PACE UNIVERSITY POLICY AND PROCEDURE - DISCRIMINATION, NON SEX-BASED[1] HARASSMENT AND RETALIATION

Pace University is strongly committed to maintaining a working and learning environment that is free from unlawful Discrimination, Harassment or Retaliation. The University is an equal opportunity employer and an academic institution which strongly believes that all employment and academic decisions must be made without regard to whether an employee or student possesses characteristics protected by federal, state, or local law and this Policy and Procedure ("protected characteristics").

All University officers, administrators, supervisors, staff, faculty members, students, visitors and applicants, as well as vendors, consultants and contractors with whom the University does business are prohibited from engaging in Discrimination, Harassment or Retaliation in violation of this Policy and Procedure.

If you believe that you have been Discriminated against or subjected to Harassment on the basis of any of the protected characteristics described in this Policy and Procedure, or if you believe you have been Retaliated against for making a good faith complaint of prohibited Discrimination or Harassment or for participating in an investigation into a complaint or report of prohibited Discrimination or Harassment, you may report such incident(s) to the persons identified in the Complaint Procedure set forth below.

University officers, administrators and other employees with managerial or supervisory authority (*e.g.*, supervisors, directors, managers, Deans, Department Chairs, etc.) - must report any Discrimination, Harassment or Retaliation that comes to their attention, regardless of whether a complaint is made. All other University staff, faculty, students or third parties who have witnessed or learned of conduct prohibited by this Policy and Procedure are strongly encouraged to promptly report it to the persons identified in the Complaint Procedure section of this Policy and Procedure.

The University shall take prompt and appropriate corrective action whenever instances of alleged prohibited Discrimination, Harassment and/or Retaliation come to its attention. The University is committed to investigating all instances of alleged or suspected prohibited Discrimination, Harassment and/or Retaliation, including anonymous complaints or reports from anonymous sources, even if the victim of such Discrimination, Harassment and/or Retaliation does not make a complaint, does not want the matter investigated or does not cooperate with the investigation.

This Policy and Procedure applies regardless of the sexual orientation, sex, gender identity, age, race, nationality, religion or disability of parties and witnesses. Reasonable

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[1] This Policy and Procedure does not apply to reports of sexual assault, sexual harassment, gender-based harassment, dating violence, domestic\intimate partner violence, sexual exploitation, and stalking, which are subject to investigation exclusively pursuant to the University's Sex-Based Misconduct Policy and Procedure, online at
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accommodations will be provided to individuals with disabilities when necessary to allow them to fully utilize this Policy and Procedure.

DEFINITION OF DISCRIMINATION

Discrimination is the materially adverse treatment of an individual or group of individuals because they possess a protected characteristic These characteristics include: sex, gender or gender identity; race; color; national origin; religion; creed; age; disability; citizenship; marital or domestic partnership status; sexual orientation; genetic predisposition or carrier status; military or veteran status; status as a victim of domestic violence, sex offenses or stalking and any other characteristics that may be protected by law.

The definition of Discrimination includes: unequal treatment in regards to the terms and conditions of employment (*e.g.*, hiring, firing, compensation, benefits, assignment, transfer, recall, layoff, recruitment, testing, access to facilities and programs, training, etc.); and unequal treatment in terms of academic programs (*e.g.*, grading, class assignments, testing, internships, fellowships, work study, scholarships, access to facilities, admission to programs, etc.) based on a protected characteristic.

Prohibited Discriminatory practices include:

- employment or academic decisions based on stereotypes or assumptions about the abilities, traits or performance of individuals with protected characteristics;

- denying employment or academic opportunities to a person because of marriage to or association with an individual with a protected characteristic.

- Discriminatory practices by third parties (*e.g.*, visitors, applicants, vendors, consultants, contractors, alumni, etc.) are also prohibited. The third party violates this Policy and Procedure if it engages in conduct which affects the work or learning environment of University employees or students in a Discriminatory, Harassing or Retaliatory manner prohibited by this Policy and Procedure, while they are on the premises of the University or otherwise working or interacting with University students or employees.

DEFINITION OF HARASSMENT

A. Harassment. Harassment on the basis of any protected characteristics described in this Policy and Procedure is strictly prohibited by this Policy and Procedure and is a form of discrimination prohibited by various statutes including Title VI of the Civil Rights Act of 1964, Title IV of the Higher Education Act of 1965, as amended, Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, Westchester County Human Rights Law and the New York City Human Rights Law. For purposes of this Policy and Procedure, Harassment is defined as physical, verbal, visual or other conduct relating to any protected characteristics described in this Policy and Procedure other than sex or gender when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status (quid pro quo harassment);
- submission to, or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual (quid pro quo harassment); or
- such conduct has the purpose or effect of interfering unreasonably with an individual's work or academic performance, or creating an intimidating, hostile, or offensive work or academic environment that is, or would be, offensive to a person of reasonable sensitivity and sensibilities (hostile environment Harassment).

This definition prohibits conduct which is intentional and also conduct which, regardless of intent, has the effect or impact of creating an intimidating, hostile or offensive working or learning environment on the basis of any protected characteristics described in this Policy and Procedure other than sex or gender.[2] Therefore, it makes no difference in determining whether conduct violates the Policy and Procedure, that the person accused of violating this Policy and Procedure ("Respondent") was "just joking", "teasing" or being "playful" or had an evil motive. The fact that a person does not object to the alleged Harassing conduct or does not request that the Harassing conduct stop does not mean that he/she welcomes the conduct. Harassing conduct prohibited by this Policy and Procedure includes, but is not limited to, such things as:

- making or threatening reprisals after a negative response to a request to engage in Discriminatory conduct;
- engaging in visual conduct such as leering or making obscene, taunting or threatening gestures;
- displaying suggestive, obscene or degrading material, objects, pictures, cartoons, posters;
- using visual or audio electronic devices or media (such as radio, television, telephone, social media, computers, email, etc.) to broadcast, distribute or transmit offensive statements, images or other material;
- making derogatory comments about a an individual's protected characteristics; or jokes concerning protected characteristics or traits;
- Using degrading words relating to an individual's or group of individuals' protected characteristics to describe the individual(s);
- engaging in verbal or written slurs, degrading or negative stereotyping; and
- engaging in physical conduct such as touching, petting, pinching, impeding or blocking movements, or assault.

Harassment is also prohibited if it involves Harassment by or of a co-worker, supervisor, officer, administrator, visitor, or person doing business with the University as defined by this Policy and Procedure. Harassment is also prohibited if it involves Harassment by or of a faculty member or student, or between students.

[2] See footnote 1, *supra*, regarding the University's Sex-Based Misconduct Policy pursuant to which complaints and reports of sexual and gender based harassment are investigated.

RETALIATION DEFINED

Retaliation occurs when an adverse action is taken against an individual because the individual has engaged in an activity protected by law or this Policy and Procedure. A Retaliation claim is established if a person who engages in activity protected by law or this Policy and Procedure, suffers an adverse action in their work or learning environment and there is a causal nexus between the adverse action and the protected activity. An adverse action is one that materially affects a term or condition of an individual's employment, education, living environment or participation in a University activity or program. It includes any conduct which would deter a reasonable person from engaging in protected activity.

RETALIATION IS PROHIBITED

Retaliation of any kind against an individual who makes a good faith report of unlawful Discrimination or Harassment, or who participates in an investigation into a complaint of prohibited Discrimination or Harassment, is strictly prohibited. Retaliation is prohibited regardless of whether the underlying complaint of Discrimination or Harassment is substantiated. If you believe you have been Retaliated against for making a good faith complaint of prohibited Discrimination or Harassment, or for participating in an investigation into a complaint of prohibited Discrimination or Harassment, you may immediately report such incident(s) to the persons identified in the Complaint Procedure set forth below.

LOCATION OF DISCRIMINATION, HARASSMENT OR RETALIATION

This Policy and Procedure prohibits Discrimination, Harassment and Retaliation in the employment and academic environment of the University. That environment is not limited to the property boundaries of the University's campuses. The University's employment and academic environment extends throughout the United States and abroad, wherever the University's students and employees and those of third parties associated with the University participate in or support University activities and programs. Conduct and behavior at off-campus activities and programs (*e.g.*, off-campus classes or lectures, athletic events, development activities, alumni events, study abroad, etc.) are regulated by this Policy and Procedure. The relevant inquiry focuses on whether prohibited conduct had an impact or effect on the work or learning environment of persons covered by this Policy and Procedure. Therefore, the Policy and Procedure may be violated even if the prohibited conduct occurs off-campus or during an employee's, student's or third party's off-duty time.

ADMINISTRATION AND ENFORCEMENT--Who administers this Policy and Procedure?

The Title IX Coordinator/Affirmative Action Officer is responsible for ensuring the University's compliance with discrimination laws and for administering this Policy and Procedure. The Title IX Coordinator/Affirmative Action Officer is Arletha (Lisa) Miles. She can be reached at (212)346-1310 or (914)923-22610 or at amiles@pace.edu.

The Title IX Coordinator/Affirmative Action Officer is available to answer any questions that members of the University community may have about this Policy and Procedure and to assist them in gaining access to available resources.

COMPLAINT PROCEDURE

This Complaint Procedure provides for (i) a prompt, appropriate and impartial investigation of any complaint of prohibited Discrimination, Harassment and/or Retaliation; (ii) appropriate disciplinary action against an individual found to have engaged in prohibited Discrimination, Harassment or Retaliation; and (iii) appropriate remedies for a victim of prohibited Discrimination, Harassment and/or Retaliation.[3]

The persons listed below have been designated by the University as the individuals with whom complaints or reports of Discrimination, Harassment or Retaliation prohibited by this Policy and Procedure shall be filed:

Students:	Title IX Coordinator/Affirmative Action Officer, Campus Dean for Students, Vice President for Human Resources, University Counsel
Staff:	Title IX Coordinator/Affirmative Action Officer, Employee's Supervisor, Employee's Manager, Vice President for Human Resources, University Counsel
Faculty:	Title IX Coordinator/Affirmative Action Officer, Dean, Provost, Vice President for Human Resources, University Counsel

These persons will accept the complaint/report and refer it to the Title IX Coordinator/Affirmative Action Officer and other appropriate individuals to initiate an investigation in accordance with this Complaint Procedure.

THE COMPLAINT

Complaints of prohibited Discrimination, Harassment and/or Retaliation, or reports of such conduct, may be made verbally or in writing, but persons who make a complaint claiming to be a victim ("Complainants") or other persons reporting such conduct, are strongly encouraged to file a written complaint or a written report. Written complaints should be made using the Complaint Form annexed hereto as "Appendix A." Complaints or reports should be as detailed as possible and should include the name(s) of the individual(s) involved, the name(s) of any witness(es), when and where the complained of conduct occurred, direct quotes and/or evidence (*e.g.*, notes, emails, pictures, etc.) of the complained of conduct, indirect evidence (e.g., statistical information reflecting Discrimination), whether or not the conduct complained of has been reported to the University before and if so, when, to whom, and what the resolution of the previous complaint was.

If the Complainant or person reporting the alleged violation, requests confidentiality, the University will take reasonable steps to investigate and respond consistent with any such request. If the Complainant or person reporting the alleged violation, asks that the complaint or report not be pursued, or refuses to participate further in the investigation, they will be informed that their

[3] If a tenured faculty member or full-time non-tenured faculty member prior to expiration of a contract of appointment is determined pursuant to this Policy and Procedure to have engaged in prohibited Discrimination, Harassment or Retaliation, any suspension or termination of such faculty member will be subject to the University's Academic Dismissal Policy and Procedure.

lack of participation may impede the investigation and resolution of the matter. The University shall have discretion to determine how best to proceed in investigating and responding in any such situations.

TIMELINESS OF COMPLAINT

There is no statute of limitations with respect to alleged violations of this Policy and Procedure. However, Complainants or persons with knowledge of a violation are urged to report the alleged violation as soon as possible in order to permit the best possible investigation to be conducted. The availability and memory of witnesses and the availability of documentary evidence, particularly electronic evidence, may be diminished by the passage of time. University officers, administrators and employees with managerial or supervisory authority (e.g., supervisors, directors, managers, Deans, Department Chairs, etc.) must report any Discrimination, Harassment or Retaliation that comes to their attention as soon as possible, regardless of whether a complaint is made.

PRELIMINARY DETERMINATION

Prior to the commencement of an investigation under this Policy and Procedure, the Title IX Coordinator/Affirmative Action Officer shall make a preliminary determination as to whether the complaint or report of an alleged violation is within the scope of this Policy and Procedure (whether the complaint or report is describing facts and/or making allegations, which, if true, would constitute Discrimination or Harassment based on protected characteristics or Retaliation in violation of this Policy and Procedure). If the Title IX Coordinator/Affirmative Action Officer determines that the complaint or report is alleging sexual assault, sexual harassment, gender-based harassment, dating violence, domestic\intimate partner violence, sexual exploitation or stalking, the complaint or report will be referred for investigation pursuant to the University's Sex-Based Misconduct Policy and Procedure. If the Title IX Coordinator/Affirmative Action Officer determines that the complaint or report of an alleged violation is not within the scope of this Policy and Procedure or the Sex-Based Misconduct Policy and Procedure, the complaint or report will be referred to appropriate University administrators for their consideration in accordance with other applicable University policies.

THE INVESTIGATION

All complaints or reports of prohibited Discrimination, Harassment and Retaliation, will be promptly and appropriately investigated by the Title IX Coordinator/Affirmative Action Officer or another individual or individuals selected from a trained pool of investigators. (The individual who investigates the complaint is hereafter referred to as the "Investigator.") Investigators will advise Complainants of the availability of counseling, medical or other support services.

SELECTION OF THE INVESTIGATOR

In the ordinary course, the Investigator will be the Title IX/Coordinator/Affirmative Action Officer. However, if the Title IX Coordinator/Affirmative Action Officer is unavailable or has a conflict of interest, or the University determines due to the circumstances that another Investigator should investigate the complaint or report, then the Investigator will be selected

from a pool of individuals from the University who have been trained in the requirements of this Policy and Procedure, Title VI of the Civil Rights Act of 1964, Title IV of the Higher Education Act of 1965, as amended, Title IX of the Education Act Amendments of 1972 and the employment discrimination statutes. Such training, in addition to ensuring Investigators understand what constitutes Harassment, Discrimination and Retaliation, will also include the methodology for conducting investigatory interviews, gathering and summarizing evidence, writing reports and general investigatory techniques. Similarly trained individuals from outside the University, who may be attorneys, may also be selected to be the Investigator. Selection of an Investigator will be by the Chief Administrative Officer in consultation with the Title IX Coordinator/Affirmative Action Officer and University Counsel.[4]

The following Complaint Procedure Diagram, identifies the persons to whom complaints will be referred and the Decision Makers and Appeal Officers who will be involved in resolving the complaint. As you can see, the identity of these persons varies depending upon whether the Respondent is a student, faculty member, other employee, or a third party. In the event there is no actual complaint from a Complainant, the University will nonetheless address any report of a violation of this Policy and Procedure by making a reasonable effort to follow the steps contained in the Complaint Procedure Diagram.

[4] In the event that the Chief Administrative Officer has a conflict of interest, another appropriate University Administrator will select the Investigator, in consultation with the Title IX Coordinator/Affirmative Action Officer and University Counsel.

Complaint Procedure Diagram (Insert phone numbers and email addresses)

Respondent	Complaint Intake Person	Investigator	Decision Maker	Appeal Officer
Faculty Member	• Title IX Coordinator/Affirmative Action Officer • Dean • Provost • Vice President for Human Resources • University Counsel	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Provost (with prior opportunity for comment/recommendation from the Faculty Review Committee)	President
Student	• Title IX Coordinator/Affirmative Action Officer • Campus Dean for Students • Vice President for Human Resources • University Counsel	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Campus Dean for Students for the campus other than where the incident occurred	Provost
Staff	• Title IX Coordinator/Affirmative Action Officer • Employee's Supervisor • Employee's Manager • Vice President for Human Resources • University Counsel	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Vice President for Human Resources	Chief Administrative Officer
Third Party	• Title IX Coordinator/Affirmative Action Officer • Vice President for Human Resources • University Counsel	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Chief Administrative Officer	Chief Financial Officer

Complaint Procedure Diagram (Insert phone numbers and email addresses)

Respondent	Complaint Intake Person	Investigator	Decision Maker	Appeal Officer
President or Senior Executives who report to him/her	• Title IX Coordinator/Affirmative Action Officer • Vice President for Human Resources • University Counsel	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Executive Committee of Board of Trustees (with the recusal of the President and Chair of the Board of Trustees)	Chair of the Board of Trustees

OBJECTIONS TO THE INVESTIGATOR, DECISION MAKER OR APPEAL OFFICER

The Complainant or Respondent may object to the participation of the particular Investigator, a member of the Faculty Review Committee (defined on page 11 of this Policy and Procedure), the Decision Maker or Appeal Officer based on a conflict of interest or other facts suggesting that that the Investigator, Faculty Review Committee member, Decision Maker, or Appeal Officer is unable to fulfill his or her responsibilities in an impartial manner. Such objection must be made in writing to the Title IX Coordinator/Affirmative Action Officer prior to any recommendation or decision being issued by the person and in no event, later than two calendar days after the Respondent or Complainant, if any, learn the identity of the person or persons who will be serving in these roles. In all cases except when the objection is to a member of the Faculty Review Committee, the Title IX Coordinator/Affirmative Action Officer will refer the objection to the Chief Administrative Officer, who will evaluate the objection and, in consultation with the Title IX Coordinator/Affirmative Action Officer and University Counsel, decide whether to uphold or deny the objection. If the objection is upheld, appropriate replacement or replacements will be selected by the Chief Administrative Officer in consultation with the Title IX Coordinator/Affirmative Action Officer and University Counsel.[5] If the objection is to a member of the Faculty Review Committee, the Title IX Coordinator/Affirmative Action Officer will refer the objection to the appropriate Location Faculty Grievance Committee. The Location Faculty Grievance Committee, in consultation with the Title IX Coordinator/Affirmative Action Officer and University Counsel, shall determine whether to uphold or deny the objection, and if the objection is upheld, select an appropriate alternate Faculty Review Committee member. The Chief Administrative Officer and the Location Faculty Grievance Committee shall set forth the reasons for their objection determinations in writing, which they shall transmit to the Complainant, the Respondent and the Title IX Coordinator/Affirmative Action Officer.

[5] In the event that the Chief Administrative Officer has a conflict of interest, another appropriate University Administrator will determine the objection and select an appropriate replacement or replacements, in consultation with the Title IX Coordinator/Affirmative Action Officer and University Counsel.

CONDUCT OF THE INVESTIGATION

During the course of the investigation, the Complainant and the Respondent shall each be afforded an opportunity to present his/her version of the event(s) to the Investigator(s), provide the names of witnesses and any other evidence. Investigators shall determine who is present during the interviews. The Respondent will have no right to directly question any witnesses, including the Complainant, or to be present during such questioning, Attorneys or other representatives for a Complainant, Respondent or witness will not, as a general rule, be allowed to attend investigatory interviews. As part of their investigation, Investigators will also confer with the Title IX Coordinator/Affirmative Action Officer, the Vice President for Human Resources and University Counsel to determine whether the Respondent has been the subject of any previous complaints, reports or investigations and whether the Complainant has made previous complaints or reports of prohibited Discrimination, Harassment or Retaliation. The University will take immediate action as it deems necessary and appropriate, while investigating the complaint, to ensure there is no further Discrimination, Harassment or Retaliation. All members of the University Community are urged to cooperate with this Complaint Procedure and any investigation being conducted by the University into a complaint of prohibited Discrimination, Harassment or Retaliation. A failure to do so may impede the investigation and may result in unfortunate consequences such as adverse inferences being drawn, decisions being made based on the limited information available and, for University employees who refuse to cooperate, possible discipline up to and including discharge being imposed.

CONFIDENTIALITY

The University shall keep all complaints of prohibited Discrimination, Harassment and/or Retaliation, and the investigation into such complaints, confidential to the extent reasonably possible consistent with the law and the University's obligation to conduct an appropriate investigation. In the event the information concerning the allegations becomes public, the University may respond or comment in a manner that it deems appropriate.

INVESTIGATOR'S REPORT

Following the completion of the investigation, the Investigator shall promptly prepare a written report of the investigation ("Investigation Report") that contains the following:

- a copy of any written complaint filed by the Complainant and if none was filed by the Complainant, then a written summary of the complaint or report prepared by the investigator;
- a copy of any document reviewed by the Investigator in connection with the investigation;
- to the extent known by the Investigator, the name(s) of the Complainant(s), the name(s) of the Respondent(s), the name of every person interviewed by the Investigator in connection with the investigation and the name of any persons presented by the parties as witnesses and a summary of any evidence provided;
- the name of each individual the Investigator attempted to interview but did not interview in connection with the investigation, the attempts that the Investigator made

to interview such individual(s), and the reason(s) why such individual(s) was not interviewed;

- a summary of each interview conducted by the Investigator in connection with the investigation;
- a list of the relevant facts that the Investigator found during the investigation;
- a recommendation based on the evidence obtained by and available to the Investigator as to whether or not the complaint alleging a violation of the Policy and Procedure is substantiated or unsubstantiated using a preponderance of the evidence standard[6];
- a description of any prior complaints made against the Respondent and/or by the Complainant, the resolution of any prior complaints, whether any information from the previous complaints was relied upon by the Investigator in making any findings of fact or recommendations in the report[7];
- a recommendation as to what, if any, remedial measure(s) (*e.g.*, Harassment training, etc.) should be taken in light of the complaint and/or factual determination; and
- a recommendation as to what, if any, disciplinary measure(s), including suspension or termination, should be taken against the Respondent.

Upon completion of the Investigation Report, the Investigator shall forward it (including the findings of fact and recommendations) to the appropriate Decision Maker listed in the Complaint Procedure Diagram, or his/her designee. The time needed to complete an investigation will vary based upon several factors, including the complexity, severity and extent of the allegations. It is expected most investigations will be completed within twenty-one calendar days and only rarely will the investigation exceed forty-five calendar days.[8]

If the Complainant or Respondent is a faculty member, then the Investigator, at least five calendar days prior to submitting the Investigation Report to the Decision Maker, shall submit the report to a Faculty Review Committee. The Faculty Review Committee will consist of three faculty members selected from and by the appropriate Location Faculty Council Grievance Committee. The Faculty Review Committee shall have five days to submit their written comments/recommendation, if any, regarding the Investigation Report to the Decision Maker before the Decision is made.

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[6] A preponderance of the evidence means to prove that something is more likely so than not so and does not require proof to an absolute certainty or beyond a reasonable doubt.

[7] Notwithstanding the existence of a prior complaint or complaints, a determination as to whether this Policy has been violated in a given situation will be based on the information obtained during the Investigation into that specific situation. However, if the Respondent is found to have engaged in such prohibited conduct in the current case, then previous determinations of Discrimination, Harassment and/or Retaliation may be considered by the Investigator, Faculty Review Committee, Decision Maker and Appeal Officer, with respect to the severity of remedial/disciplinary action in the current case.

[8] Circumstances may arise that require time periods to be extended for good cause. When such circumstances arise, the Complainant and Respondent will be informed.

THE DECISION

Within seven days of receiving the Investigation Report from the Investigator, the Decision Maker shall issue a written Decision (setting forth the basis therefor), which, in whole or in part: (i) accepts the recommendations contained in the Investigation Report; or (ii) rejects the recommendations in the Investigation Report. In making the Decision, the Decision Maker shall accept the Findings of Fact made by the Investigator if they are substantially supported by the evidence. If such Findings or Fact are not substantially supported by the evidence, the Decision Maker may reverse the Findings of Fact, modify them or remand the investigation to the Investigator or another Investigator for further action consistent with the Decision Maker's Decision. The Decision Maker shall promptly, no later than two calendar days, forward the Decision to the Investigator, the Respondent and Complainant, if any, and the Faculty Review Committee if the Complainant or Respondent is a faculty member. In addition, the Decision Maker shall forward the Decision to any University officials the Decision Maker believes should be made aware of the Decision.[9]

APPEALS

Within five calendar days of the date of receipt of the Decision, the Complainant, if any, or the Respondent may file a written appeal to the appropriate Appeal Officer listed in the Complaint Procedure Diagram. The appeal must include a detailed statement setting forth the ground(s) upon which the appeal is based. The sole grounds upon which a Complainant may base an appeal are as follows:

- the finding that the violation was unsubstantiated was not based on a preponderance of the evidence.
- material evidence exists that was not available to the Investigator or the Decision Maker during the investigation or prior to issuance of the Decision;
- the Investigator or Decision Maker made a substantial procedural error that may have affected the investigation or Decision;
- the Investigator or Decision Maker had a conflict of interest that may have affected the investigation or Decision and was not known to the Complainant prior to the investigation or issuance of the decision; and/or
- any disciplinary measure to be taken against the Respondent is inadequate.

The sole grounds upon which a Respondent may base an appeal are as follows:

- the finding that the violation was substantiated was not based on a preponderance of the evidence.

[9] If the Alleged Wrongdoer is a faculty member, the Decision Maker shall not issue a decision until after the earlier of his or her receipt of the Faculty Review Committee's comments/recommendations or the expiration of the five calendar day Faculty Review Committee Investigation Report comment period. If the Decision Maker or Appeals Officer remands such investigation to the Investigator or another Investigator for further action, upon completion of the revised Investigation Report, the Investigator shall deliver the revised Investigation Report to the Faculty Review Committee, which shall have a new five calendar day period within which to provide their comments/recommendations with respect to such revised Investigation Report and forward it to the Decision Maker.

- material evidence exists that was not available to the Investigator or Decision Maker during the investigation or prior to the issuance of the Decision;
- the Investigator or Decision Maker made a substantial procedural error that may have affected the investigation or the Decision;
- the Investigator or Decision Maker had a conflict of interest that may have affected the investigation or Decision and was not known to the Respondent prior to the investigation or issuance of the Decision;
- any disciplinary measure(s) to be taken against the Respondent is excessive.

Within five business days of receiving a timely appeal, the appropriate Appeal Officer shall request that the Investigator forward to the Appeal Officer: (i) the Investigation Report and investigative file; (ii) the Decision made by the Decision Maker; and (iii) the Investigator's written communications to the Complainant and Respondent informing each of the outcome of the investigation. Upon receiving such a request, the Investigator shall promptly forward these documents to the Appeal Officer. Upon receiving these documents, the Appeal Officer shall decide the appeal, with the burden on the appealing party to prove one or more of the limited grounds for appeal by a preponderance of the evidence. The Appeal Officer shall have discretion to stay implementation of the Decision while the appeal is pending. The Appeal Officer shall issue a written appeal decision within five days following receipt of the material from the Investigator and transmit the decision to the Investigator, the Decision Maker, the Complainant, if any, and the Respondent. The Appeal Officer may affirm the decision in whole or in part, modify the decision, reverse the decision, or send it back to the Investigator or Decision Maker for further investigation and\or consideration. In addition, the Appeal Officer shall forward the appeal decision to any University officials the Appeal Officer believes should be made aware of the appeal decision. Unless the Appeal Officer sends the decision back for further investigation, the Appeal Officer's decision is final. When a decision is sent back to the Investigator for further investigation, the Investigator shall issue a revised Investigative Report, and the Decision Maker will consider the new information and render a new decision. The parties will then have an opportunity to appeal that decision in accordance with the procedure set forth above.

MISCELLANEOUS PROVISIONS

- All time periods may be extended by the University for good cause shown.
- In the event the allegations of Discrimination, Harassment or Retaliation are involved with other violations of University policies, the University reserves the right to select the process or processes to be used to determine all charges that arise out of the same incidents and/or allegations and whether any overlapping procedures are to be utilized sequentially, simultaneously or not at all. In the event a criminal investigation is also being conducted into events that are the subject of an investigation under this Policy and Procedure, it will not delay the University's investigation into the same matter. However, the University may decide to coordinate its investigation with evidence being gathered during the criminal investigation.
- The Title IX Coordinator/Affirmative Action Officer will also serve as the centralized record keeper of records concerning complaints and investigations and will ensure that Investigators and Decision Makers under this Policy and Procedure are made aware of prior complaints and investigations involving Respondents. Additional records

concerning complaints and investigations may also be maintained by the Vice President for Human Resources and University Counsel.

- Students may utilize this Complaint procedure and/or they may complain directly to the Office of Civil Rights of the Department of Health and Human Services. Their website is WWW.HHS.gov.
- At any time after a complaint is made, the University, Complainant and Respondent may decide an attempt should be made to informally resolve the complaint through informal methods such as mediation.
- The President or his or her designee may take steps that he or she may deem necessary and appropriate, on an interim basis during the pendency of an investigation or appeal, to protect the Complainant, the Respondent, or any other member(s) of the University community, and/or to protect the interests of the University. Such steps may include actions intended to separate individuals or minimize contact between them such as allowing students to change academic or living situations, temporarily transferring or suspending students, staff or faculty, or any other action deemed necessary and appropriate.
- Any suspension or termination of a tenured faculty member or full-time non-tenured faculty member prior to expiration of a contract of appointment will be subject to the University's Academic Dismissal Policy and Procedure.

All questions about this Policy and Procedure should be directed to the Title IX Coordinator/Affirmative Action Officer or University Counsel.

RECORDS DISCLOSURE

Disciplinary proceedings conducted by the University are subject to the Family Educational Rights and Privacy Act (FERPA), a federal law governing the privacy of student information. FERPA generally limits disclosure of student information outside the University without the student's consent, but it does provide for release of student disciplinary information without a student's consent in certain circumstances.

Students should be aware, however, that information collected during the investigation process may be subpoenaed in civil or criminal proceedings.

Additional information about the University's FERPA policies can be found at: http://www.pace.edu/osa/student-records/pace-university-ferpa-policy.

EXAMPLE OF COMPLAINT FORM

Date(s) of Incident(s): _____

Complainant: _____

Person(s) About Whom Complaint Is Made: _____
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Description of Incident(s) (attach additional sheets if necessary): _____
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Name(s) of Witnesses(es), if any: _____
_____

Has the incident(s) been reported before? ┤Yes ┤No
If yes, when, to whom, and what was the resolution? _____
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_____

_____ _____
Complainant Signature Date

Complaint Received By: _____ _____
Name/Signature, Title Date

EXAMPLE OF ACKNOWLEDGMENT OF RECEIPT OF PACE UNIVERSITY'S POLICY AND PROCEDURE - DISCRIMINATION, NON SEX-BASED HARASSMENT AND RETALIATION

By my signature below, I acknowledge that I have received a copy of Pace University's Policy and Procedure - Discrimination, Non Sex-Based Harassment and Retaliation. I agree to read this Policy and Procedure thoroughly, and if I do not understand any aspect of this Policy I will seek clarification from _____.

Print Name: _____

Signature: _____

Date: _____