offenders, and all others who are required, must register with the Virginia State Police. The Sex Offender Registry for the Commonwealth of Virginia is available at <http://sex-offender.vsp.virginia.gov/sor/index.html>

CSCPA also requires sex offenders registered in other states to provide notice to the state of Virginia concerning each institution of higher education that the person is employed or enrolled at within the state of Virginia. In the Commonwealth of Virginia, convicted sex offenders must register with the Sex Offender and

Crimes Against Minors Registry. The Sex Offender and Crimes Against Minors Registry for is available online pursuant to § 19.2-390.1 of the Code of Virginia. The Virginia State Police is responsible for maintaining the Sex Offender Registry.

## **XII) Clery Act**

### **A) Clery Act Geography**

The Clery Act defines each institution's specific geography for the purposes of reporting crime statistics.

**On-campus** is any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of or in a manner related to the institution's education purposes, including residence halls; and any building or property that is within or reasonably contiguous that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes. "Controlled by" means that FXUA rents, leases, or has some other type of written agreement (including an informal one, such as a letter or an email) for a building or property, or a portion of a building or property. Even if there is no payment involved in the transaction, under Clery, a written agreement for use of space gives FXUA control of that space for the time period specified in the agreement. "Reasonably contiguous" refers to a building or property FXUA owns or controls that's in a location that FXUA considers to be, and treats as, an integral part of its campus.

**Public** is all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

**Non-campus** is any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

### **B) Clery Act Crime Definitions**

The Clery Act requires institutions to disclose crime statistics separately for four general categories of crimes: criminal offenses, hate crimes, Violence Against Women Act (VAWA) offenses, and arrests and referrals for disciplinary action. These crimes are defined by the FBI's Uniform Crime Reporting Handbook (UCR) and for sex offenses, the FBI's National Incident-Based Reporting System (NIBRS). Institutions are required to disclose all reported crimes for these categories. The definitions of these crimes are below.

#### **1) Criminal Offenses**

**Murder & Non-negligent Manslaughter** is the willful (non-negligent) killing of one human being by another.

**Manslaughter by Negligence** is the killing of another person through gross negligence. This category was formerly entitled Negligent Manslaughter.

**Sex Offense/Assault** is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

**Rape** is the 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 victim.

**Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Incest** is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. **Statutory Rape** is the non-forcible intercourse with a person who is under the statutory age of consent.

**Robbery** is the taking or attempted taking of anything of value from the care, custody, or control of a person or person by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault** is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely produce death or great bodily harm. It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could or probably would result in a serious potential injury if the crime were successfully completed.

**Burglary** is the unlawful entry of a structure to commit a felony or theft. For reporting purposes, this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with the intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft** is the theft or attempted theft of a motor vehicle.

**Arson** is the willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, or personal property of another kind.

## 2) Hate Crimes

Hate Crimes are crimes that are motivated by an offender's bias. Bias is a performed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, gender expression, religion, disability, sexual orientation, ethnicity, or national origin. Hate crimes include any of the aforementioned criminal offenses, or larceny-theft; simple-assault; intimidation; destruction, damage, or vandalism or property; or any other crime involving bodily injury, manifests evidence that the victim was intentionally selected because of the perpetrator's bias.

**Larceny-theft** is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Constructive possession is the condition in which a person does not have physical possession, but is in a position to exercise dominion or control over a thing.

**Simple-assault** is an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor does the victim suffer obvious severe or aggravated bodily injury involving apparent broken bones, teeth, possible internal injury, severe laceration, or loss of consciousness.

**Intimidation** is to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to an actual physical attack.

**Destruction, Damage, or Vandalism of Property** is to willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

## 3) VAWA Offenses

**Domestic Violence** is a felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the

jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Dating Violence** is violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such relationship shall be based on the reporting party's statement and with consideration of the following factors: (i) length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.

**Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) to suffer substantial emotional distress.

#### 4) Arrests & Referrals for Disciplinary Action

**Liquor Law Violations** are the violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned.

**Drug Law Violations** are the violation of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

**Weapons Law Violations** are the violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; all attempts to commit any of the aforementioned.

#### 5) Unfounded Crimes

Institutions are required to include statistics for Unfounded Criminal Incidents. Unfounded Criminal Incidents are incidents that law enforcement has fully investigated and, based on the results of this full investigation and evidence, a formal determination has been made that a crime report is false or baseless. An offense or incident cannot be "unfounded" just because stolen property was recovered, refusal of a victim to prosecute, or an arrest was not made

#### Crime Statistics

Offense	Year	On-campus Property	Non-campus Property	Public Property	Total
<b>CRIMINAL OFFENSES</b>					
Murder/Non-negligent Manslaughter	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Negligent Manslaughter	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Forcible Sex Offenses	2020	0	0	0	0
	2021	0	0	0	0

	2022	0	0	0	0
Rape	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Fondling	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Incest	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Statutory Rape	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Robbery	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Aggravated Assault	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Burglary	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Motor Vehicle Theft	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Arson	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
<b>VIOLENCE AGAINST WOMEN ACT (VAWA) OFFENSES</b>					
Domestic Violence	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Dating Violence	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Stalking	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
<b>ARRESTS AND DISCIPLINARY REFERRALS</b>					
Liquor Law Violation Arrests	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Liquor Law Referrals for Disciplinary Action	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Drug Law Violation Arrests	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Drug Law Referrals for Disciplinary Action	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Weapons Law Violations Arrests	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0

Weapons Law Referral for Disciplinary Action	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
<b>HATE CRIMES</b>					
Larceny/Theft	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Simple Assault	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Intimidation	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0
Destruction/Damage/Vandalism of Property	2020	0	0	0	0
	2021	0	0	0	0
	2022	0	0	0	0