

PACE UNIVERSITY POLICY AND PROCEDURE - DISCRIMINATION, NON SEX-BASED¹ 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

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; gender expression; race; color; national origin; religion; creed; age; disability; citizenship; marital or domestic partnership status as well as parental status, which includes pregnancy; 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 (., hiring, firing, compensation, benefits, assignment, transfer, recall, layoff, recruitment, testing, access to facilities and

- 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

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

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 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,

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

Complaint Procedure Diagram

Respondent	Complaint Intake Person	Investigator	Decision Maker	Appeal Officer
Faculty Member	<ul style="list-style-type: none"> • 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)	

OBJECTIONS TO THE INVESTIGATOR, DECISION MAKER OR APPEAL OFFICER

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

- substantiated or unsubstantiated using a preponderance of the evidence standard⁶;
- 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 ;
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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.
- 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.

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.

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.

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: [WWSVZDFHHGXUHLVWUDUWUDQIHUFUHGLWVWVWXGHQ UHERUGVIHUSD3ROLF\](#)

***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