

## **COMPLAINT POLICY**

The School of Law strives to provide an environment of mutual respect, cooperation, and understanding. Notwithstanding this commitment, problems and concerns sometimes occur. Resources and procedures are available to students for resolving complaints and addressing concerns. For example, concerns about violations of University policies are addressed through the University Grievance Procedure: Student Grievances procedure. Complaints of discrimination and harassment are addressed by the University's Title IX Officer/Affirmative Action Officer. The School of Law's Academic Standing Committee decides appeals of decisions dismissing students from the School of Law. The Counseling Center offers personal, education, vocational counseling and resources and support services to students with disabilities. (Additional information about these resources and procedures, as well as others, may be found at [www.pace.edu/counseling](http://www.pace.edu/counseling))

Concerns or complaints about the School of Law that are outside the scope of any existing University or Law School procedure may be addressed in accordance with the following procedure: The complaint must be in writing and contain the date, the student's name, telephone number and e-mail address, the program in which the student is enrolled, LL.M. or JD and as much detail as possible about the student's concerns to the Dean for Students (or the respective designee). Complaints or concerns regarding academic issues must be submitted to the Associate Dean for Academics (or the respective designees) will, in a timely manner, investigate the complaint, take appropriate action, and notify the student of the resolution of the matter. If the student is not satisfied with the resolution, the student may, within five (5) business days of date of the notification, appeal the resolution in writing to the Dean of the School of Law. All decisions are maintained in the Office of the Dean for Students.

## **PACE UNIVERSITY POLICY AGAINST DISCRIMINATION, 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 ("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.

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, 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 the Policy are strongly encouraged to promptly report it to the persons identified in the Complaint Procedure section of this Policy.

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.

### ***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 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, while they are on the premises of the University or otherwise working or interacting with University students or employees.

- Both sexual harassment and sexual assault are forms of sex discrimination prohibited by this Policy.

### ***DEFINITION OF HARASSMENT***

A. Sexual Harassment. Harassment on the basis of sex is strictly prohibited by this Policy and is a form of discrimination prohibited by various statutes including Title IX of the Education Act Amendments of 1972, 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. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or physical, verbal or visual conduct of a sexual nature 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 sexual 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 sexual 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 sex. Therefore, it makes no difference in determining whether conduct violates the Policy, that the person accused of violating this Policy ("Alleged Wrongdoer") 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. Sexually harassing conduct includes, but is not limited to, such things as:

- offering employment or academic benefits in exchange for sexual favors;
- making or threatening reprisals after a negative response to sexual advances;
- engaging in visual conduct such as leering or making sexual gestures;
- displaying sexually suggestive or degrading objects, pictures, cartoons, posters;
- distributing sexually suggestive, pornographic or obscene material;
- using visual or audio electronic devices or media (such as radio, television, telephone, social media, computers, email, etc.) to broadcast, distribute or transmit sexually offensive statements, images or other material;

- making derogatory comments on the basis of sex; sexual propositions; sexually explicit jokes or jokes concerning gender-specific traits or sexual preference;
- making sexually explicit comments about an individual's body or clothing; comments about an individual's sexual desirability; or using sexually degrading words to describe an individual;
- engaging in verbal or written slurs, degrading or negative stereotyping; and
- engaging in physical conduct of a sexual nature such as touching, petting, pinching, impeding or blocking movements, or assault.

Examples of prohibited sexual harassment include, males sexually harassing females or other males, and females sexually harassing males or other females. Sexual 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. Sexual harassment is also prohibited if it involves harassment by or of a faculty member or student, or between students.

B. Other Forms of Prohibited Harassment. Harassment on the basis of any of the protected characteristics, not just sex, is also prohibited. All of the above examples of inappropriate conduct also constitute prohibited harassment when the conduct occurs on the basis of a protected characteristic other than sex.

### ***DEFINITION OF SEXUAL ASSAULT***

Sexual assault is defined by the *University's Policies and Procedures Concerning Sexual Assault, Stalking and Domestic and Intimate Partner Violence*, as any unwanted physical contact, or attempts to have physical contact, of a sexual nature without the clear and express consent of both individuals, or under threat or coercion.<sup>1</sup>

### ***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. A retaliation claim is established if a person who engages in activity protected by law or this Policy, 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

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<sup>1</sup> The *University's Policies and Procedures Concerning Sexual Assault, Stalking and Domestic and Intimate Partner Violence* is online at [http://www.pace.edu/general-services/sites/pace.edu.general-services/files/Safety\\_Security/Policy\\_Procedures/Sexual%20Assault%20Policy.pdf](http://www.pace.edu/general-services/sites/pace.edu.general-services/files/Safety_Security/Policy_Procedures/Sexual%20Assault%20Policy.pdf)

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 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. 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. Therefore, the Policy 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.

### ***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.<sup>2</sup>

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 shall be filed:

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|-----------|--|
| 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                             |

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<sup>2</sup> • 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 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.

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 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. 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, 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 (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). 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, 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, 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.<sup>3</sup>

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 Alleged Wrongdoer 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 by making a reasonable effort to follow the steps contained in the Complaint Procedure Diagram.

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<sup>3</sup> 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**

<b>Alleged Wrongdoer</b>	<b>Complaint Intake Person</b>	<b>Investigator</b>	<b>Decision Maker</b>	<b>Appeal Officer</b>
Faculty Member	<ul style="list-style-type: none"> <li>• Title IX Coordinator/Affirmative Action Officer</li> <li>• Dean</li> <li>• Provost</li> <li>• Vice President for Human Resources</li> <li>• University Counsel</li> </ul>	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	<ul style="list-style-type: none"> <li>• Title IX Coordinator/Affirmative Action Officer</li> <li>• Campus Dean for Students</li> <li>• Vice President for Human Resources</li> <li>• University Counsel</li> </ul>	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Campus Dean for Students	Provost
Staff	<ul style="list-style-type: none"> <li>• Title IX Coordinator/Affirmative Action Officer</li> <li>• Employee's Supervisor</li> <li>• Employee's Manager</li> <li>• Vice President for Human Resources</li> <li>• University Counsel</li> </ul>	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Vice President for Human Resources	Chief Administrative Officer
Third Party	<ul style="list-style-type: none"> <li>• Title IX Coordinator/Affirmative Action Officer</li> <li>• Vice President for Human Resources</li> <li>• University Counsel</li> </ul>	Title IX Coordinator/Affirmative Action Officer or Another Investigator From Trained Pool	Chief Administrative Officer	Chief Financial Officer



**Complaint Procedure Diagram**

<b>Alleged Wrongdoer</b>	<b>Complaint Intake Person</b>	<b>Investigator</b>	<b>Decision Maker</b>	<b>Appeal Officer</b>
President or Senior Executives who report to him/her	<ul style="list-style-type: none"> <li>• Title IX Coordinator/Affirmative Action Officer</li> <li>• Vice President for Human Resources</li> <li>• University Counsel</li> </ul>	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 Alleged Wrongdoer may object to the participation of the particular Investigator, a member of the Faculty Review Committee (defined on page 11 of this Policy), 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 Alleged Wrongdoer 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.<sup>4</sup> 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 Alleged Wrongdoer and the Title IX Coordinator/Affirmative Action Officer.

***CONDUCT OF THE INVESTIGATION***

During the course of the investigation, the Complainant and the Alleged Wrongdoer shall each be afforded an opportunity to present his/her version of the event(s) to the Investigator(s),

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<sup>4</sup> 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.

provide the names of witnesses and any other evidence. Investigators shall determine who is present during the interviews. The Alleged Wrongdoer 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, Alleged Wrongdoer 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 Alleged Wrongdoer 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 Alleged Wrongdoer(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 is substantiated or unsubstantiated using a preponderance of the evidence standard<sup>5</sup>;
- a description of any prior complaints made against the Alleged Wrongdoer 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<sup>6</sup>;
- 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 Alleged Wrongdoer.

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.

If the Complainant or Alleged Wrongdoer 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.

### ***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

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<sup>5</sup> 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.

<sup>6</sup> 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 Alleged Wrongdoer 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.

Decision to the Investigator for transmission by the Investigator, within two calendar days, to the Alleged Wrongdoer and Complainant, if any, and the Faculty Review Committee if the Complainant or Alleged Wrongdoer 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.<sup>7</sup>

## ***APPEALS***

Within five calendar days of the date of receipt of the Decision, the Complainant, if any, or the Alleged Wrongdoer 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:

- 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 Alleged Wrongdoer is inadequate.

The sole grounds upon which an Alleged Wrongdoer may base an appeal are as follows:

- 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 Alleged Wrongdoer prior to the investigation or issuance of the Decision;
- any disciplinary measure(s) to be taken against the Alleged Wrongdoer 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 Alleged Wrongdoer 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

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<sup>7</sup> If the Complainant or Alleged Violator 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 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.

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 Alleged Wrongdoer. 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.

### ***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, 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 is Lisa Miles, 163 William Street, New York, NY 10038, (212) 346-1310 and he/she shall have responsibility for oversight and implementation of this Policy. 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 are made aware of prior complaints and investigations involving Alleged Wrongdoers. 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](http://WWW.HHS.gov).
- At any time after a complaint is made, the University, Complainant and Alleged Wrongdoer may decide an attempt should be made to informally resolve the complaint through informal methods such as mediation. However, Sexual Assault cases shall not be mediated.
- 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 Alleged Wrongdoer, 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 Non-Discrimination and Anti-Harassment Policy should be directed to the Title IX Coordinator/Affirmative Action Officer or University Counsel.

**COMPLAINT FORM**

Date(s) of Incident(s): \_\_\_\_\_

Complainant: \_\_\_\_\_

Person(s) About Whom Complaint Is Made: \_\_\_\_\_  
\_\_\_\_\_

Description of Incident(s) (attach additional sheets if necessary): \_\_\_\_\_

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Name(s) of Witness(es), if any: \_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  Complainant Signature       Date

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Complaint Received By: \_\_\_\_\_  Date  
Name/Signature, Title       Date

***ACKNOWLEDGMENT OF RECEIPT OF  
PACE UNIVERSITY'S POLICY AGAINST DISCRIMINATION, HARASSMENT AND  
RETALIATION***

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

Lisa Miles, Title IX/Affirmative Action Officer

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_