

replacement to fill the faculty member's teaching duties during the proposed leave period. Each application will be reviewed initially by the Department chair and the Dean, who will then convey their recommendations to the Provost. The Provost will review the recommendations, add his or her own independent recommendation, and forward all recommendations to the President who will make the decision on a case by case basis without reference to other leave decisions as precedent.

The following list of competitive scholarly awards, although not exhaustive, is illustrative of the opportunities that may normally qualify.

- American Council of Learned Societies Fellowships (including the Andrew W. Mellon Fellowship and the Frederick Burkhardt Fellowship)
- J. William Fulbright and Fulbright-Hays Faculty Scholarships for Research and/or Teaching Abroad
- John Simon Guggenheim Fellowships to Assist Research and Artistic Creation
- Woodrow Wilson International Center Fellowships
- National Endowment for the Arts Fellowships
- National Science Foundation Fellowships
- National Research Council of the National Academy of Sciences
- National Endowment for the Humanities Fellowships
- National Institute of Health Postdoctoral Fellowships
- American Association of University Women International Fellowships
- W. K. Kellogg Foundation Leadership Fellowships

During the scholarly leave the faculty member will receive salary to supplement the award, up to 100% of full-time base salary (administrative stipends are not included). Full benefits are continued, and faculty members should make arrangements with Human Resources to pay premiums for benefit elections not fully covered by their semi-monthly salary.

Faculty who are granted leaves for scholarly purposes pursuant to this policy will normally be expected to return to full-time duties at the University following the completion of the requirements of their scholarly awards during the leave period.

Faculty Parental Leave Policy

Pace University's Parental Leave Policy is available to assist and support parents uphold both their professional and parental obligations. This program provides faculty with a period of time off for activities related to the care and well-being of their newborn or adopted child(ren).

University full-time tenured or tenure-track faculty members who have been employed for at least 12 months and who become parents (through birth, or by adoption or newly established legal custodial care involving a child younger than 6 years of age) and who, during the period of the requested leave will be the primary caregivers, are eligible for the Faculty Parental Leave,

Parental leave shall consist of a reduction of in-classroom instruction in a semester by two (2) courses without reduction of salary. Faculty members with term-based teaching responsibilities must take this leave during the academic term during which the birth, adoption or newly

established legal custodial care occurs, or during the academic term immediately following the birth, adoption or newly established legal custodial care. The faculty member must continue advising and other administrative duties as determined by his or her department chair; however, such responsibilities shall not require the faculty member to be on-campus.

Definitions for Faculty Parental Leave Policy

Primary Caregiver is defined as someone who has primary responsibility for the care of a child immediately following birth. "Primary Caregivers" are also those individuals who have recently become parents through adoption or a newly established legal custodial care arrangement. The faculty member determines who in his or her family the primary caregiver is by signing an affidavit as part of the leave request process. *Parent* is defined as a natural parent, same-sex partner, or a new adoptive parent or a new legal custodian who is the primary caregiver. An individual who adopts a spouse or partner's child(ren) is not eligible for this benefit. *Academic Term* is defined as the Spring or Fall semester.

Faculty returning from Disability or Family Medical Leave Act (FMLA) Leave

Full-time faculty members who return from a medically approved related leave (short-term disability, long-term disability, or Family Medical Leave Act (FMLA)) following the start of, and before the end of, either the Spring or Fall semester, will be required to continue advising and will be assigned other administrative duties as determined by their department chair.

Leave of Absence. A leave of absence without salary for a period that would not normally exceed one year may be granted to full-time faculty members upon request. Requests for leave shall be in writing and require the approval of the Council of Academic Deans. Leaves may be granted for either personal or University related (e.g. educational) reasons. Health and life insurance benefits may be continued during a leave of absence but the faculty member is responsible for paying in advance all premiums for this period.

Faculty may also continue to contribute to University-provided retirement plans, although the University does not contribute when a faculty member is on unpaid leave of absence.

If the full-time faculty member takes a leave of absence for an approved professional pursuit, as determined by the Council of Academic Deans, such leave will be considered service toward tenure and promotion.

Leave for Doctoral Study Completion. A leave of absence of one semester or one year for doctoral study completion may be granted by the President on the recommendation of the appropriate chairperson, Dean, the Provost, and the Academic Deans Council under the following conditions:

1. The faculty member must have completed at least two years of full-time teaching at Pace University in order to be considered for such a leave;

2. The likelihood that such a leave will lead to doctoral program completion within one year should be established on the basis of a doctoral degree progress report from the degree awarding institution;
3. The faculty member's contribution to the Department and the University and his or her future value to the Department pending degree completion should be documented. In the case of non-tenured faculty such faculty must have received a positive tenure recommendation review (pending timely completion of the doctoral degree) from the Council of Deans and Faculty on Promotion and Tenure;
4. The individual must be engaged in full time study toward the completion of a doctoral degree;
5. Financial support, when made available during such leave, may not exceed one-half year's regular base salary. Such support is offered as a loan which will be forgiven when the individual returns to the University for a period of two years (see #8 below);
6. Health and retirement benefits will be maintained during the leave. Tuition benefits for the individual and his or her dependents will be maintained; and
7. The individual taking advantage of this leave must agree to return to the University for at least two years after the leave or reimburse the University for all financial support and benefits received during the leave.
8. The time spent on such leave does not count toward tenure or promotion.

Applications are available from the Office of the Provost.

31. Special Professorships

Professor Emeritus

Such rank shall be assigned to all members of the Pace faculty who no longer teach and who at the time of attaining the retirement age hold the rank of professor, or associate professor. Holders of this rank shall be listed during their life-time in all publications in which faculty are listed. They shall be invited to all social and ceremonial functions and shall receive official University publications.

Professor Emeritus-in-Residence

Faculty members who wish to continue on a non-tenured basis after becoming eligible to retire may apply for the rank of Professor Emeritus-in-Residence. Such individuals shall receive compensation for their work up to, but not exceeding, one-half of a full-time load prorated on the basis of the salary paid during the last year of full-time teaching. Applications for appointments to Professor Emeritus-in-Residence rank must be submitted prior to January 31 in the calendar year in which the appointment is to be made. Appointments and renewals may be granted annually only after such applications are processed through normal channels including approval by the Board of Trustees.

The University Distinguished Professorship. This professorship recognizes faculty who have attained renown outside of the University community through work in their fields of scholarship.

32. Amorous Relationships Policy

Amorous sexual relationships between students and faculty members undermine the integrity of the teacher-student relationship that is the foundation of the University's educational mission. The pedagogical relationship between teacher and student must be protected from influences or activities that can interfere with learning and personal development. Amorous sexual relations between a faculty member and a student also create the appearance and potential for a conflict of interest whenever the faculty member is responsible for teaching, advising, supervising, or evaluating the student. Similarly, amorous sexual relations between a faculty member and an administrator or staff member who is supervised by the faculty member create the appearance and potential for a conflict of interest. Accordingly, amorous sexual relationships are prohibited between:

- A. A faculty member and an undergraduate student;
- B. A faculty member and a graduate student who is enrolled in a course taught by the faculty member, or for whom the faculty member serves as advisor, evaluator or supervisor; and/or
- C. A faculty member and an administrator or staff member supervised by the faculty member.

The Provost may grant a waiver of paragraph A above of this policy in circumstances where the relationship existed prior to the student's enrollment as an undergraduate at the University. However, waivers will not be granted permitting a faculty member to teach the undergraduate student in the faculty member's class, or serve as advisor, evaluator or supervisor of the undergraduate student, except when no other arrangements can reasonably be made (for example, when no other faculty member with relevant expertise is available to teach a course on a regular or tutorial basis, that the student needs to graduate; or to serve as an advisor, evaluator or supervisor).

The Provost may also grant a waiver of paragraphs B and/or C above of this policy, with respect to a faculty member teaching a graduate student in the faculty member's class, or the creation of an advising, evaluative or supervisory, relationship between a faculty member and a graduate student; or with respect to a supervisory relationship between the faculty member and a staff member or administrator. However, such waivers will not be granted except when no other arrangements can reasonably be made (for example, when no other faculty member with relevant expertise is available to teach a course on a regular or tutorial basis, that the student needs to graduate; or to serve as an advisor, evaluator or supervisor).

To obtain a waiver, the faculty member must submit a written request to the Provost before the individual with whom the faculty member has an amorous sexual relationship:

- A. Enrolls as an undergraduate student at Pace University;

B. Enrolls in an undergraduate or graduate course taught by the faculty member and/or is supervised or evaluated by the faculty member and/or is the faculty member's advisee; and/or

C. Is supervised in an administrative or staff position by the faculty member.

Before granting a waiver, the Provost shall consult with the faculty member to determine whether measures can be implemented to ensure that there will be no actual or potential conflict of interest. In cases involving supervision of an administrator or staff member by the faculty member, the Provost shall also consult with the Vice President for Human Resources.

33. Nepotism

The appearance of and potential for a conflict of interest is created when certain family members:

A. Enroll in a faculty member's class;

B. Are supervised, evaluated or advised in their role as a student by a faculty member; and/or

C. Are supervised in an administrative or staff capacity by the faculty member.

For purposes of this policy, Family Member shall include the faculty member's spouse, domestic partner, romantic partner, children (including stepchildren), siblings, nieces or nephews, parents and grandparents.

Before a Family Member enrolls in a faculty member's class or is supervised, evaluated or advised in their role as a student by the faculty member, the faculty member shall inform his or her department chair and Dean of the situation. The department chair and Dean shall consult with the faculty member to determine whether measures can be implemented to ensure there will be no actual or potential conflicts of interest without impairing the Family Member's eligibility, if any, for tuition remission benefits offered by the University.

Before supervising a Family Member in an administrative or staff position, the faculty member shall inform the Vice President for Human Resources. The Vice President shall consult with the faculty member and, to the extent necessary, with the Department chair, the Dean and the Provost, to determine whether measures can be implemented to ensure that there will be no actual or potential conflict of interest.

E. INTELLECTUAL PROPERTY AND COPYRIGHT OWNERSHIP

The central mission of Pace University is to create, preserve, and disseminate knowledge through teaching and research.

This Copyright Policy is intended to maintain those traditional norms and values that foster, in various ways, the open and free exchange of ideas and opinions.

Faculty at the University must be free to choose and pursue areas of study and concentration, to share the results of their intellectual efforts with colleagues and students, to use and disseminate their creations, and to take the created works that they own with them should they leave the University.

The ongoing revolution in the use of information technology for the production and dissemination of knowledge enables members of the University community to create new forms or types of scholarly and creative works, to communicate with current audiences with new types of materials, and to reach new audiences. The dramatic changes in information technologies and the ways in which they are employed provide an occasion to examine and clarify policy for copyright of works of scholarship produced at the University. This Copyright Policy statement delineates the rights and responsibilities of the University and its Faculty, employees, students, and other members of the community.

By longstanding custom and University policy, faculty members hold copyright for books, monographs, articles, creative works, and similar works as delineated in the Policy statement, whether distributed in print or electronically. This pattern will not change. This Copyright Policy retains and reasserts those rights.

The use of new media technologies has changed the process of creation of intellectual works. Some of the resources (physical, financial, and human) needed to employ the new technologies are shared resources, provided by the University for the common benefit of all members of the University community. But, in many cases, the use of new media technologies requires increased involvement by the University in the form of financial support, expert services, equipment, and other facilities beyond the base level of support and common resources provided to faculty.

Pace will hold rights in copyright, as delineated in the Policy statement, to works of authorship that are created at the University by faculty, research staff, and others that are commissioned by the University, or are supported by a direct allocation of University funds, or make substantial use of financial or logistical support from the University beyond the level of common resources provided to faculty, or are otherwise subject to contractual obligations.

In those instances in which the University holds rights, faculty members can use the works involved for noncommercial purposes.

This Policy recognizes that ownership of intellectual property and the sharing of economic returns from the licensing or commercialization of that property are two related yet

distinct matters. Even when intellectual property rights are held by the University, revenues from new digital media and other property should be shared among its creators, including individual faculty, researchers, departments, Colleges and Schools, and the larger University. A description of the precise mechanism for distribution of revenues received from the intellectual property is included in the Policy statement and follows guidelines that have worked effectively for the sharing of revenues from patents.

This Policy also is intended to strengthen current protection of the reputation of the University. Pace's name deserves careful nurture and protection. As a general principle, the name of the University is not the property of any individual, department, or School. When the University's name is associated with a work of scholarship or other educational materials such as courses, the interests of the University and its community of scholars are affected and the University must exercise quality control with respect to the use of its name. This is particularly true when intellectual property is created for use by other educational institutions or by for-profit organizations, including development of extensive courses to be offered on-line. Faculty members, deans, and other members of the University community who create courses or digitized content for other universities or for profit-making entities should be certain that all new collaborative agreements with outside entities receive approval of the University's President, who with regard to such agreements acts on behalf of the Trustees through the Office of the Provost.

This Copyright Policy contains elements that intersect with other policies at the University, including but not limited to the policy that addresses the use of the University's name and logos. The Copyright Policy does not replace those other policies; rather it is meant to complement them.

PACE UNIVERSITY COPYRIGHT OWNERSHIP POLICY

The objective of this Policy is to encourage the production of copyrightable material ("Works") that advance Pace University's scholarly, academic, and public service missions and that contribute to the professional stature of those involved in the creation of the Works.

1. Scope of the Policy

A. This Policy governs the respective ownership rights of the University and all of its employees, both academic and administrative, in copyrightable material produced within the scope of employment or otherwise arising out of the participation of individuals, including students, in the activities of the University. Consistent with longstanding academic tradition, the University recognizes faculty ownership of creative, scholarly and academic Works created by them, using generally available University resources. The University will own copyrightable Work created by faculty where (i) the University has commissioned the Work, (ii) where the University has made a significant investment in the development of the Work or significant University resources are utilized in the creation of the Work, or (iii) in other circumstances as required pursuant to an agreement with a third party or where the Work is a *work made for hire*,

subject to a division of net proceeds between the University and the faculty member in accordance with this Policy.

B. This Policy is specifically applicable to the creation of technology-mediated courseware in any form and format, including but not limited to video and Internet-based materials. However, this Policy is *not* intended to affect the compensation of faculty and other University personnel involved in the *delivery* of instruction independent of the ownership of the courseware that may underlie such instruction.

2. Ownership Principles and Standards

1. University faculty, students, and staff routinely create intellectual property that is subject to copyright protection. However, copyright protects only the original expression of facts and ideas that have been fixed in a tangible medium of expression such as a written work, computer software, video, photographs, painting, or other item of tangible (even if virtual) expression. Copyright protection does not protect the underlying facts or ideas in and of themselves, because facts and ideas exist independent of the effort or contribution of the author to fix them in tangible form. Under the federal Copyright Act of 1976, original works of authorship are automatically protected by copyright simultaneously with their fixing in a tangible form of expression. The owner of the copyright to a Work has the exclusive right to reproduce it, display, perform, or distribute it to the public, and make adaptations or derivative Works based on the original. This Policy is designed to delineate the identity of the owner of the Work as well as set forth a framework for the sharing of value that might arise from the creation of a Work.

C. In cases where the provisions of this Policy state that the University recognizes ownership by the author(s), it is the intention that such ownership shall be deemed vested in the author(s) by operation of this Policy without requiring further action by the University.

D. As a general rule, the author of a Work is the owner of the copyright. It is the general policy of the University that Works that are created on an individual's own independent initiative outside the time, place, and scope of employment or activity within the University are owned by the author. Conversely, under the *work made for hire* doctrine of the Copyright Act, the author, and, therefore the owner, of the copyright in Works created by persons *within the scope of their employment* is the employer rather than the individual creator. Works subject to faculty ownership under this Policy are not treated as *works for hire*.

Furthermore, since a fundamental principle of the University as an academic organization is to encourage the development and widest possible dissemination of scholarly Work produced by members of the University community, and consistent with longstanding academic tradition, except as described below, the University recognizes the copyright ownership to scholarly or academic Works (including books, papers, lecture notes, articles, syllabi solely developed by the faculty member, and similar materials) of a faculty member who writes or develops the scholarly or academic Work, where such Work is created by a faculty member either using his or her own resources or using University resources that are generally available to the University faculty. Such Works will be the property of the faculty member, who shall be entitled to determine, consistent with the University's Use of Name, Tradenames, Seal, Letterhead and Logos Policy

and other applicable University policies, how the Work is to be disseminated and to keep any net income it produces.

Course teaching materials developed solely by a faculty member (including syllabi, class assignments and test instruments) shall remain the property of the faculty member who created the materials. Such materials may not be used by other faculty members or the University without the faculty author's permission, provided however that: (i) the University will have a non-exclusive right to use materials commissioned by the faculty member's department or College or School, where those materials were expressly created for use by other faculty members teaching the same course; (ii) the University shall be permitted to use such teaching materials for internal and external administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions; and (iii) if the faculty author is unavailable or otherwise unable to complete teaching a course, the University may provide the materials to a substitute faculty member who may use the course materials for the sole purpose of completing the teaching of the course. For each course, faculty members shall provide their department chair with copies of (or provide online access to) their syllabi.

D. Unless modified elsewhere by this Policy or by the specific terms of a written agreement between the University and the faculty member, non-faculty employee or other covered individuals, the University will own the Works in the following situations:

(1) Assigned Projects and Tasks. The University will own the copyright to Works created:

- (a) by faculty members who perform administrative assignments or tasks, or as part of any other assigned project or task, where the assignment explicitly states that the work will be owned by the University;
- (b) by administrative staff members in any work they perform for the University; and
- (c) by technical staff, postdoctoral or other fellows, and student employees in the course of any assigned duties other than research tasks performed in support of a project directed by a faculty member that does not fall within any other exception.

(2) External Agreements.

Ownership of the copyright to works commissioned or developed by a faculty member or other employee pursuant to an agreement with an entity outside of the University will be governed by the terms of such agreement. If the agreement does not specify ownership by the outside entity, ownership shall be governed by the terms of this Policy. All such agreements must be approved in writing by the President or his or her designee.

(3) Institutional Works.

The University will own the copyright in a Work where the University (a) directs, controls or has commissioned the production of the Work and/or (b) where the University will make or has made a significant investment in the development of the Work (*including but not limited to, computerized renderings or reproductions of a faculty member's academically prepared materials*) through the provision of substantial financial, personnel, technology, facilities, or other resources beyond that which is generally provided faculty in the ordinary course of instruction and research, and in accordance with a prior agreement between the University and the author or creator.²³ Copyright ownership shall be vested in the faculty member with respect to the underlying intellectual product, (e.g., lecture notes, lectures, papers) or reproduced in the Work, insofar as it is the result of his or her independent academic effort undertaken without the University's significant investment. It is further understood that faculty members shall continue to have the right to use such underlying intellectual product, subject to the University's Use of Name, Tradenames, Seal, Letterhead and Logos Policy and other applicable University policies. Use and exploitation of any filmed, computerized rendering, transmission, recording, or other reproduction of the underlying intellectual product shall be subject to the financial division outlined in Section 3 below, relative to Revenue Distribution.

The University and all authors and creators are required to execute promptly all contracts, assignments, releases and/or other legal documents necessary to effectuate the ownership rights and interests set forth in this Policy.

3. Revenue Distribution

The identity of the owner of a Work does not dictate the manner in which revenues derived from that Work may be distributed among those involved in its creation, distribution and use. Unless otherwise agreed in writing, the University shall share with the creator(s) the net income (that is, the gross income exclusive of tuition, less all costs incurred by the University in the development, production and distribution of the Work) received from commercialization or exploitation of Works owned by the University in accordance with the following formula.

Developer/Creator	50%
Developer's School or College*	10%
General University	40%

(*If the developer is not a faculty member, the School/College share is allocated to the General University.)

²³ The mere assignment of a faculty member to teach a course (in person or online) shall not be deemed directing, controlling or commissioning the production of the Work by the University.

4. Intellectual Control

A. Where the University owns the copyright in a Work, the University grants the creator(s) a royalty free, non-exclusive license to reproduce and use the work for his or her own noncommercial academic or scholarly purposes, subject to the University's policy on Use of Name and Logo and other applicable University policies. Use or distribution of such Works outside of the University, or distribution to colleagues, whether within or outside of the University, for their use outside of the University, must be in accordance with guidelines established by the University or in the absence of such guidelines as approved in writing by the Provost.

B. Faculty creators of Works owned by the University have the right to update, correct, edit, or otherwise revise Works that become dated or that will be in need of revision within a particular period. It is the policy of the University that such rights be agreed upon and incorporated into a written agreement that is entered into prior to the creation of the Work. However, in the absence of such an agreement, or even when such an agreement has been entered into, if the University believes a revision is necessary and the creator(s) fail to make the revision in a timely manner or if the revision made does not, in the University's opinion, meet reasonable and customary standards as determined by the University, the University may employ other persons to revise or update the Work. In the latter instance, the creator(s) may request that his or her name(s) be removed from the Work, and such request will be honored by the University. This paragraph shall not apply to Works relative to which the University recognizes a faculty member's copyright ownership pursuant to Section 2.C, above.

5. Transfer of Ownership

Where the University owns a Work, it may, upon request, transfer ownership to the creator(s) or developer(s) of the work by written assignment signed by the President or his or her designee. In such cases, unless otherwise agreed to in writing, the University retains a royalty free, non-exclusive right to reproduce and use such works for its purposes, subject to the Revenue Distribution provisions of this Policy.

6. Third Party Materials

It is the policy of the University that all faculty, students, and employees comply with the requirements of law, specifically including state and federal copyright and privacy laws. Because liability may arise from incorporating into a work copyrighted material owned by third parties and images and voices of individuals, it is the responsibility of the creator(s) or developer(s) to obtain in writing all permissions and releases necessary to avoid copyright infringement and invasion of the personal rights of others, regardless of the ultimate ownership of the created work.

7. Copyright Agreement

This Policy constitutes an understanding that is binding on the University, and on its faculty, other employees, and other covered individuals as a condition of their participating in

University research, educational and other programs or their use of University facilities or resources. The University may require formal copyright agreements to implement this Policy as appropriate, but the absence of such executed agreements shall not invalidate the applicability of the Policy. Nothing in this Policy shall constitute a waiver of any rights that the University or its employees may have under any other University policy.

8. Dispute Resolution

This Policy shall be administered by the Office of University Counsel, which will provide advisory interpretations upon the request of any member of the University community. Disputes concerning the interpretation and application of this Policy shall be resolved by the Faculty Committee on Intellectual Property. The Faculty Committee on Intellectual Property shall be a standing Joint Faculty Council Committee, consisting of faculty representatives from the Westchester and New York Faculty Councils, selected in a manner determined by the Joint Faculty Council. The decision of the Committee may be appealed to the President. The decision of the President is final and binding.

The parties shall exhaust their internal administrative remedies under this Policy through the President's final decision. Thereafter, in the event of any dispute between the University and the creator(s)/developer(s) of any Works covered by this Policy, including disputes relating to ownership or division of proceeds, the parties shall first attempt to resolve the dispute through facilitated mediation, failing which final resolution of the dispute shall be determined exclusively by binding arbitration, in accordance with the rules of the American Arbitration Association.

General Information concerning copyrights and the protection available under copyright law is available online from the Register of Copyrights, Library of Congress at <http://www.copyright.gov/circs/circ01.pdf> and <http://www.copyright.gov/>

INVENTIONS AND PATENTS POLICY

A University's role of discovering and transmitting knowledge and providing public service creates an environment that is conducive to the creation and development of many forms of intellectual property. Often, some of these works and inventions may have commercial value, which value may be legally protected through patents. Pace University desires to support and provide incentive to creative talent by instituting an orderly system to establish ownership of patents, to secure them, and to utilize them in a manner consistent with public interest. It is also the desire of the University to share the monetary rewards, if any, with the Inventor or Discoverer.

The question of ownership of intellectual property developed in a university setting involves several important factors. Federal patent and copyright laws treat intellectual property as presumptively belonging to the person who was the Inventor however, development of intellectual property at the University often involves use of facilities, supplies, and services purchased and maintained out of University budgets and endowments, including libraries, computers, laboratories, laboratory supplies, office supplies, photocopying, and typing. Sometimes intellectual property is developed on faculty time released from other responsibilities,

such as teaching. In return for use or allocation of its resources, the University may receive the benefits of having faculty and staff who are more qualified for their other roles by virtue of having engaged in the activities which led to the development of the intellectual property. In some circumstances, commercial exploitation can add to the University's and the individual's reputations, as well. On balance, the supplement to incomes of University personnel and the stimulus to their further productivity justify generally leaving a substantial portion of the resulting monetary rewards with the Inventors.

1. Basic Policy and Applicability

Recognizing the importance of encouraging development of intellectual property by its faculty, staff and students, ordinarily the University's policy is that proprietary rights in intellectual property developed by its faculty, staff and students engaged in teaching and/or research --hereinafter referred to as Inventor(s) or Discoverer(s) --shall be as follows:

Except as otherwise provided in this Policy, all inventions made by an individual with (i) a University appointment in furtherance of his/her University responsibilities, and/or (ii) with the significant use of University resources, including those provided through an externally funded grant, contract or other type of award or gift to the University, belong to the University.

A. When an invention does not involve significant use of University resources. Except as otherwise provided in this Policy or to the extent otherwise agreed in writing between the University and the Inventor, the University shall claim no ownership of inventions with patent potential that result from a faculty member's or student's individual efforts not involving significant use of University resources (e.g., funds, release time, equipment, facilities, materials, personnel, supplies, services, etc.). The University will determine whether particular inventions involved the use of significant University resources on a case-by-case basis. However, ordinarily, the University will not construe its providing faculty office space, department computers, laboratory equipment and library access in the ordinary course, as constituting significant use of University resources. When the University does not share ownership of an invention, the Inventor may not use the name of the University in connection with the invention or its marketing without the written consent of the University.

B. Sponsored research. Rights to intellectual property that is developed in the course of grant-supported activities shall be as provided in the terms of the grant. Federally supported grants, for example, may require an assignment of rights to the supporting agency. Unless specified in the terms of the grant, rights shall be in accordance with this University policy as otherwise stated herein.

C. Assigned projects. When an Inventor is engaged in scholarly research as part of his/her normal duties and when that person's supervisor exercises substantial supervision and control regarding both the selection of a specific project and the content of its product and with prior agreement, the University, rather than the Inventor, is the owner of rights in the products of a project. This provision also applies to administrative projects, for example: Development of a computer program for the Registrar's Office or one for the Controller's Office.

D. Consulting outside normal duties. The University claims no ownership in intellectual property developed in the course of projects outside normal responsibilities (i.e., for faculty outside their instructional and scholarly research duties) where University facilities and services have not be used. Thus, property development in the course of consulting belongs entirely to the Inventor, if significant University resources or facilities have not been used (in circumstances as described in the preceding paragraph regarding *When an invention does not involve significant use of University resources*) or if the University has been reimbursed for such use as agreed upon in advance.

The University may impose reasonable charges on faculty and staff members engaged in projects outside their normal responsibilities for use of services and special facilities (e.g., computer time, lab facilities, or secretarial services).

The name of the University may not be used in any connection with inventions or processes in which the University has no interest, without the prior written consent of the University (as provided in the Policy on Use of Name, Tradenames, Seal, Letterhead and Logos).

2. Patent Disclosures

Patentable inventions or discoveries covered under this policy shall be disclosed to the Inventor's superior, to the Office of Sponsored Research and to the University Counsel as soon as feasible. All disclosures will be promptly acknowledged in writing.

3. Evaluating And Protecting Intellectual Property Rights

The Office of Sponsored Research and University Counsel shall evaluate all disclosed inventions and discoveries for their commercialization potential and determine the appropriate means to protect intellectual property to which the University has express or presumptive rights, if in its sole judgment these rights may be beneficial to the University. The University retains the right to waive any rights to which it may have ownership under the terms of this agreement, if in its sole judgment this will be to the overall benefit of the University. The proposed disposition will be reviewed with the Inventor or Discoverer who will be notified of the final disposition in writing.

When a patent application has been authorized on a disclosed invention, the Office of Sponsored Research and University Counsel will work with the Inventor(s) to prepare a patent application. Inventors are required to provide a reasonable level of assistance in this process. Patent applications are filed in the name of the University. The Office of Sponsored Research and University Counsel are responsible for coordinating responses to any requests for further information from the U.S. Patent and Trademark Office and from foreign patent offices. The University does not provide services to Inventors for protecting intellectual property rights in works and inventions developed in the University, if no rights accrue to the University. General information about protection of such rights, however, may be obtained from the office of the University Counsel.

4. University Waiver of Ownership Rights

The University may, at its sole discretion, waive or release all or a portion of its ownership rights to any intellectual property upon such conditions as the University deems appropriate. Where it is determined that the University is entitled to ownership rights, the University can waive its rights to the invention and release the intellectual property to the Inventor. The University will not unduly delay the process by which it will decide if rights to the invention will be waived. The actual timeline in any given case will be governed by the facts of the particular situation.

5. Income Sharing of Earnings from Patents

If a patent is obtained in the name of the University on the invention or discovery of a University faculty member, staff member or student - under the University policy as stated above - the University and the College or School shall share income with the Inventor or Discoverer according to the following schedule to encourage scholarly inquiry and to directly benefit the University and the College or School.

The Income Sharing Schedule for Patents & Copyrights shall be:

	<u>University</u>		
	<u>General*</u>	<u>College or School**</u>	<u>Inventor, Discoverer</u>
\$ 1.00 to \$ 4,999.00	50%	0%	50%
\$ 5,000 to \$ 9,999.99	45%	5%	50%
\$ 9,999 and over	40%	10%	50%

*Funds received in this category shall ordinarily be used to support the University's research effort by applying one-half of them to underwrite budgeted research expense and by crediting one-half to a University research fund to be administered by the Office of the Provost.

**If the Inventor/Discoverer is not a faculty member, the College or School share is allocated to the General University.

6. Patent Agreement

This Policy constitutes an understanding that is binding on the University, and on its faculty, staff, students and other covered individuals as a condition of their participating in University research, educational and other programs or their use of University facilities or resources. The University may require formal patent contracts, assignments, releases or other legal documents to effectuate the ownership rights and interests set forth in this Policy as appropriate, and the University and all Inventors and Discoverers are required to promptly execute such documents. However, the absence of such executed agreements and other documents shall not invalidate the applicability of this Policy. Forms of agreement and other applicable legal documents may be obtained from the office of University Counsel. Nothing in this Policy shall

constitute a waiver of any rights that the University or its employees may have under any other University policy.

7. Dispute Resolution

This Policy shall be administered by the Office of University Counsel, which will provide advisory interpretations upon the request of any member of the University community. Disputes concerning the interpretation and application of this Policy shall be resolved by the Faculty Committee on Intellectual Property.²⁴ The decision of the Committee may be appealed to the President. The decision of the President is final and binding.

The parties shall exhaust their internal administrative remedies under this Policy through the President's final decision. Thereafter, in the event of any dispute between the University and the Inventor(s) or Discoverer(s) of any inventions or discoveries covered by this Policy, including disputes relating to ownership or division of proceeds, the parties shall first attempt to resolve the dispute through facilitated mediation, failing which final resolution of the dispute shall be determined exclusively by binding arbitration, in accordance with the rules of the American Arbitration Association.

General information (including resources and guidance) concerning patents and the protection available under patent law is available online from the U.S. Department of Commerce, Patent and Trademark Office at <http://www.uspto.gov/patents/>.

F. POLICY ON USE OF NAME TRADENAMES, SEAL, LETTERHEAD AND LOGOS

The name, tradenames, seal and logos of Pace University are among the most valuable assets of the University. The ways in which the University's name, tradenames, seal and logos are used can affect the reputation and academic standing of the University, its personnel, students and alumni. Therefore, it is the policy of the University to strictly enforce the rule that no individual or entity, including any officer, faculty member or other employee of the University, may use the name, tradenames, letterhead, seal or logos of the University, in whatever form that they may appear, except in connection with legitimate University purposes and in accordance with this policy.

Any use of the University name, tradenames, seal or logos (other than to identify the creator of a work by his or her title at the University) must be approved in advance and in writing by the Office of University Relations. If the name, tradenames, seal or logos of the University are to be used in connection with any works created under collaborative agreements with outside entities (other than to identify the creator by his or her title at the University), such agreements must likewise be approved in advance by the Office of University Relations.

The following rules apply except where written consent of the Office of University Relations has been received:

²⁴ For a description of this committee, see Section 8 in the Pace University Copyright and Ownership Policy.

A. The name or tradenames of the University and its letterhead, seal or logos may not be used by any officer, faculty member or other employee or by a student to sponsor, endorse or recommend any commercial service or product, regardless of whether that individual has any interest in the promotion.

B. No University officer, faculty member or other employee or student may use the University's name, tradenames in conjunction with any activity except for identification.

C. No University officer, faculty member or other employee or student may use the University's name, tradenames, seal or logos on stationery in connection with an outside organization in which he or she is involved and which is not part of his or her official activities on behalf of the University.

D. Faculty members, researchers, other employees (as well as their respective departments), and students may not participate in the creation or use of works that might give the impression of University sponsorship where no such sponsorship has been granted in accordance with the policies and procedures of the University.

E. Only the official name, tradenames, letterhead, seal and logos of the University may be used in connection with approved activities. The approved forms of University name, tradenames, letterhead, seal and logos are available in the Office of University Relations.

All questions relating to any use of the University name, tradenames, letterhead, seal or logos and requests for approval for the use of the University's name, tradenames, letterhead, seal and logos should be directed to the Office of University Relations. Only written consent signed by the Vice President for University Relations or his or her designee will be deemed the consent of the University to use the University's name, tradenames, letterhead, seal or logos for a particular purpose. Any use not provided for pursuant to this Policy is an unauthorized use. The University will use all lawful means to prevent the unauthorized use of its name and logo.

G. ACADEMIC DISMISSAL

I. The Right to Adequate Procedures

1. Faculty members are entitled to enjoy and exercise, without penalty for such exercise, the rights of citizenship, as well as the rights of academic freedom as they are generally understood in the university teaching profession. A faculty member holding an appointment with tenure is entitled to serve the University throughout her or his academic career and a non-tenured faculty member, serving on a term appointment, is entitled to serve the University throughout his or her term appointment, unless the record, by clear and convincing evidence, affirmatively demonstrates that the faculty member is subject to dismissal for adequate cause.*

Adequate causes for dismissal of a faculty member are limited to the following:

A. Unfitness of the faculty member in his/her professional capacity as a teacher or as a researcher²⁵;

Unfitness in faculty dismissal proceedings is restricted to (a) demonstrated incompetence or material dishonesty in teaching or research (b) substantial and intentional neglect of ordinary teaching duties, and (c) severe or chronic personal misconduct which substantially impairs the individual's fulfillment of his or her institutional responsibilities.

B. Financial exigency of the University or a College or School.²⁶

The procedures governing terminations for medical disability are provided in section H of this Handbook regarding "Termination for Medical Reasons."²⁷ Except as the Procedures herein are incorporated by reference in other documents, these Procedures apply only to dismissals for the adequate causes listed in Article I(1) of this Procedure. Failure to renew a probationary or other untenured term appointment is not a dismissal²⁸.

²⁵ It is anticipated that other than in exceptional circumstances, this Procedure will not be invoked with respect to subdivisions A of this Article I(1), except following a faculty member's failure to cure or otherwise respond to a perceived deficiency within a reasonable time after having been notified of the deficiency by academic or other University administrators, pursuant to department, College or School or University procedures, where applicable.

*If, however, the case for academic dismissal is based on a violation of the University's Sex-Based Misconduct Policy and Procedure, the standard of proof needed to establish adequate cause for dismissal, shall be a preponderance of the evidence.

²⁶ When financial exigency of the University or a College or School is proposed as the basis for dismissal, the appropriate University and College or School faculty councils shall meaningfully participate in the decision making process as follows: The President and/or the Provost or their designees shall consult with appropriate University and College or School faculty councils with respect to the circumstances and considerations supporting the declaration of exigency, the consideration of reasonable alternatives to the termination of faculty members, the criteria and procedure for selection of faculty to be terminated, and efforts to place affected faculty members in other positions within the University for which they may be qualified.

²⁷ See also "Procedures for Imposition of Sanctions Other Than Dismissal."

²⁸ A faculty member who alleges that a denial of renewal or tenure involved a denial of academic freedom may be entitled to a hearing; *see*, "Complaints of Violation of Academic Freedom in Nonreappointment." A faculty member alleging denial of academic freedom where the circumstances do not involve dismissal, termination for medical reasons, denial of tenure, or denial of renewal is entitled to bring a grievance; *see*, Faculty Grievances: Policies and Procedures. A faculty member who alleges impermissible discrimination, whether in connection with the denial of renewal or tenure or otherwise, shall be entitled to an investigation of such complaint in accordance with Pace University's Policy Against Discrimination, Harassment and Retaliation.

A tenured faculty member, or a non-tenured faculty member prior to the expiration of a term of appointment, as the case may be, may not be dismissed involuntarily, unless the grounds for dismissal, and the faculty member's response to them, shall have been subjected to a review governed by the sequential "Informal" and "Formal" Procedures hereinafter set forth. Notwithstanding the foregoing, prior to the initiation of Informal Procedures or at any time during the pendency of the Informal or Formal Procedures, the parties may resolve the matter by mutual agreement evidenced by a written document specifying the agreement, and signed by both parties.

2. When a question arises concerning the possible dismissal of a faculty member: The faculty member shall not be suspended from or relieved of previously assigned institutional duties during the time necessary to resolve such question, unless the continued discharge of the faculty member's duties clearly poses a threat of immediate harm, whether physical or otherwise, to either the faculty member or others.²⁹ In such event, the President, or the President's authorized representative shall consult with the Executive Committee of the Joint Faculty Council regarding the suspension and whether the faculty member should be reassigned to other duties that may be appropriate, if they are available. Whenever practicable, such consultation shall take place before the faculty member is suspended. The faculty member shall be continued on regular salary during the suspension while all dismissal proceedings are pending. A suspension which is intended to be final is a dismissal and shall be treated as such.

II. Structured Informal Procedures

Whenever there is a failure of unstructured attempts at the Department or College or School level to resolve satisfactorily a faculty personnel matter that may constitute adequate cause for dismissal consistent with Article I(1) of this Procedure, the President, or the President's authorized representative shall discuss the matter with the faculty member in a personal conference.

1. Personal Conference.

Prior to the personal conference the President or the President's authorized representative shall, in writing, transmit to the faculty member:

- A. A statement of the facts that have given rise to the matter;
- B. A statement that the faculty member is invited to a personal conference at a time, place and date stated, if the parties are unable to schedule the conference by mutual consent;

²⁹ Immediate harm may include harm to the reputation of the University.

C. A statement that this personal conference is one-step in a process that may lead to the dismissal of the faculty member;

D. A statement that the faculty member may appear with legal or other counselors, as the faculty member deems necessary;

E. A statement that any information adduced or any arguments made in the informal conferences may later be used as admissions at a formal hearing;

F. A statement that the parties shall act in good faith to attempt to resolve the issues; and

G. A copy of the relevant Handbook sections.

If the matter is concluded by mutual consent, the settlement shall be set forth in a writing signed by both the President or the President's authorized representative and the faculty member and the settlement agreement shall be sent to the faculty member within 15 days following the date of completion of the personal conference, unless the faculty member requests that this not be done. If the faculty member elects not to participate in the personal conference or fails to participate, the matter shall proceed to the second step of the Structured Informal Procedures in accordance with Article II(2) of this Procedure.

2. Location Faculty Council Grievance Committee.

If the matter is not resolved through the personal conference the President shall call into service the Grievance Committee of the faculty member's Location Faculty Council (hereinafter, the Grievance Committee) as an advisory committee. The Grievance Committee shall offer its confidential advice to the parties and try to effect a settlement. If either of the parties elects not to have the Grievance Committee participate in the process, or fails to participate, the entire matter shall proceed to Formal Procedures. If the Grievance Committee is unable to effect informal resolution of the matter within 30 days of being called into service, the Grievance Committee shall end its service as an advisory committee in this matter.

III. Formal Procedures

Initiation of Formal Proceedings. If the dismissal matter is not resolved through use of the Informal Procedures set forth above, then formal proceedings may be initiated and conducted as described below.

1. The Hearing Committee.

A. The hearing committee shall be a standing committee of the Joint Faculty Council ("JFCHC"). It shall be composed of nine regular members and eight alternate members, all of whom shall be tenured faculty members with no current administrative appointments. The regular members shall be elected for three-year terms and alternate members shall be elected for two-year terms. Commencing with the first year following the adoption of this Procedure, the

New York Faculty Council will elect five regular members and four alternates and the Westchester Faculty Council will elect four regular members and four alternates. For the fourth through seventh year following the adoption of this Procedure the Westchester Faculty Council will elect five regular members and four alternates and the New York Faculty Council will elect four regular members and four alternates. Thereafter, on a rolling three-year basis, the New York and Westchester Faculty Councils will alternate with respect which council elects five regular members. A regular JFCHC member who does not participate in a particular hearing due to unavailability or disqualification for any reason as provided under this Procedure, will be replaced by an alternate who was elected by the same Location Faculty Council. Alternates shall be called to serve in the order of the preferential choices made by the relevant Faculty Council vote.

(1) Department chairs or assistant chairs shall not be excluded from JFCHC service.

(2) Not more than one member of any department shall serve as a regular or alternate member of the JFCHC at the same time. Any member of the Department of the faculty member who is the subject of a dismissal hearing shall be considered to have a conflict of interest, by definition, and shall recuse himself or herself. Any other conflict of interest shall be ruled on in accordance with Article III (3) (A) of this Procedure.

B. A chair of the JFCHC shall be elected by the members of the JFCHC who are participating in the deliberation in a particular hearing. The Chair of the JFCHC shall preside over the hearing.

C. As soon as it receives notice from the President to initiate a hearing, the JFCHC shall appoint a lawyer to act as its counsel, the cost being borne by the University. To assure appropriate credentials and reasonable cost, the appointee shall be chosen from a list established annually by the JFCHC with the advice of University Counsel. Although the client of the Committee Counsel shall be the JFCHC, the role of the Committee Counsel shall be advisory only and the Counsel shall have no authority to make or recommend determinations of fact and/or applications of law to facts, which determinations must be made solely by the JFCHC.

D. The University shall have no right to exercise any control over the advice which is given to the JFCHC by its Counsel, or to have any access whatsoever to the communications between the JFCHC and its Counsel. In order to receive payment for services rendered, the JFCHC's Counsel will submit summary invoices to University Counsel specifying the hours expended with times and dates on which services were rendered, costs incurred and the total amount owed (without detail regarding the advice given on the substance of conversations with members of the JFCHC).

2. Statement of Grounds.

A. The President or the President's authorized representative shall initiate the Formal Proceedings by sending identical copies of a notice to the faculty member and to the

Chair of the JFCHC, constituted as described in Article III(1) of this Procedure. The notice shall contain the following information:

- (1) The name, department, tenure status and rank of the faculty member;
 - (2) A statement of the grounds relied upon for dismissal;
 - (3) A summary of the evidence upon which the grounds are based;
 - (4) A first list of witnesses to be called (the names of other witnesses to be communicated when they become known);
 - (5) Copies of the pertinent regulations governing the faculty member's procedural and substantive rights, including this Academic Dismissal Procedure and relevant University documents, including but not limited to pertinent Faculty Handbook provisions;
 - (6) A statement that the JFCHC shall conduct a hearing on the grounds for dismissal specified;
 - (7) A statement that the time and place of the hearing shall be set by the Chair of the JFCHC and that such time and place shall be communicated to the faculty member and the President and shall permit the faculty member sufficient opportunity to prepare a Response to the Statement of Grounds ("Response"), at least 30 days, but no more than 40 days; and
 - (8) A formal invitation to the faculty member to attend the hearing accompanied by academic and/or legal counselors.
- B. Upon request of the faculty member, a copy of the Statement of Grounds shall be sent to the American Association of University Professors, or other appropriate professional organizations, accompanied by a formal invitation to send an observer to the hearing if it should so choose. This statement shall be sent by the President or the President's authorized representative.
- C. Not less than one week before the date set for the hearing, the faculty member shall submit to the President, or the President's authorized representative and to the JFCHC, a written Response or shall state that he or she desires that no hearing to be held.
- D. Prior to the hearing, the faculty member shall submit his or her written Response to the appropriate professional organization, or organizations, that previously had received a copy of the Statement of Grounds, or shall send to such organization a statement that he or she desires no hearing to be held; if the faculty member denies the charges or asserts that the charges do not support a finding of adequate cause, he or she shall so state to the professional organization or organizations.
- E. If evidence is tendered during the hearing which is objected to on the ground that it is not within the issues raised either by the Statement of Grounds or the faculty member's

Response, the JFCHC may allow either to be amended, and shall do so freely, especially when the presentation of a substantive issue will be facilitated thereby. Whenever an amendment has been allowed, and the other party so requests, the JFCHC shall grant the objecting party a reasonable time within which to prepare a response on the new issue, or issues raised, and in order to meet the tendered evidence.

F. If the faculty member fails to answer the President's Statement of Grounds or states that he or she desires that no hearing be held, the JFCHC shall evaluate all available evidence and make its recommendation upon the evidence in the record. The JFCHC shall forward its decision on each of the grounds for dismissal, with opinion, to the President or the President's authorized representative, and to the faculty member and to the appropriate professional organization, or organizations, should one or more have chosen to be present, and shall place at least one copy in the President's office, which shall allow access to any copies of any materials only to those persons who have previously secured written permission from the faculty member charged or his or her authorized representatives. In such cases, the decision of the JFCHC shall be final and binding, and the matter in question shall be deemed closed, unless either party institutes an appeal to the Academic/Faculty Affairs Committee of the Board of Trustees, or that committee's successor, in accordance with Article III(4) of this Procedure.

3. The Hearing.

If the faculty member submits a Response to the Statement of Grounds as contemplated in Article III (2) (C) of this Procedure, then the hearing shall be conducted as follows:

A. Either party to the hearing may by written request to the Chair of the JFCHC ask:

(1) At least one week prior to the date that the hearing is scheduled to begin; that certain named JFCHC members be disqualified from sitting on the case because they are biased, prejudiced or have a personal interest in the case, or its outcome. After a hearing on this question of cause, with alternate members sitting in the place of each challenged regular member, the JFCHC shall determine by a majority vote whether cause has been shown, and such determination shall be made at least two days prior to commencing the substantive hearing on the Statement of Grounds. If cause is found, the challenged regular members shall be replaced by alternates.

(2) At least one day prior to the date that the hearing is scheduled to begin, and without any showing of cause, that any one or two named regular or alternate JFCHC members refrain from participating in the hearing process. If such a request is made of the Chair of the JFCHC, he or she shall grant it.

B. Submission of Documents: At least one week prior to the date that the hearing is scheduled to begin, each party shall submit to the Chair of the JFCHC copies of the documents that the party intends to introduce at the hearing, and shall simultaneously provide a copy set of such documents to the other party or the other party's authorized representative. The JFCHC may allow the parties to submit additional documents, and shall do so freely, especially when the

presentation of a substantive issue will be facilitated thereby. Whenever a party's additional document submission has been allowed, and the other party so requests, the JFCHC shall grant the objecting party a reasonable time within which to submit responsive documents with respect to any issue raised by the other party's additional document submission.

C. Public or Private Hearing: The faculty member at least one day before the hearing is scheduled to begin may request in writing to make the hearing public or private, and the Chair shall grant such request. In the absence of the faculty member's request, the JFCHC in its independent judgment, shall determine whether the hearing will be public or private.

D. The President or the President's authorized representative, respective lawyers and/or academic advisers, and any hearing observer who has been sent by any previously invited professional association shall not be excluded from the hearing at any time.

E. Order of Hearing: The hearing shall normally proceed as follows:

(1) The evidence presented by the President or President's authorized representative in support of the Statement of grounds;

(2) The evidence presented by the faculty member or his representative in support of the faculty member's Response;

(3) The rebuttal evidence in support of the Statement of Grounds;

(4) The faculty member's rebuttal evidence; and

(5) Closing arguments.

In rare cases, the JFCHC in the interest of advancing the hearing in a clearer and more orderly manner may adopt a different order.

F. The JFCHC shall not be bound by formal court procedure. The rules of evidence of law courts shall not be binding at the hearing, but may be consulted by the JFCHC in its discretion. The University makes available to the faculty member and their legal counsel and/or advisers all the authority it possesses to obtain information, or to require the presence of witnesses and/or the production of evidence relevant to the issues of the hearing. The JFCHC, in its discretion, may exclude witnesses from the hearing room except while testifying.

G. The principles of confrontation and full examination of the evidence shall prevail throughout the hearing. All parties, their representatives, and the JFCHC shall have the right to present evidence relevant to the issues, and to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the JFCHC determines that the interests of justice require admission of their statements, statements may be taken outside the hearing and reported to it. The JFCHC shall identify such witnesses, disclose their statements, and if possible, provide for interrogatories. The JFCHC, if it deems it desirable, may proceed independently to secure the presentation of evidence at the hearing, and/or it may direct the

parties to produce evidence on specific issues that it deems significant. The JFCHC may request written briefs from the parties, and shall accept them if they are offered. The JFCHC may, in its discretion, adjourn the hearing from time to time to permit the parties to obtain further evidence. The burden of proving the grounds for dismissal shall rest on the party alleging them, and the burden of proving each ground shall be by clear and convincing evidence relevant to each ground.

H. If the Statement of Grounds charge professional incompetency, there shall be admitted as evidence, in addition to individual testimony, a formal report on the work of the faculty member by his or her department colleagues, and of cognate departments in the University, and, if the faculty member so requests, there shall be admitted as evidence written reports by various persons or committee of fellow specialists from other institutions, appointed by either the faculty member, his or her department colleagues, or the President or the President's authorized representative, and, if the charges include that of classroom incompetency, testimony from students taught by the faculty member may be received. The faculty member may introduce peer observations, syllabi, course assignments, and other relevant evidence. In no case can an assessment of teaching competency be based solely on the student evaluations administered in each course at the end of the semester. Any judgment of the JFCHC of professional incompetency must be restricted to, and based upon, the evidence described herein, and cannot properly rest on any other considerations.

I. A verbatim record of the proceeding (made by electronic recording or by a stenographer) shall be kept and a full transcript shall be made available at the same time and provided to the JFCHC, and to the parties. The cost of a record and such transcriptions shall be borne by the University. All JFCHC decisions shall be based solely upon the record made at the hearing. The JFCHC shall await the availability of the verbatim record of the hearing before proceeding to its decision, except where the JFCHC believes that it can render a just decision in the absence of such a record. In all cases, the JFCHC shall render its decision with full consideration of the fact that the burden of proof rests upon the party asserting the grounds for dismissal.

J. In every case, within 30 days following the completion of the hearing or its receipt of the hearing transcript, the JFCHC shall make specific findings of fact supporting its conclusions on each of the alleged grounds for dismissal. A copy of the opinion setting forth the JFCHC's disposition of each issue in the case with its accompanying reasons relied upon to justify such disposition, shall be made available to each of the parties, and to any invited observer of any professional association at the time when the JFCHC announces its decision in the case. At least one copy shall be filed in the President's office as a document which can be examined only by those persons authorized in writing by either the faculty member or the President or their authorized representatives.

K. The decision of the JFCHC shall be deemed final and binding unless it is appealed in accordance with Article III(4) of this Procedure.

4. Appeal From the Decision of the JFCHC.

A. Either party shall have the right to appeal the decision of the JFCHC to the Academic/Faculty Affairs Committee of the Board of Trustees (or such other committee of the Board as shall have replaced said committee in function or name.) Any appeal must be initiated within 30 days following the later of the JFCHC decision or the faculty member's receipt of his or her copy of the hearing record. The review by the Academic/Faculty Affairs Committee shall be based on the record made during the hearing, accompanied by a full opportunity for written briefs and/or oral arguments from both parties or their representatives, in their discretion.

B. Determinations by the JFCHC regarding grounds for dismissal shall presumptively be followed by the Academic/Faculty Affairs Committee, except in exceptional circumstances for reasons stated in the Academic/Faculty Affairs Committee's decision.

C. If the Academic/Faculty Affairs Committee affirms the decision of the JFCHC the matter shall be deemed closed. If the Academic/Faculty Affairs Committee disagrees with the decision of the JFCHC, the proceedings shall be returned to JFCHC accompanied by a written statement of specific objections from the Academic/Faculty Affairs Committee. The JFCHC shall reconsider the case, taking into account the stated objections of the Academic/Faculty Affairs Committee, receiving new evidence if necessary. After reconsideration of the matter, the JFCHC shall make its decision and write and distribute its new opinion, in the same manner as before, and return the case to the Academic/Faculty Affairs Committee for its final consideration. After study of the JFCHC's reconsideration, the Academic/Faculty Affairs Committee shall make its final decision in the case, and the matter shall be deemed closed. The Academic/Faculty Affairs Committee's final decision shall be based on the record made by the JFCHC, and it shall simultaneously announce its final decision and distribute a copy of its opinion, separately considering and disposing of each issue, to each of the parties and to any invited professional organization, and at least one copy shall be filed in the President's office subject to the conditions set forth in Article III (3) (J) of this Procedure.

5. Public Statements.

Except for such simple announcements as may absolutely be required, covering the time and place of meetings and similar matters, no public statements about the case shall be made by the President or the President's authorized representatives or the faculty member or his or her representatives until after the final decision has been rendered by the Trustees Academic/Faculty Affairs Committee, or until after the time for appeal from the decision of the JFCHC to the Trustees Academic/Faculty Affairs Committee has run. All announcements concerning the final decision shall include a clear statement of the JFCHC's final action. Members of the JFCHC shall maintain the confidentiality of the proceedings at all times including after the proceedings are concluded. The President or the President's authorized representative and the faculty member may agree that no announcements will be made by either of them regarding the hearing and the final decision. However, in the event of such agreement, each party reserves the ability to make announcements to respond to the statements of the other party or their representatives or by professional organizations, or in response to press reports.

IV. Severance Pay Upon Dismissal

1. If a faculty member's appointment is terminated as set forth in these Procedures for Academic Dismissal³⁰, the faculty member shall receive a severance payment calculated based on the faculty member's then current salary in accordance with the following schedule:

A. At least three months, if the final decision is reached by March 1 (or three months prior to the expiration) of the first year of probationary service; or

B. At least six months, if the decision is reached by December 15 of the second year (or after nine months but prior to eighteen months) of probationary service C. At least one year, if the decision is reached after eighteen months of probationary service or if the faculty member has tenure.

2. This provision for payment of termination severance shall not apply in the event that there has been a finding that the conduct that justified dismissal involved moral turpitude³¹. On the recommendation of the JFCHC or the President, the Academic/Faculty Affairs Committee of the Board of Trustees, in determining what, if any, payments will be made beyond the effective date of dismissal, may take into account the length and quality of service of the faculty member.³²

V. Procedures for Imposition of Sanctions Other Than Dismissal

1. If the President or the President's representative believes that the conduct of a faculty member, although not constituting adequate cause for dismissal, is sufficiently grave to justify the imposition of a major sanction, such as suspension from service for a stated period, the Administration may institute a proceeding to impose such a severe sanction; the procedures outlined in "Procedures for Academic Dismissal" will govern such a proceeding.

2. If the University Administration believes that the conduct of a faculty member justifies imposition of a minor sanction, such as a written reprimand, it will notify the faculty member of the basis of the proposed sanction and provide the faculty member with an

³⁰ Failure to renew a probationary or other untenured term appointment is not a dismissal and does not warrant the payment of severance pay.

³¹ The concept of "moral turpitude" identifies the exceptional case in which the professor may be denied a year's teaching or pay in whole or in part. The statement applies to that kind of behavior which goes beyond simply warranting discharge and is so utterly blameworthy as to make it inappropriate to require the offering of a year's teaching or pay. The standard is not that the moral sensibilities of persons in the particular community have been affronted. The standard is behavior that would evoke condemnation by the academic community generally.

³² Dismissal of a faculty member for any reason, including for reasons involving moral turpitude, shall not affect the faculty member's entitlement to any University benefits with which the faculty member is vested as of the date of termination, in accordance with the terms and conditions set forth in applicable benefits plan documents.

opportunity to persuade the Administration that the proposed sanction should not be imposed. A faculty member who believes that a minor sanction has been unjustly imposed may petition the appropriate Location Faculty Council Grievance Committee for such action as may be appropriate. If the faculty member believes that a sanction imposed by the Administration as a minor sanction is actually a major sanction that ought to be treated as in section IV(1) above, the faculty member may petition the appropriate Location Faculty Council Grievance Committee for a determination of this issue.

3. Records regarding the imposition of minor sanctions, including written reprimands may be kept indefinitely in the faculty member's University employee file maintained by Human Resources. A faculty member may inspect the contents of his or her University employee file by making an appointment to do so with Human Resources. If the faculty member believes that a written reprimand or any other record in his or her University employee file is inaccurate, the faculty member may submit a written statement setting forth the reasons why the faculty member believes that the record is inaccurate. Human resources, will consult with the faculty member's Dean and other University administrators as necessary for a determination of whether the complained of record should be corrected or removed from the faculty member's employee file. The faculty member will be notified in writing whether the record is corrected or removed from his or her University employee file, or if it is determined that no correction or removal is necessary. The faculty member's statement and the notice of determination regarding the requested correction or removal shall be maintained in the faculty member's University employee file.

COMPLAINTS OF VIOLATION OF ACADEMIC FREEDOM IN NONREAPPOINTMENT

Section 1. If a faculty member on probationary or other nontenured appointment alleges that a decision against reappointment was based significantly on considerations that violate the faculty member's academic freedom, the allegation shall be given preliminary consideration by the appropriate Location Faculty Grievance Committee, which shall seek to settle the matter by informal methods. The allegation shall be accompanied by a statement that the faculty member agrees to the presentation, for the consideration of the Location Faculty Grievance Committee, of such reasons and evidence as the institution may allege in support of its decision.

Section 2. If the difficulty is unresolved at this stage, and if the Location Grievance Committee so recommends, the matter shall be heard by the Joint Faculty Council Hearing Committee ("JFCHC") in the manner set forth in the Academic Dismissal Policy, except that the faculty member making the complaint is responsible for stating the grounds on which the allegations are based, and the burden of proof shall rest upon the faculty member.

Section 3. If the faculty member succeeds in establishing a *prima facie* case, it is incumbent upon those who made the decision against reappointment to come forward with evidence in support of their decision.

NON-FACULTY COMPLAINTS AGAINST FACULTY MEMBERS

Procedures governing complaints (other than those relating to grading) brought against faculty members by individuals who are not faculty members may be set forth in documents not included in this Handbook. Should such procedure involve hearings, the hearing body shall be the appropriate Faculty Council Grievance Committee, this statement superseding statements in any such other document in this regard.

H. TERMINATION FOR MEDICAL REASONS

Termination of an appointment with tenure, or of a full-time non-tenure appointment before the end of the period of appointment, for medical reasons, shall be based upon clear and convincing medical evidence that the faculty member cannot continue to fulfill the terms and conditions of the appointment. The decision to terminate shall be reached only after there has been appropriate consultation and after the faculty member concerned, or someone representing the faculty member, has been informed of the basis of the proposed action and has been afforded an opportunity to present the faculty member's position and to respond to the evidence. The faculty member shall have the right to a full hearing by the Joint Faculty Council Hearing Committee and shall be entitled to all rights set forth in "Procedures for Academic Dismissal."³³

If the appointment is terminated, the faculty member shall be given severance salary in accordance with the following schedule:

- for at least three months, if the final decision is reached by March 1 (or three months prior to the expiration) of the first year of full-time non-tenure service;
- for at least six months, if the decision is reached by December 15 of the second year (or after nine months but prior to eighteen months) of full-time non-tenure service;
- for at least one year, if the decision is reached after eighteen months of service and if the full-time faculty member does not have tenure;
- for at least one year, plus an additional month, up to a maximum of twenty-four months, for every year of service (that is, up to an overall maximum of three years), if the faculty member has tenure. The amount of severance salary payable to a faculty member hereunder shall be reduced by the amount of any benefits that the faculty member may receive or be entitled to receive in the nature of replacement for lost University compensation (e.g. disability, workers' compensation, unemployment and other similar benefits).

Notwithstanding the foregoing, the University shall not dismiss or terminate for medical reasons, the tenured appointment or tenured status of a faculty member who, because of the medical condition, is entitled to, applies for and obtains sick leave, disability insurance payments, or

³³The invocation of a hearing pursuant to "Procedures for Academic Dismissal" does not waive the faculty member's rights under the Americans with Disabilities Act, the Family Medical Leave Act, and ERISA, and no determination or finding of fact by the Joint Hearing Committee shall be binding in this regard.

salary continuation under a workers' compensation policy, during the period following application for sick leave, long-term disability, or worker's compensation or while on sick leave or receiving these payments. In no circumstances may a medical termination proceedings advance beyond suspension before the end of three months of the faculty member's suspension due to inability to fulfill the terms and conditions of the appointment.

A tenured faculty member who is out on sick leave or disability is entitled to return to his/her tenured appointment if he/she is medically cleared to return to work. However, when a tenured faculty member is out on long-term disability, and based on clear and convincing medical evidence, there is no reasonable likelihood that the faculty member will be able to return to work in the foreseeable future, or after a period of two years from the date the faculty member commenced long-term disability, there is no reasonable medical evidence that the faculty member's return is imminent, the University reserves the right to commence a search for and then hire replacement faculty, including tenure track faculty, to ensure delivery of high quality instruction. In such an instance, if the tenured faculty member out on long-term disability is subsequently medically cleared to return to work, the University will endeavor to the best of its ability to place the faculty member in his/her original department, College or School and campus. If a return to the original department, College or School and campus is not reasonably possible, the University will endeavor to the best of its ability to place the faculty member in another reasonable department, College or School or campus.

I. FACULTY GRIEVANCES: POLICIES AND PROCEDURES

The Faculty Grievance Hearing Bodies and their Jurisdictions

Section 1. Each location Faculty Council shall have a Location Grievance Committee (henceforth termed "Grievance Committee"). Grievance Committee members shall be faculty members and shall be elected by the faculty.

Section 2. All grievances by faculty shall come to these Grievance Committees with the following exceptions:

- A. Cases of dismissal for cause of a tenured faculty member or of a non-tenured faculty member during the term of an appointment;
- B. Imposition on a tenured faculty member or on a non-tenured faculty member, during the term of an appointment, of a non-salary related severe sanction such as suspension from service for a period;
- C. Termination of a tenured or a non-tenured faculty appointment during the term of appointment for cause, including for financial exigencies, medical problems and School discontinuance;
- D. Salary appeals;
- E. Appeals of CDFPT. recommendations;
- F. Appeals in connection with policies in this Handbook, which provide for exclusive recourse to other Faculty committees.

- G. Allegations of discrimination, harassment or retaliation are investigated pursuant to Pace University's Policy against Discrimination, Harassment and Retaliation.³⁴

Section 3. In cases in which a non-tenured faculty member is denied tenure or contract renewal and complains of a denial of academic freedom, the Grievance Committee shall see whether there is enough evidence to warrant the holding of a formal hearing by the Joint Faculty Council Hearing Committee. The burden of making a case is on the complainant. Complaints of denial of academic freedom that do not involve non-renewal or termination should go to the Grievance Committee.

Section 4. If a full-time non-tenured faculty member's contract is not renewed and the faculty member alleges inadequate consideration, the faculty member may bring a grievance alleging inadequate consideration to his/her Grievance Committee. It is easier to state what the standard "adequate consideration" does not mean than to specify in detail what it does. It does not mean that the Grievance Committee should substitute its own judgment for that of the Department on the merits of whether the candidate should be reappointed. The term "adequate consideration" refers essentially to procedural rather than substantive issues [e.g., was the faculty member's record conscientiously examined? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation over the import of the evidence in the light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a *bona fide* exercise of professional academic judgment? These are the kinds of questions suggested by the standard "adequate consideration"]. If in applying this standard the Grievance Committee concludes that adequate consideration was not given, it shall recommend that the School/College or department assesses the merits once again, this time remedying the inadequacies of its prior consideration.

Procedures of the Location Faculty Council Grievance Committees

Section 1. Each Location Faculty Council Grievance Committee shall be composed of three regular and three alternate members, all of them faculty members, to be elected by the Location Faculty Councils for terms of two years. Each Council will develop procedures for:

- A. electing the regular and alternate members of its Grievance Committee;
- B. determining the first, second, and third alternate; and
- C. staggering of terms in the first year of operation. Members shall not serve more than two consecutive terms.

³⁴ The Policy Against Discrimination, Harassment and Retaliation describes that if the Complainant or Alleged Wrongdoer is a faculty member, before the Investigator submits the Investigation Report to the Decision Maker, the Investigation Report is submitted to a Faculty Review Committee selected from and by the appropriate Location Faculty Council Grievance Committee. The Faculty Review Committee submits its written comments/recommendation, if any, regarding the Investigation Report to the Decision Maker before the Decision is made.

Section 17. The Grievance Committee shall, at the end of each academic year, report to the location Faculty Council the number of grievance proceedings initiated and the number decided, but shall not report the specifics of any case.

J. UNIVERSITY POLICY ON INDEMNIFICATION

Potential legal liability is a significant concern for academic administrators, including department chairpersons, Deans and the Provost and faculty members who perform their regular duties and serve on University, College or School and department committees or in other capacities at the request of the University. Academic administrators and faculty members have access to legal advice from University Counsel to assist them in complying with University policies and procedures and legal requirements pertaining to those activities. Faculty members named as defendants or respondents in legal proceedings by reason of their actions on behalf of the University are indemnified in accordance with the University Indemnification Policy adopted by the University's Board of Trustees. The Indemnification Policy is set forth in Article V of the By-Laws of the Trustees of Pace University³⁶. In accordance with this Policy, employees of the University including faculty members, are indemnified for defense expenses and damages if they are made or threatened to be made, a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that the indemnified person is or was employed by the University or is serving or served, in any capacity at the request of the University. However, the University shall not indemnify any person under the By-Laws if either the Board of Trustees in good faith or a judgment or other final adjudication adverse to the indemnified person (or to the person whose actions are the basis for the action or proceeding) establishes that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled. In any review by the Board of Trustees as to whether a faculty member acted in bad faith, the faculty member shall be presumed not to have acted in bad faith if the faculty member acted with the prior approval of his or her Dean following full disclosure to the Dean of the facts relevant to the faculty member's good or bad faith.

³⁶ (Insert link to Article V of the Trustees By-Laws)