



5-1-2024

## Fordham Title IX Program Review - Gill

Samantha Gill  
sgill5@law.villanova.edu

Follow this and additional works at: [https://digitalcommons.law.villanova.edu/title\\_ix](https://digitalcommons.law.villanova.edu/title_ix)

---

### Recommended Citation

Gill, Samantha, "Fordham Title IX Program Review - Gill" (2024). *Title IX at 50*. 7.  
[https://digitalcommons.law.villanova.edu/title\\_ix/7](https://digitalcommons.law.villanova.edu/title_ix/7)

This student-authored report was created as an assignment for Professor Ann Juliano's Title IX at 50 course and is for educational purposes only. The content is the sole responsibility of the student author and does not represent the views of Villanova University. This report sets forth the results of student research, is intended to assist future researchers, and should be independently reviewed and verified by the reader. No representations are made as to the content's currency, accuracy, or applicability to a particular legal situation. Readers should take the report's date into account and consider that the institution featured in the report may have made updates to its policies and procedures. The information provided in this report does not, and is not intended to, constitute legal advice. Readers of this report should contact their attorney to obtain advice with respect to any particular legal matter.

This Article is brought to you for free and open access by the Student Works at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in Title IX at 50 by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository. For more information, please contact [reference@law.villanova.edu](mailto:reference@law.villanova.edu).

# Fordham University Title IX Program Review

Samantha Gill



Photo courtesy of Britannica

# I. General Information

## A. Accessibility

Fordham’s information on Title IX is easily accessible but only the information relating to sexual misconduct. Finding information on the other categories covered by Title IX, including athletics, pregnancy, and LGBTQ+, is considerably more difficult.

## B. Office of the Title IX Coordinator and Information Provided

When Googling “Fordham Title IX,” the main webpage for Fordham’s Office of the Title IX Coordinator, called the Gender Equity and Title IX Office, is the first result that comes up.<sup>1</sup>

The screenshot shows the Fordham University website header with navigation links: About, Mission, Academics, Admissions and Aid, Research, Student Life, Resources, Athletics, and a search icon. The main content area is titled "Gender Equity and Title IX Office" and includes a breadcrumb trail: Home / About / Leadership and Administration / Administrative Offices / Gender Equity and Title IX Office. A left sidebar lists "Administrative Offices" with links to: About the Office of Gender Equity and Title IX, Title IX Sexual and Related Misconduct, Reporting an Incident, Confidential Resources, Education and Training, Equal Employment Opportunity, Non-discrimination Policy, Training Resources, and Mandatory Reporting FAQs. The main text states: "Fordham University is committed to a living, learning, and work environment free of any kind of sexual violence or misconduct. The University will take prompt steps reasonably calculated to end the sexual violence, eliminate any hostile environment, prevent recurrences, and, as appropriate, remedy any effects." It further explains the office's role in Title IX compliance and provides a link to "View the Sexual and Related Misconduct Policies and Procedures". An "Update" section notes that policies apply to both in-person and online interactions.

As seen above, while this main webpage informs the researcher that the Gender Equity and Title IX Office is responsible for the university’s Title IX compliance in athletics, the majority of the identifiable information about the university’s Title IX program pertains to sexual misconduct. For example, the only category-specific tabs on the webpage relate to sexual misconduct and the only policies immediately discoverable are the university’s Sexual and Related Misconduct Policies and Procedures and the Non-discrimination Policy.

<sup>1</sup> *Gender Equity and Title IX Office*, FORDHAM UNIV., <https://www.fordham.edu/about/leadership-and-administration/administrative-offices/gender-equity-and-title-ix-office/> (last visited Apr. 17, 2024).

## C. Organization

While information relating to Fordham’s treatment of athletics, pregnancy, and LGBTQ+ under Title IX is nowhere to be found on the main webpage, information helpful to students relating to sexual misconduct is easily found. The Policies and Procedures for the university’s handling of sexual misconduct is highlighted in red on the main webpage and the page detailing to students and employees how to report any sexual misconduct incidents is a separate tab on the left side of the page. Further, information important to employees, such as the university’s Equal Employment Opportunity statement, is also found in a tab on the left.

## D. Training

The “Training Resources” tab on the left of the main webpage contains a list of the various trainings attended by the Gender Equity and Title IX staff. In addition to the names of the trainings, the webpage also includes links to access the videos themselves.

According to the “Training Resources” page, the trainings Fordham’s Title IX Office attends include three Office of Civil Rights videos, namely a video addressing sexual harassment, a video discussing protections against sexual assault, and a video on Title IX hearings. The other trainings listed on this webpage, detailed to the right, cover topics such as skills needed by civil rights investigators, trauma-informed investigations, and writing workshops. Glaringly, these trainings only seem to focus on the handling of sexual misconduct cases. There are no trainings on other Title IX issues such as athletics, pregnancy, or LGBTQ.

Institutional Compliance Solutions

[Title IX and BIT Working Together, A Case Study](#)

ATIXA Training

[Civil Rights Investigator Level One: Foundations](#)

[Civil Rights Investigator Level Two: Advanced](#)

[Civil Rights Investigator Level Three: Practical Skills](#)

[1P2P Webinar Part I: Overview](#)

Student Conduct Institute Training

[Grand River Solutions Columbia Report Writing Workshop](#)

Grand River Solutions

[Grand River Solutions Conducting Fair and Thorough Trauma-Informed Investigations Training](#)

[Grand River Solutions Report Writing Workshop](#)

## E. Ongoing Investigations of Fordham University

According to the Education Department’s website, Fordham is not currently under investigation for any discrimination complaints.<sup>2</sup>

## II. Athletics

Aside from mentioning that the Gender Equity and Title IX Office is responsible for the university’s compliance with Title IX, “including gender equity in athletics,” the Fordham Title IX Office’s website makes no other mention of athletics. Further, the university’s website dedicated entirely to Fordham athletics also contains no information about Title IX.<sup>3</sup>

<sup>2</sup> *Pending Cases Currently Under Investigation at Elementary-Secondary and Post-Secondary Schools*, U.S. DEP’T EDUC., <https://ocras.ed.gov/open-investigations> (last visited Apr. 17, 2024).

<sup>3</sup> *See generally* OFF. WEBSITE FORDHAM UNIV. ATHLETICS, <https://fordhamsports.com/> (last visited Apr. 17, 2024) (consolidating all information on Fordham’s athletic teams into one website).

## A. Coordinator for Athletics

Fordham does not have a separate Title IX Coordinator for athletics. Kay Turner is currently the university’s only Title IX Coordinator and even she is only serving in the role as interim coordinator. Further, Ms. Turner is also the university’s Vice President of Human Resources.



## B. Filing a Complaint/Lodging a Concern

The Fordham Title IX Office website has no information on how to file a complaint or lodge a concern about Title IX violations in athletics. While the Title IX website has a “Reporting an Incident” tab that is seemingly broad and encompassing of all Title IX categories, clicking on the tab quickly reveals this reporting function is solely intended for sexual misconduct. This is evident in that the first sentence on the “Reporting an Incident” page says “[to] file a report of sexual assault, stalking, domestic violence, dating violence, or other prohibited sexual misconduct with the University, please call one of the offices below.”

## C. EADA Information

According to the information found on the EADA website, there is an imbalance in Fordham’s proportionality of participants, teams, and money spent on the men’s and women’s teams.<sup>4</sup>

*Number of participants as of the day of the first scheduled contest*

Varsity Teams	Men's Teams	Women's Teams
Baseball	36	N/A
Basketball	17	25
All Track Combined	94	107
Football	90	N/A
Golf	8	
Rowing		46
Soccer	34	31
Softball	N/A	18
Squash	12	
Swimming and Diving	24	35
Tennis	9	8
Volleyball		15
Water Polo	20	
<b>Total Participants Men's and Women's Teams</b>	<b>344</b>	<b>285</b>
Unduplicated Count of Participants (Number of individuals who participated on at least one varsity team.)	289	222
<b>CAVEAT</b>		
Women's basketball had 25 participants: 17 female participants, and 8 male practice participants. Men's squash had 12 participants: 11 male participants, and 1 female participant. The number of full-time enrolled undergraduates at the Rose Hill campus (traditional campus for athletics program) is as follows: 2,904 males (44%); 3,735 females (56%).		

As seen in the above table, Fordham’s Rose Hill campus (the main campus and the campus from which the university’s athletic teams are based) boasts a full-time undergraduate enrollment of 2,904 males (or 44%) and 3,735 females (or 56%). However, these percentages are not reflected

<sup>4</sup> *Equity in Athletics Data Analysis*, U.S. DEP’T EDUC., <https://ope.ed.gov/athletics/#/institution/details> (last visited Apr. 17, 2024).

in the makeup of Fordham’s athletic teams, meaning Fordham is thus not proportionate within the meaning of Title IX.

Fordham has twelve (12) men’s athletic teams and ten (10) women’s athletic teams. The total number of participants on the men’s teams is 344 while the total number of participants on the women’s teams is 285. However, some of these athletes are duplicative (meaning at least one athlete plays on more than one team)—the unduplicated count of participants on Fordham’s athletic teams is 289 men and 222 women. Included in this count are the eight (8) male practice players on the women’s basketball team and the one (1) female practice player on the men’s squash team. Subtracting these practice players from the unduplicated count of participants brings Fordham’s participant count to 288 men (or 57%) and 214 women (or 42%). To be Title IX compliant, the proportionality of women athletes must be within one percent (1%) of the full-time undergraduate female enrollment. Thus, because Fordham’s female enrollment is 56% and its female athlete participation is only 42% (meaning the disparity between is 14%), Fordham is not Title IX compliant in the area of athletics.

— Total Expenses by Team

Varsity Teams	Men's Teams	Women's Teams	Total
Basketball	\$7,996,715	\$4,135,372	\$12,132,087
Football	\$8,505,080	N/A	\$8,505,080
Total Expenses of all Sports, Except Football and Basketball, Combined	\$5,160,186	\$9,464,880	\$14,625,066
Total Expenses Men's and Women's Teams	\$21,661,981	\$13,600,252	\$35,262,233
Not Allocated by Gender/Sport	N/A	N/A	\$8,709,069
Grand Total Expenses	N/A	N/A	\$43,971,302

Further, as seen in the above expenses table, the amount of money that Fordham spends on men’s teams and women’s teams is also not proportionate. Fordham spends \$21,661,981 on its men’s athletic teams but only spends \$13,600,252 on its women’s teams.

## D. History of Fordham’s Sports Teams

Outside of baseball, basketball, and football, there is largely no information on the history of Fordham adding and removing sports teams.

Fordham’s baseball team dates back to as early as the 1850s.<sup>5</sup> The university’s men’s basketball team began competing in 1902 while the women’s basketball team did not become a varsity sport until the 1970–1971 season.<sup>6</sup> Fordham’s football team dates back to the nineteenth century but has been dropped by the university as a varsity sports several times throughout its long history.<sup>7</sup> For example, football was first dropped between 1894 and 1895 and was subsequently

<sup>5</sup> *Fordham Rams*, WIKIPEDIA, [https://en.wikipedia.org/wiki/Fordham\\_Rams#:~:text=A%20club%20football%20team%20was,Football%20Championship%20Subdivision%20in%201989](https://en.wikipedia.org/wiki/Fordham_Rams#:~:text=A%20club%20football%20team%20was,Football%20Championship%20Subdivision%20in%201989) (last visited Apr. 13, 2024).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

added and then dropped again four more times before Fordham permanently re-established football as a varsity team in 1970.<sup>8</sup>

While Fordham has many more men’s and women’s varsity sports, information on when these sports were added as varsity sports is unfortunately lacking.

## E. Complaints and Investigations of Fordham University

Fordham currently has no pending complaints or investigations in the area of athletics.<sup>9</sup>

## F. Transgender Athletes

The only place Fordham addresses transgender persons in relation to athletics is in the Diversity and Inclusion section of its 2022–2023 Athletics Handbook.<sup>10</sup> In that section, under the “LGBTQ and Ally Network of Support & Racial Solidarity Network” sub-section, the Handbook simply expresses Fordham’s intent that the campus be an open and welcoming environment to all LGBT students, necessarily including transgender students.

Fordham has not issued any other policies or statements concerning transgender athletes.

## G. Name, Image, Likeness (NIL)

Fordham has a NIL policy that is found on Fordham’s Athletics website under the Current Athletes tab.<sup>11</sup> The policy states it is intended to act in accordance with the New York, federal, and NCAA laws and regulations relating to NIL activities. However, this seven (7) page policy makes no mention of Title IX.

# III. Sexual Misconduct

## A. Coordinator for Sexual Misconduct

Fordham does not have a separate Title IX Coordinator for Sexual Misconduct. Kay Turner, discussed above, is Fordham’s sole (interim) Title IX Coordinator.

---

<sup>8</sup> *Id.*

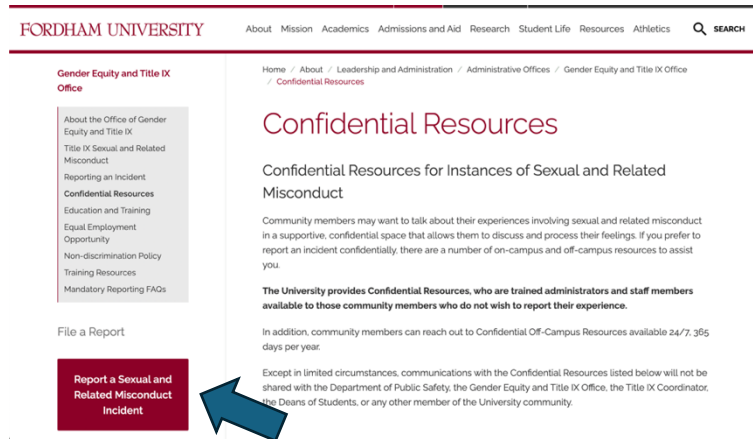
<sup>9</sup> <https://ocrcas.ed.gov/open-investigations>

<sup>10</sup> *Fordham Student-Athlete Code of Conduct*, OFF. WEBSITE FORDHAM UNIV. ATHLETICS, [https://fordhamsports.com/documents/2023/10/4/Fordham\\_University\\_Athletics\\_2022-23\\_Handbook.docx.pdf](https://fordhamsports.com/documents/2023/10/4/Fordham_University_Athletics_2022-23_Handbook.docx.pdf) (last visited Apr. 17, 2024).

<sup>11</sup> *Fordham University Name, Image & Likeness Policy*, OFF. WEBSITE FORDHAM UNIV. ATHLETICS, [https://fordhamsports.com/documents/2023/10/24/Fordham\\_NIL\\_Policy.pdf?path=general](https://fordhamsports.com/documents/2023/10/24/Fordham_NIL_Policy.pdf?path=general) (last visited Apr. 18, 2024).

## B. Filing a Complaint/Lodging a Concern

The information on how to file a complaint or lodge a concern about sexual misconduct seems to be the only easily accessible information on Fordham’s Title IX website. On the main webpage, there is a “Reporting an Incident” tab. Further, as seen in the example to the right, if you click on other tabs, such as the “Confidential Resources” or the “Title IX Sexual and Related Misconduct” tabs, these pages each have giant red boxes along the left side of the screen that also lead students to the “Reporting an Incident” page.



### Reporting an Incident

To file a report of sexual assault, stalking, domestic violence, dating violence, or other prohibited sexual misconduct with the University, please call one of the offices below.

Reporting an Incident to the University	+
Reporting Incidents Occurring Between Students	+
For Incidents Involving Faculty, Staff, or Third-parties	+
Reporting an Incident to Law Enforcement	+

Once a student navigates to the “Reporting an Incident” page, they are presented with several options that range from reporting an incident to the university or law enforcement as well as options to report more specific incidents like those occurring between students or incidents involving Fordham faculty, staff, or third parties.<sup>12</sup>

### 1. Reporting an Incident to the University and/or to Law Enforcement

If the reporter chooses to report an incident to the university, the student is instructed to do so by calling their campus’s Department of Public Safety. Alternatively, students may report an incident to public safety through public safety’s “Online Incident Report” (for which a link is provided). There is also a link for an online incident report specifically for students traveling abroad. The students are assured by the website that “Fordham Public Safety Supervisors are former police officers who have experience working with victims of all crimes.”

Further, if the reporter wants to report the incident directly to law enforcement, the webpage also contains the numbers for the NYPD precinct that corresponds with each of Fordham’s campuses.

<sup>12</sup> *Reporting an Incident*, FORDHAM UNIV.: TITLE IX SEXUAL & RELATED MISCONDUCT, <https://www.fordham.edu/about/leadership-and-administration/administrative-offices/gender-equity-and-title-ix-office/title-ix-sexual-and-related-misconduct/reporting-an-incident/> (last visited Apr. 17, 2024).



## 2. Reporting Incidents Occurring Between Students

If a student chooses to report an incident occurring between students, they are pointed to the specific person at their campus to whom these reports should be directed.

## 3. Reporting Incidents Involving Faculty, Staff, or Third-Parties

The “For Incidents Involving Faculty, Staff, or Third-parties” option contains information on when Fordham employees must file incident reports due to their Mandatory Reporting requirement. Under the Mandatory Reporting requirement, Fordham faculty and staff members must report incidents in which a student is a victim/survivor that the faculty or staff member observed, obtained knowledge of, learned of, or reasonably suspects including any form of sexual harassment (verbal or physical), rape/sexual assault, dating violence and domestic violence, stalking, forcible touching, sexual exploitation, and other sexual misconduct. They are further required to report any non-violent sexual act, including but not limited to verbal sexual harassment, gender discrimination, and sexual exploitation. Fordham faculty and staff members similarly must report incidents of which a Fordham faculty or staff member is a victim/survivor, including incidents of any form of non-consensual physical sexual act including, but not limited to, rape, sexual assault or forcible touching and dating and domestic violence. The faculty and staff are directed to report these incidents to Fordham’s interim Title IX Coordinator, Kay Turner.

### C. The Investigative Process

Once Fordham receives a report of sexual misconduct, the university conducts an investigation into the reported incident. Fordham’s investigative process is detailed in various sections of the university’s “Sexual and Related Misconduct Policy and Procedures for the Fordham University Community.”<sup>13</sup>

#### 1. The Initial Assessment

Under the “Institutional Analysis of Reports” section, Fordham details its initial assessment performed upon receipt of a sexual misconduct report.<sup>14</sup> Per this section, the university’s initial assessment includes (1) determining whether the reported conduct falls within the scope of Title IX, another relevant law, or university policy and (2) assigning an Administrative Support Person to the student-complainant as appropriate. Also as part of the initial assessment, Fordham will “conduct an individualized safety and risk analysis to determine whether there is: (1) an immediate threat to the physical health or safety of any student or other community member; and/or (2) serious

---

<sup>13</sup> *Sexual and Related Misconduct Policy and Procedures for the Fordham University Community*, FORDHAM UNIV., <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/> (last visited Apr. 17, 2024).

<sup>14</sup> *Institutional Analysis of Reports: Sexual and Related Misconduct Policy*, FORDHAM UNIV.: TITLE IX SEXUAL & RELATED MISCONDUCT, <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/institutional-analysis-of-reports/> (last visited Apr. 17, 2024).

and immediate harm to the respondent or others.” Based on this initial assessment, Fordham will then determine the next steps.

On a separate webpage that is linked as a tab on the “Institutional Analysis of Reports” page, Fordham provides more information on who could be assigned to the student-complainant as their Administrative Support Person (“ASP”) as well as the ASP’s role in the investigative process.<sup>15</sup> According to this page, ASPs are only available to student-complainants and student-respondents and will be assigned to these students “when a [formal] report of sexual assault, stalking, dating violence, domestic violence, or sexual exploitation is received.” However, an ASP can also be assigned to student-complainants and student-respondents at the discretion of the Vice President of Student Affairs or the Dean of Students for reports on incidents involving other types of sexual and related misconduct.

The description of ASPs is careful to point out that ASPs are not a confidential resource for the students and that information shared by a student with an ASP may be reported to the university to aid in the investigatory process. The ASP’s role is to:

[E]xplain the various options and supportive measures available, including but not limited to:

- The right to have emergency access to a supervisor or investigator in the Department of Public Safety;
- Medical, counseling, and pastoral resources;
- The University’s prohibition against intimidation and retaliation;
- The standard of proof during the Student Conduct Process;
- How to report incidents to local law enforcement or a prosecutor, or to seek other types of relief through the legal system; and
- Supportive measures (e.g., changing academic, living, transportation, and work commitments if such changes are warranted under the circumstances and reasonably available)

Finally, because ASPs are only available to students, employee-complainants and employee-respondents are directed to Fordham’s interim Title IX Coordinator, Kay Turner, for assistance with understanding their rights and options and which university supportive measures are available to them.

Following Fordham’s initial assessment of the sexual misconduct report, if the reported conduct falls within the scope of Fordham’s Policy and Procedures, Fordham offers supportive measures as well as both an informal and formal resolution process.<sup>16</sup>

---

<sup>15</sup> *Assignment of an Administrative Support Person to Students: Sexual and Related Misconduct Policy*, FORDHAM UNIV.: INSTITUTIONAL ANALYSIS REPORTS, <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/institutional-analysis-of-reports/assignment-of-an-administrative-support-person-to-students/> (last visited Apr. 17, 2024).

<sup>16</sup> *Procedural Options Available to the Parties: Sexual and Related Misconduct Policy*, FORDHAM UNIV.: TITLE IX SEXUAL & RELATED MISCONDUCT, <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/procedural-options-available-to-the-parties/> (last visited Apr. 17, 2024).

## 2. Supportive Measures<sup>17</sup>

The available supportive measures vary based on the nature and severity of the reported misconduct. These supportive measures are available upon both request and in Fordham's discretion. The available supportive measure depend on the situation but include counseling, course-related adjustments, modifications to work or class schedules, changes in work or housing locations, campus transportation services, no-contact restrictions, leaves of absence, and increased security and monitoring of certain areas of the campus.

Once Fordham receives a request from either the complainant or respondent for supportive measures, the university judges the need for these supportive measures under the reasonableness standard. Specifically, the requestor will “be afforded a prompt review, reasonable under the circumstances, of the need for and/or terms of any supportive measure directly affecting them, and shall be allowed to submit evidence in support of their request.” The factors Fordham considers when determining whether to issue supportive measures include:

1. The specific needs expressed by the party;
2. The age of the parties involved;
3. The severity or pervasiveness of the allegations;
4. Whether the complainant and respondent share the same residence hall, class, or job location; and
5. Whether other court ordered judicial measures have been taken to protect the complainant

Importantly, these supportive measures are available with or without the filing of a formal complaint.

## 3. The Informal Resolution Process<sup>18</sup>

The informal process is available to those who “do not wish to proceed with an investigation and adjudication, and instead wish to seek the University’s assistance to resolve allegations of misconduct under the Policy and Procedures.” To enter into the informal resolution process, all parties to the complaint must agree on this route by providing written consent and either party can decide to proceed with a formal resolution instead even after the commencement of the informal resolution process.

To initiate the informal resolution process, the complainant must meet with the University Administrator (specified to be “the Director of Gender Equity/Title IX Coordinator, the Vice President for Student Affairs, the Deans of Students, Human Resources, or their designee”) and

---

<sup>17</sup> *Supportive Measures: Sexual and Related Misconduct Policy*, FORDHAM UNIV.: PROCEDURAL OPTIONS AVAILABLE TO PARTIES, <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/procedural-options-available-to-the-parties/supportive-measures/> (last visited Apr. 17, 2024).

<sup>18</sup> *Informal Resolution Process: Sexual and Related Misconduct Policy*, FORDHAM UNIV.: PROCEDURAL OPTIONS AVAILABLE TO PARTIES, <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/procedural-options-available-to-the-parties/informal-resolution-process/> (last visited Apr. 17, 2024).

discuss “the name of the respondent and the date, time, location, and nature of the alleged misconduct, if known.” Importantly, the informal resolution process is not available for complaints involving “allegations of ‘Quid Pro Quo Harassment (Title IX),’ ‘Sex- or Gender-Based Harassment (Title IX),’ ‘Sexual Assault (Title IX),’ ‘Dating Violence (Title IX),’ ‘Domestic Violence (Title IX),’ ‘Stalking (Title IX),’ or ‘Retaliation (Title IX)’ as defined in the Policy and Procedures.”

After speaking with the complainant and determining the informal process is available, the University Administrator will then schedule a meeting with the respondent during which the respondent will be provided written notice of the allegations, the requirements of the informal resolution process, and any consequences that could result from participation in this informal process. Throughout the informal process, both parties may bring an “Advisor of Choice” to the informal process meetings. In total, the parties are given ten (10) business days to come to an informal resolution agreement. However, an extension may be granted by the university for good cause. Once a resolution is reached and approved by the University Administrator, the agreement is not subject to appeal.

#### 4. The Formal Resolution Process<sup>19</sup>

If the parties decide to forego the informal resolution process and opt for the formal resolution process instead, the procedural options available to the parties depend on whether the alleged conduct falls under Title IX. If the alleged conduct does fall under Title IX, the Title IX Coordinator, the Department of Public Safety, or their designee will provide a Notice of Allegations to the respondent and then proceed with gathering information relating to the allegations. Each party will be provided equal access to advisors and support persons in addition to the ASP assigned to them during the initial assessment. All information that the university gathers relating to the allegations (the “Investigative Record”) will be sent to the parties and their Advisor of Choice. The parties will then have ten (10) business days to inspect and review the Investigative Record and submit a written response by email to the investigator. Further, the university will provide each party a copy of the other party’s written responses and each party will then have five (5) days to submit an optional 250-word response.

##### Procedural Options Available to the Parties

- Conduct Not Under Title IX Student Respondent
- Conduct Not Under Title IX Student Complainant and Employee Respondent
- Conduct Not Under Title IX Both Parties are Employees
- Conduct Under Title IX All Members of the University Community

Next, the investigator will write an Investigative Report that summarizes all the relevant information. This report is not intended to summarize all information the investigator obtained but to instead fairly summarize the information directly relating to the allegations. If disciplinary sanctions seem like they will follow from the Investigative Report, the university will then hold a live hearing that is closed to the public. Importantly, no sanctions will be issued without a hearing.

---

<sup>19</sup> *Formal Resolution Process: Sexual and Related Misconduct Policy*, FORDHAM UNIV.: PROCEDURAL OPTIONS AVAILABLE TO PARTIES, <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/procedural-options-available-to-the-parties/formal-resolution-process/> (last visited Apr. 17, 2024).

The live hearing can occur with all parties in the same location or with the parties located in separate rooms in which technology would be used to enable the decision-maker and the parties to hear and see the others participating in the hearing. The hearing will consist of the parties, their chosen advisors, any witnesses, a single decision-maker, and any hearing facilitators that the decision-maker decides are necessary. The university's Policies and Procedures for the formal resolution process do not specify who the hearing's decision-maker can be but does note that the hearing facilitators "may be University employees who are present during the hearing to assist with the orderly management of the hearing process." Further, who the parties can pick as their advisor of choice is not outlined within the Policies and Procedures.

The live hearings proceed in a fashion similar to a trial in that the parties are both given the opportunity to present opening statements and the parties' Advisors of Choice may ask the party they are representing questions and then cross-examine the opposite parties. The standard of proof Fordham uses in these hearings is the preponderance of evidence standard. As the university puts it, "[t]his means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy and Procedures occurred."

Following the live hearing, and within "a reasonably prompt time frame after the completion of the hearing," the university will send to the parties an outcome letter stating the decision-maker's conclusions. The decision-maker's determination regarding responsibility will become final either on the date that the parties are provided a determination of the result of an appeal (if an appeal is filed) or on the date on which the opportunity to appeal expires (if an appeal is not filed).

It is estimated that the formal resolution process will take around 120 days to be resolved but this time period could be extended for good reason. Examples of good reasons to extend the formal resolution time period include "the absence of a party, a party's advisor, or a witness; the complexity of the matter; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities." Following the close of the formal resolution process, an appeal is available to both the complainant or respondent.<sup>20</sup>

## 6. Comments on Fordham's Investigatory Process

I think that Fordham's sexual misconduct investigatory process is decent. I appreciate how it is broken down into an initial assessment and a more detailed informal or formal process and that during the formal process, the investigation is separated from the adjudication process both in form and in terms of having a separate investigator and decision-maker. I also liked how the supportive measures are potentially available to complainants upon request in cases that would not otherwise qualify for supportive measures. Further, I liked how determining whether these requests for supportive measures would be approved are judged using the reasonableness standard

---

<sup>20</sup> See *Appeal when a Student is the Respondent - Conduct that Falls Under Title IX*, FORDHAM UNIV., <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/appeal-of-dismissals-or-determinations/appeal-when-a-student-is-the-respondent---conduct-that-falls-under-title-ix-of-the-education-amendments-of-1972/> (last visited Apr. 15, 2024) (detailing appeal process for situations in which a student is respondent and conduct falls under Title IX).

rather than a more stringent standard, like that applied during the formal resolution process’s live hearing.

However, for the formal resolution process, I think that the Policies and Procedures need to be more clear on the identity of those conducting the investigation and live hearings as well as those available to the parties as their advisors of choice. Fordham does not attempt to define who it means when it refers to “Advisor of Choice” or “decision-maker.” Further, while it might be inferred that the university’s use of “investigator” is “the Department of Public Safety, the Director of Gender Equity/Title IX Coordinator, or their designee” because of its specification that it is one of these who will “conduct a formal investigation into the reported conduct.” However, it could be even more beneficial for Fordham to identify who within the Department of Public Safety would be conducting this investigation as well as who could qualify as “their designee.”

## D. Retaliation Policy

Part of Fordham’s “Sexual and Related Misconduct Policy and Procedures” is a sub-section under “Conduct Prohibited by University Policy” called “Intimidation and Retaliation for Reporting.”<sup>21</sup> This sub-section prohibits:

direct or indirect attempts to . . . intimidate, threaten, interfere with, restrain, coerce, discriminate against, or harass any person for attempting to report misconduct, reporting misconduct, pursuing a Formal Complaint, serving as a witness, or being a potential party or witness in a University investigation regarding possible violations of any of the University’s policies regarding sexual and related misconduct.

Any member of the university who does engage in such conduct will be subject to disciplinary action, including possible termination or expulsion from Fordham. Additionally, any person engaging in this conduct who is not a member of Fordham’s community will be subject to campus bans and “other actions deemed appropriate by the Title IX Coordinator or their designee.”

## E. Clery Act Statistics

According to the Department of Education’s (DOE) Campus Safety and Security database, Fordham has had a number of sexual misconduct-related offenses in the past few years.<sup>22</sup> This database only reflects those offenses reported in 2020, 2021, and 2022. Similarly, End Rape on Campus reflects data from 2018 through 2020 and similarly reports several sexual misconduct-related offenses occurring in these years.<sup>23</sup>

---

<sup>21</sup> *Intimidation and Retaliation for Reporting: Sexual and Related Misconduct Policy*, FORDHAM UNIV.: CONDUCT PROHIBITED BY UNIV. POLICY, <https://www.fordham.edu/resources/policies/sexual-and-related-misconduct-policy-and-procedures/conduct-prohibited-by-university-policy/intimidation-and-retaliation-for-reporting/> (last visited Apr. 17, 2024).

<sup>22</sup> *Campus Safety and Security*, U.S. DEP’T EDUC., <https://ope.ed.gov/campussafety/#/institution/details> (last visited Apr. 17, 2024).

<sup>23</sup> *School Search*, END RAPE ON CAMPUS, <https://endrapeoncampus.org/school-locator/> (last visited Apr. 17, 2024).

## 1. DOE’s Campus Safety and Security Database

Of the sexual misconduct-related offenses reported on the DOE’s Campus Safety and Security Database from 2020, 2021, and 2022, Fordham has reports of rape and fondling from both on campus and off campus. In 2020, Fordham reported nine (9) rapes on campus, four (4) of which occurred in on-campus student housing facilities, as well as four (4) instances of fondling that took place on campus, three (3) of which occurred in on-campus student housing facilities, and six (6) instances of fondling that took place off campus. In 2021, Fordham reported 12 (twelve) rapes on campus, all of which occurred in on-campus student housing facilities, as well as six (6) instances of fondling that took place on campus, two (2) of which occurred in on-campus student housing facilities. Finally, in 2022, Fordham reported eighteen (18) rapes on campus, nine (9) of which occurred in on-campus student housing facilities, as well as three (3) instances of fondling that took place on campus, one (1) of which occurred in on-campus student housing facilities.

## 2. End Rape on Campus’s Database

End Rape on Campus looks at the same data compiled by the DOE for its Campus Safety and Security Database but reports information from 2018 through 2020. However, unlike the DOE’s database, End Rape on Campus does not include residence hall data because it is duplicative with the on-campus data.

As seen on the right, between 2018 and 2020, Fordham reported twenty nine (29) rapes, twenty five (25) instances of fondling, fourteen (14) instances of dating violence, and sixteen (16) instances of stalking. Further, this database compares these numbers to the national average for each crime and, notably, Fordham’s data reflects a much higher number of sexual misconduct-related offenses than the national average.

2018-2020	
*TOTAL ENROLLMENT:	16364
<b>CLERY DATA</b>	
RAPES ..... 29	National Avg.  6
FONDINGS ..... 25	National Avg.  5
DOMESTIC VIOLENCE ..... 0	National Avg.  3
DATING VIOLENCE ..... 14	National Avg.  3
STALKING ..... 16	National Avg.  6

## IV. Pregnancy

### A. Resources

Under the Title IX Office’s “Non-discrimination Policy” is a sub-section addressing “Pregnancy and Parenting Resources.”<sup>24</sup> It provides that the university’s non-discrimination policy expressly prohibits discrimination against “those of marital or parental status, which includes on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery there from.”

<sup>24</sup> *Pregnancy and Parenting Resources*, FORDHAM UNIV.: NON-DISCRIMINATION POLICY, <https://www.fordham.edu/about/leadership-and-administration/administrative-offices/gender-equity-and-title-ix-office/non-discrimination-policy/pregnancy-and-parenting-resources/#:~:text=Fordham's%20non%2Ddiscrimination%20policy%20specifically,pregnancy%2C%20or%20recovery%20there%20from> (last visited Apr. 17, 2024).

Included among the “Pregnancy and Parenting Resources” is the chain of command, so to speak, to whom pregnancy and parenting discrimination complaints should be addressed. According to this information, “[s]tudents should first address concerns with their individual professors,” and then, if unsatisfied with the professor’s response, the student should contact the dean of their school. Employees wishing to file a complaint should contact Fordham’s Office of Human Resources Management. Finally, once students and employees have attempted to resolve their concerns with the dean’s office or human resources, respectively, they may then file a complaint with the Title IX Coordinator as well as with the DOE’s Office for Civil Rights.

## B. University Compliance

Title IX provides protections for pregnant students in that colleges must “allow pregnant and postpartum students to take leave of their academic obligations without penalty because of medically necessary absences associated with pregnancy, childbirth, or postpartum recovery.”<sup>25</sup> After this leave, postpartum students must regain the status they previously held, including within extracurriculars and athletics if practicable.<sup>26</sup> Further, under the 2022 Title IX regulations, colleges also must “provide students and employees with a lactation space that is not a bathroom and is clean, shielded from view, free from intrusion, and may be used for expressing breastmilk or breastfeed as needed.”<sup>27</sup>

Despite these requirements under Title IX, Fordham’s “Pregnancy and Parenting Resources” do not appear to offer the required amount of protections for pregnant and postpartum students and employees. For example, Fordham’s policy mentions only mentions the requirement that pregnant and postpartum students be offered “reasonable accommodations in order to finish their coursework” and leaves it to the faculty member’s discretion to determine what qualifies as a “viable, reasonable accommodation.” Fordham’s policy even notes that not all pregnant and postpartum students’ requests for accommodations can be met. Notably, the university’s “Pregnancy and Parenting Resources” makes no mention of the required leave from academic obligations available under Title IX to pregnant and postpartum students. Similarly, despite the Title IX requirement that colleges provide students and employees a private space to express milk, Fordham’s “Pregnancy and Parenting Resources” only promises to make “reasonable efforts” to make such a space available. However, as seen in the screenshot to the right, each of Fordham’s main campuses have at least one designated lactation room.

### Lactation Room Locations

#### Westchester

- G03B – Ground floor

#### Lincoln Center

- Martino Hall – Room 217 with a sink and refrigerator
- 140 West 62<sup>nd</sup> (Gabelli)– G14A with a sink and refrigerator
- 150 West 62<sup>nd</sup> (Law School) –Room 5-132 with a sink and a refrigerator

#### Rose Hill

- Wellness Room 116 in McShane Center with small refrigerator. Reservations are managed by Student Involvement, [eventspace@fordham.edu](mailto:eventspace@fordham.edu) or 718.817.4339.
- Cunniffe House – Room 204 with a sink and refrigerator

<sup>25</sup> Autumn R. Green et al., *Title IX Protections for Parenting Students*, URBAN INST., [https://www.urban.org/sites/default/files/2022-12/SPFATC-](https://www.urban.org/sites/default/files/2022-12/SPFATC-Title%20IX%20Protections%20for%20Pregnant%20and%20Parenting%20Students.pdf)

[Title%20IX%20Protections%20for%20Pregnant%20and%20Parenting%20Students.pdf](https://www.urban.org/sites/default/files/2022-12/SPFATC-Title%20IX%20Protections%20for%20Pregnant%20and%20Parenting%20Students.pdf) (last visited Apr. 17, 2024).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*



## C. Cases Against Fordham University

Fordham currently has no pending complaints or investigations in the area of pregnancy discrimination.<sup>28</sup>

## V. LGBTQ

### Protections and Policies Concerning LGBTQ+ Students

Fordham offers resources for its LGBTQ students under Multicultural Affairs section of the Student Life page.<sup>29</sup> While a quick Google search of “Fordham LGBT” brings up the “LGBTQ Resources” page as the first result, if a student were to navigate to this page from Fordham’s main webpage, the “LGBTQ Resources” page is buried within other webpages and is pretty difficult to find. Notably, this page does not fall under Fordham’s Title IX website and the “LGBTQ Resources” page itself makes no mention of Title IX. Instead, the resources discussed on this page focus on events and trainings “that raises awareness about the experiences of [LGBTQ+] members of the Fordham community.”

## VI. Recommendations

My review of Fordham University’s Title IX program revealed many shortcomings in the accessibility of information as well as the substance of the university’s Title IX policies. Considering these flaws, I recommend several solutions, discussed below, categorized into “accessibility” and “substance” recommendations.

### A. Accessibility

#### 1. Address all categories covered by Title IX on the Fordham Title IX Office’s webpage.

As it currently stands, Fordham’s Title IX website only discusses Title IX as it applies to sexual misconduct. This is misleading because Title IX does not, in fact, only extend to sexual misconduct. As seen in the above discussion, Title IX also extends to areas such as athletics, pregnancy, and LGBTQ students. But students looking to research Fordham’s Title IX policies in these areas will have a tough time finding the information they are looking for. This issue is especially prevalent in the area of athletics because, unlike the pregnancy and LGBTQ information which the university addresses in separate areas (albeit without any mention of Title IX), Fordham has no policy to be found on non-discrimination in athletics.

To remedy this issue, Fordham needs address each of the areas covered by Title IX on the Fordham Title IX Office’s website. By doing so, the university will make it abundantly clear to

---

<sup>28</sup> <https://ocrcas.ed.gov/open-investigations>

<sup>29</sup> *LGBTQ Resources*, FORDHAM UNIV.: MULTICULTURAL AFFAIRS, <https://www.fordham.edu/student-life/multicultural-affairs/lgbtq-resources/> (last visited Apr. 17, 2024).

its students, employees, and people like me who are looking into Fordham's Title IX policies that the university's Title IX policies extend to each of these protected categories.

## **2. Create a separate tab on the Title IX Office's website for each of the categories covered by Title IX.**

One way to implement the above suggestion that the Fordham Title IX Office's website should address all categories covered by Title IX is to make a tab on the website for each of the protected categories. For example, this could mean one tab for sexual misconduct, one tab for athletics, one tab for pregnancy, and one tab for LGBTQ. Further, each tab should contain all of the important information pertaining to that category so that this information is in one place and thus easily accessible to students. The information to be included on each tab includes the university's policies and procedures, how to file a complaint or report, and the investigative process for each of the different protected categories.

By consolidating all of the important information for each category protected under Title IX into one category-specific tab, this also fixes the issue that Fordham's Title IX information is currently scattered across too many different webpages. Take, for example, Fordham's investigative process for sexual misconduct complaints. To get a complete picture of the entire investigative process, I had to navigate to at least six different webpages. For students looking to understand what this investigative process would consist of, the possibility of error and resulting misunderstanding of the process is high since the information is spread out over so many different webpages. If, instead, all of the information on how Fordham investigates sexual misconduct complaints were located under a "Sexual Misconduct" tab, this would do a lot to limit the potential for confusion over this process.

## **3. Include reporting information for each of the protected categories on the "Reporting an Incident" tab.**

Similar to the above suggestion, Fordham should include on the "Reporting an Incident" tab information on how to report incidents not just of sexual misconduct, but of Title IX violations in athletics, pregnancy, and concerning LGBTQ persons. Currently, the "Reporting an Incident" tab only addresses how to report incidents "of sexual assault, stalking, domestic violence, dating violence, or other prohibited sexual misconduct." While there is information elsewhere on how to report violations of the university's pregnancy and LGBTQ policies, the accessibility of having all reporting information on one page would make it much easier for students and employees looking to report a violation. Further, there is currently no information on how to report a Title IX violation in athletics so, to remedy this, the university should first create a process to report such a violation and then provide instructions for how to report an athletics violation on the "Reporting an Incident" tab.

## B. Substance

### **1. Appoint a permanent Title IX Coordinator whose sole job is to fill this role.**

Currently, Fordham only has an interim Title IX Coordinator who also serves as the university's Vice President of Human Resources. Because both of these roles are undoubtedly full time positions, Fordham should instead appoint a permanent Title IX Coordinator who does not have to split their attention between the coordinator role and another job.

Further, Fordham should consider appointing separate Title IX Coordinators for sexual misconduct and for athletics. However, because the first step is hiring a permanent Title IX Coordinator whose sole job is to be such, the university should prioritize this and then it can hire category-specific coordinators depending on the university's need for separate roles.

### **2. Define the meaning of “advisor of choice” and “decision-maker,” as used in the university’s Policies and Procedures for the Formal Resolution Process in sexual misconduct investigations.**

Throughout the description of Fordham's Formal Resolution Process for sexual misconduct investigations, the Policies and Procedures refer repeatedly to the student's “advisor of choice” and to a “decision-maker” in the live hearing portion of the investigation. However, despite the frequent references to these people, the university fails to define who is qualified to serve in these roles.

In discussing a student's right to an advisor or support person when going through a sexual misconduct investigation, Fordham's Policies and Procedures merely refer to such person as the student's “Advisor of Choice” but does not clarify who students can choose to serve in such roles. In fact, the Policies' language on this could be somewhat confusing to a student because it refers to the advisor as a support person but then later describes the role of an “Advisor of Choice” in a way that is similar to an attorney. For example, during the live hearing, it is the Advisor of Choice's role to conduct cross-examination of the other party in the investigation. Without clarifying that an Advisor of Choice should be someone who can serve in the role of an attorney, the use of “support person” to describe the Advisor of Choice could lead a student to choose someone who is more emotionally supportive than legally supportive.

Further, Fordham's Policies and Procedures do not define who is eligible to serve as the “decision-maker” during the live hearing. The decision-maker's role during the hearing is analogous to that of a judge during a trial. For example, the decision-maker not only decides whether questions during the hearing are relevant but they also determine the outcome of the hearing (as is suggested by their title of “decision-maker”). Because Fordham's policy is to only have one decision-maker for each live hearing, the identity and capabilities of the decision-maker is crucial. Despite this, Fordham's current Policies and Procedures makes no attempt at defining who can serve in such an important role.

### **3. Rewrite the university’s “Pregnancy and Parenting Resources” to mirror the language of the Title IX requirements.**

As they are currently written, Fordham’s policies pertaining to pregnant and post-partum students, do not appear to be Title IX compliant. As discussed above, Title IX requires universities to “allow pregnant and postpartum students to take leave of their academic obligations without penalty because of medically necessary absences associated with pregnancy, childbirth, or postpartum recovery.” Conversely, Fordham’s current policies only mention the requirement that pregnant and postpartum students be offered “reasonable accommodations in order to finish their coursework” and leaves it to the faculty member’s discretion to determine what qualifies as a “viable, reasonable accommodation.” Fordham’s policy even notes that not all pregnant and postpartum students’ requests for accommodations can be met.

By only offering “reasonable accommodations” and leaving these accommodations up to the discretion of the faculty member, it seems there could be cases in which the faculty member denies a pregnant or postpartum student’s request for accommodations and thus violates Title IX’s requirement that such accommodations be provided. This is fear is strengthened by the fact that Fordham’s policies in this area specify that not all pregnant and postpartum students’ requests for accommodations can be met.

Further, under the 2022 Title IX regulations, colleges also must “provide students and employees with a lactation space that is not a bathroom and is clean, shielded from view, free from intrusion, and may be used for expressing breastmilk or breastfeed as needed.” Despite Title IX’s use of mandatory language when discussing the provision of a separate lactation space for students and employees, Fordham’s policy on this only promises that the university will make “reasonable efforts” to do so.

Thus, to remedy the way Fordham’s policies concerning pregnant and postpartum students and employees conflict or differ from Title IX’s requirements, Fordham should change its policies in these areas to mirror the language and intent of Title IX’s requirements.