POLICY STATEMENT

Yeshiva University is committed to maintaining an academic and living environment that is free of unlawful harassment. The University has adopted a policy of zero tolerance with respect to harassment as being antithetical both to the academic values of the University and the need for an academic and living environment that is free from even the appearance of harassment or coercion. The University strives to provide a place of study and living free of harassment, intimidation or exploitation. Where harassment has occurred, the University will act promptly to stop the harassment, prevent its recurrence, and discipline and/or take other appropriate action against those responsible.

This Policy is intended to protect students, and applies to conduct that occurs on University premises and/or at University-sponsored activities but may also address off-campus behavior if the University determines that the behavior, or the continued presence of the accused perpetrator, impairs, obstructs, interferes with or adversely affects the mission, processes or functions of the University. Harassment in any form (including sexual harassment and sexual assault) is a violation of University Policy.

A student committing a criminal offense off-campus that is also a violation of University Policy may be subject to University discipline. The University may pursue disciplinary action against a student at the same time the student is facing criminal charges for the same offense, even if the criminal prosecution is pending, has been dismissed or the charges have been reduced.

With respect to allegations involving faculty and staff, please also see the Harassment Policy & Complaint Procedures for Faculty and Staff. In the event of any conflict between this Policy for Students, and the Policy for Faculty and Staff with respect to an allegation involving a student, the provisions of this Policy for Students shall prevail.

I. DEFINITIONS

Unlawful Harassment

Unlawful harassment includes harassment based on race, religion, color, creed, age, national origin or ancestry, citizenship status, sex, marital status, physical or mental disability, sexual orientation, gender identity, genetic predisposition/carrier status or any other status that is protected by any applicable law, ordinance, or regulation.

University Policy prohibits harassment of any individual based upon that individual’s membership in a protected class, regardless of whether it rises to the level of unlawful harassment. Examples of harassment that may violate this Policy include the use of epithets, slurs, jokes, stereotyping, or intimidating or hostile acts directed at any individual because of his/her protected class status, as well as the failure to provide equal consideration, acknowledgment or access to educational opportunities to equally qualified individuals. Prohibited harassment may involve a single episode or ongoing behavior depending on the severity of the issue. Further, University Policy forbids not only verbal harassment but harassment in any medium, including email and electronic social media.
Sexual Harassment

Sexual harassment is a form of unlawful harassment.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s education,

2. submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting such individuals, or

3. such conduct has the purpose or effect of unreasonably interfering with an individual’s academic performance or creating an intimidating, hostile, or offensive academic or living environment.

Although it may sometimes be unclear where sexual slurs, insults, or even unwelcome sexual jokes actually fall within the definition of sexual harassment, it is clear that such conduct may contribute to a hostile environment and is unacceptable at the University either on or off campus.

Examples of verbal or physical conduct which may constitute sexual harassment include, but are not limited to:

1. verbal comments of an overtly sexual nature, whether in the form of jokes, innuendoes, slurs, or other statements,

2. the use of sexual teaching materials or comments of a sexual nature not relevant to the material being taught or any other academic purpose,

3. remarks of a sexual nature about an individual’s clothing or body,

4. remarks speculating about sexual orientation, activity or previous sexual experiences,

5. verbal harassment or abuse of a sexual nature,

6. failure to provide equal consideration, acknowledgement or access to educational opportunities on the basis of gender,

7. the display or transmission of sexually offensive photographs, drawings, graffiti, email, electronic social media communications, computer graphics or programs when sexual content is not relevant to any academic purpose,

8. non-verbal behaviors of a sexually degrading or offensive nature, such as gesturing, leering or staring,

9. unnecessary or unwanted touching, hugging, or brushing against an individual’s body,

10. requests, demands or persistent pressure for sexual favors, particularly when accompanied by offer of rewards or threats of retaliation concerning grades, and

11. sexual assault or violence, including rape. Sexual assault occurs when an unwelcomed physical contact of a sexual nature is intentional and is committed either by a) physical force, violence, threat, or intimidation; b) ignoring the objections of another person; c) causing another’s intoxication or impairment through the use of drugs or alcohol; or d) taking advantage of another person’s incapacitation, state of intimidation, helplessness, or other inability to provide consent.
II. FREE SPEECH & ACADEMIC FREEDOM

As members of an institution of higher education, all University faculty, staff, and students enjoy significant guaranteed free speech protections. This Policy is intended to protect students from harassment and discrimination, not to regulate protected speech. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal, state or local anti-discrimination laws.

III. COMPLAINT REPORTING PROCEDURES AND GUIDELINES

Students should promptly report to the Office of Diversity & Affirmative Action (see Section IV) or a member of the Unlawful Harassment Panel (see Section V) all experienced or observed incidents of harassment, including sexual harassment and sexual assault. Students may also report the harassment to the applicable Dean of Students or to the University Security Department. The University does not limit the timeframe for filing a report, however the University’s ability to investigate and respond may be limited because of a delay in reporting the incident.

All University officials (e.g., Student Affairs staff, Housing staff including RAs, Faculty members and Administrators) who receive harassment complaints have an obligation to forward such complaints to the Office of Diversity & Affirmative Action, even if the complainant is not interested in filing a formal complaint. Certain University officials who are serving in a privileged professional capacity (e.g., Counseling center professional staff members and clergy) are not so obligated except as may be required by law.

Sexual assaults occurring on or near campus should be reported to both the University Security Department and the New York Police Department (NYPD) or other local law enforcement agency. University personnel will assist the victim through the reporting process with the NYPD. Notification to the NYPD is solely the option of the victim, and the University will support that decision to the extent permitted by applicable laws. Notification to the NYPD does not mean the victim must file charges. The University system and police/legal system work independently from one another. Because the standards for finding a violation of criminal law are different from the standards in this Policy, criminal investigations or reports are not determinative of whether or not harassment under this Policy has occurred. Accordingly, the University generally will not delay its investigation of a complaint and will conduct its investigation simultaneously with any police/legal system investigation.

The University’s Counseling Center (646-685-0112) is available to provide counseling services to students who are the victim of a sexual assault, and can assist victims in contacting on- and off-campus resources for medical, legal, or emotional support. There are also outside sources of support available to victims, including The NYC Alliance Against Sexual Assault (on-line at www.svfreenyc.org), which has compiled numerous resources available to victims.

Following a report of a complaint to the Office of Diversity & Affirmative Action, the complainant will be immediately advised of the University’s harassment policies and procedures, as described herein, and may choose to proceed informally (see Section VI) or to pursue a formal complaint (see Section VII).

The University will address all complaints according to the following principles, which are intended to equally and fairly protect the rights of all individuals concerned:

1. Every effort will be made, consistent with the need to discharge the University’s legal responsibilities, to respect the wishes of the complainant regarding further investigation. A complaint will not be pursued without the complainant’s authorization, unless the University is legally obligated to do so or, in its judgment, the allegations are serious enough to warrant further action (see Section IX).
2. A complaint should be filed promptly after the alleged incident. Complainants should recognize that as time goes by, an investigation becomes more difficult. Memories may become unreliable, information and witnesses may become unavailable. Promptness in filing complaints is therefore encouraged, as it may be essential for a thorough and fair resolution.

3. Any attempt to penalize a complainant for initiating a good faith complaint through any form of retaliation is strictly prohibited, and any party found to have engaged in retaliation will be subjected to discipline (see Section X). However, where a complaint is determined to have been filed in bad faith; and/or on a knowingly false basis, such action may be the basis for appropriate disciplinary action against the complainant (see Section XI).

4. The University may take reasonable and prudent interim measures to protect the complainant (i.e., the student who files a report), the respondent (i.e., the person against whom a report has been filed), and all third party witnesses pending resolution of the complaint, including but not limited to, restrictions on contact, bans from areas of campus and/or removal or relocation from the residential areas.

The complainant and the respondent will also be afforded the rights set forth in Appendix C.

IV. OFFICE OF DIVERSITY & AFFIRMATIVE ACTION

Complaints of harassment, including all complaints which may result in disciplinary action, must be directed to the Office of Diversity & Affirmative Action. Upon receipt of a complaint or upon receiving information which the University determines on its own warrants further investigation (even if no complaint is filed or even if a complaint is filed and later withdrawn), the Diversity & Affirmative Action Officer will commence an impartial investigation in accordance with the University’s harassment policies and procedures, as described herein. The Diversity & Affirmative Action Officer will maintain documentation of all proceedings. As applicable, the Provost and Senior Vice President for Academic Affairs (Manhattan Campuses), the Executive Dean (Einstein Campus), and the Dean of Students (or his/her counterpart) may be asked to participate in the investigation. The Diversity & Affirmative Action Officer is also responsible for providing education and training about this Policy to the University community. The Diversity & Affirmative Action Officer will take action with respect to all student reports of harassment.

Contact Information:

Diversity & Affirmative Action Officer, Renee Coker, at 718-430-3771 or renee.coker@einstein.yu.edu. The Office of Diversity & Affirmative Action is located on the Einstein Campus, 1300 Morris Park Avenue, Belfer Educational Center for Health Sciences, Room 1206, Bronx, New York 10461.

The Diversity & Affirmative Action Officer has been designated the Title IX Coordinator for the University. Title IX of the Higher Education Act of 1972 prohibits discrimination on the basis of sex in education program and activities. Gender-based misconduct – which includes a broad range of behaviors focused on sex and/or gender discrimination that may or may not be sexual in nature – constitutes forms of sex discrimination prohibited by Title IX. The Title IX Coordinator is responsible for ensuring Title IX compliance at the University. The Title IX Coordinator is required to take action with respect to all reports of allegations.

V. UNLAWFUL HARASSMENT PANEL

The Unlawful Harassment Panel is appointed by the University President and charged to provide advice and access to resources about possible courses of action in respect of an allegation of harassment (e.g., referral for any member of the University community who is concerned because of behavior that he/she perceives as harassment). If the individual wishes to pursue an informal resolution to a complaint, a Panel Member can provide a non-adversarial setting in which the problem can be addressed as appropriate, including confidential counseling. In the course of such action, the Panel Member may also assist by clarifying misunderstandings, and helping to assure that conflicts do not recur. Also, when
appropriate and acceptable to both parties, certain complaints may be suitable for referral to mediation in order to explore the possibilities of a resolution. **Mediation is not an option for resolution in cases involving student allegations of sexual assault.**

The Panel consists of members of the University community, designated by the President from time to time. These appointments will be guided by considerations of continuity, experience and sensitivity to the concerns presented.

VI. INFORMAL RESOLUTION

The informal resolution approach is available to resolve incidents that may not be so serious that the University must intervene in a formal way and where the complainant does not wish to pursue a formal complaint, but simply wants to end the harassment. The manner in which an incident is handled will depend largely upon its severity. Members of the University community may seek advice from the Office of Diversity & Affirmative Action or the Unlawful Harassment Panel on alternative methods of resolving disputes or perceived acts of harassment. For more information about the Informal Resolution Process, please refer to Appendix A.

VII. FORMAL RESOLUTION

Any individual who wishes to initiate a formal complaint as described herein must file a complaint of harassment with the Office of Diversity & Affirmative Action, preferably in writing, stating the nature of the alleged harassment, the individual(s) accused and the relief requested. If the individual making the complaint withdraws it, no further action will be taken unless the University determines it is legally obligated to do so or deems the allegations serious enough to warrant further action. The University, in its sole discretion, reserves the right to depart from the prescribed steps in order to effectively handle any and all complaints in accordance with applicable laws. For more information about the Formal Resolution Process, please refer to Appendix B.

VIII. THE APPEAL PROCESS

If dissatisfied with the outcome of the Formal Resolution Process, either the complainant or the respondent may appeal the determination. The notice of appeal must be in writing and must be filed with the Chief Human Resources Officer within 10 business days following receipt of the written determination of findings of the Diversity & Affirmative Action Officer (see Appendix B). All appeals will be reviewed in accordance with the appropriate policies and standards and applicable disciplinary procedures.

IX. CONFIDENTIALITY

Information gathered during the informal or formal investigation process will be handled with due diligence and care. Discreet inquiry, corrective counseling, and trust will be stressed in dealing with all complaints. Records and information concerning complaints will be kept confidential to the greatest extent possible, and the University will comply with all applicable laws in maintaining the confidentiality of the investigation. However, subject to applicable laws, the University cannot guarantee complete confidentiality where it would conflict with the University’s obligations to ensure an environment free of harassment or discrimination.

Complainant Request for Confidentiality/Privacy

A complainant may request confidentiality/privacy at any point. This type of request means that the complainant does not want her/his identity known to the respondent and witnesses, or that the complainant wishes to withdraw a report. If at any point the complainant requests privacy, the University will make all reasonable attempts to comply with this request. However, because the University’s ability to investigate and respond to the allegations may be limited upon a request for confidentiality, the University may be required by applicable laws to weigh the complainant’s request for
confidentiality/privacy with the University’s commitment to provide a reasonably safe and non-discriminatory environment. If requested, the Diversity & Affirmative Action Officer will notify the complainant if the University cannot maintain the complainant’s confidentiality/privacy. The University will take reasonable efforts to maintain the confidentiality/privacy of the complainant and will endeavor to only reveal the complainant’s identity to those individuals who need to know the name of the complainant in order for an investigation to commence or continue (as applicable).

In situations where a member of the University community becomes aware of a pattern of behavior by a single respondent, the University will take appropriate action in an attempt to protect the University community.

X. RETALIATION

This Policy prohibits retaliation against any individual who filed and/or participated in the investigation of a complaint in good faith, even if the complaint is unsubstantiated. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to education. The University will take all reasonable action to protect individuals from retaliation or reprisal. Retaliation complaints should be promptly reported to the Diversity & Affirmative Action Officer, who will review the facts and recommend the appropriate disciplinary action, leading up to and including expulsion.

XI. FALSE CLAIMS

The University encourages individuals to report claims of harassment, in good faith, as false claims of harassment can have a serious effect on one’s reputation. Any individual who knowingly files false allegations of harassment or discrimination, or who knowingly provides false information during an investigation or proceeding under this Policy, may be subject to appropriate disciplinary action, leading up to and including expulsion.

XII. TIME LIMITS

The University will exercise due diligence in complying with the stated time limits set forth in this Policy. Occasionally stated time limits may be extended, as determined by the Diversity & Affirmative Action Officer for good cause (e.g., the unavailability of witnesses, an unusually complex investigation, the academic calendar or other considerations).

XIII. EDUCATION/TRAINING

As part of the University’s commitment to providing a harassment-free academic and living environment, this Policy shall be disseminated widely to the University community through publications, websites, student orientation, and other appropriate channels of communication. The University also offers unlawful harassment training programs for faculty, staff and students to promote awareness and a safe and respectful University environment.

XIV. RE-EVALUATION

The University reserves the right to modify and/or amend any or all of the procedures outlined herein at any time, in its sole discretion. In the event the University determines that circumstances warrant modification or amendment of any part of these procedures, timely notice of same will be communicated to all affected parties. This Policy is made available to the entire faculty, staff and student body of Yeshiva University and can be accessed at www.yu.edu/humanresources and www.yu.edu/student-life or can be obtained from the Office of Diversity & Affirmative Action, the Office of Human Resources or the Office of Student Life.

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Appendix A

Informal Resolution

1. As provided in Section VI, the Diversity & Affirmative Action Officer or Panel Member(s) may receive complaints of perceived harassment against a University faculty member, student, fellow, staff member or other University official or against an employee or agent of another entity or institution, in which the complainant seeks advice or assistance in resolving such matter. In cases of accusations against employees or agents of another entity or institution (the “Other Entity”), the University may proceed as it deems appropriate consistent with the facts and circumstances involved, and may notify appropriate authorities of the Other Entity of the alleged harassment and/or commence its own formal investigation.

2. The Diversity & Affirmative Action Officer or Panel Member(s) may recommend or facilitate an informal means of addressing the issues, including but not limited to:
   a. An informal direct discussion between the complainant and the respondent in the presence of the Diversity & Affirmative Action Officer or a Panel Member(s);
   b. An informal discussion with the respondent;
   c. Requesting additional education for the area or department where the complaint originated; or
   d. Commencing mediation of the complaint. Mediation is not an option for resolution in cases involving student allegations of sexual assault. Both the complainant and the respondent must agree to mediation. The mediator will be designated by the Diversity & Affirmative Action Officer within 14 business days of the parties’ agreement to participate in mediation. The mediator will contact the parties to set the date, time, and location of the mediation session(s). Only the mediator and the parties will be participants in the mediation session(s). During the mediation process, the mediator normally will: (1) ask the parties to give their versions of the incident, including both factual information and their feelings; (2) identify key issues; (3) seek the agreement of both parties on the issues; (4) facilitate discussion; and (5) work with both parties to develop a written document that will include a statement of agreement. No offers of apology or concessions are required to be made during the mediation. If either party is dissatisfied with the mediation process at any time prior to the signing of a mediation agreement, that party may request that the mediation process cease.

3. The complainant may at any time replace his/her informal complaint with a formal complaint. Internal formal complaints must be made to the Office of Diversity & Affirmative Action (see Appendix B). Furthermore, the University reserves the right to conduct its own formal investigation into any complaint, whether formal or informal, where it determines the facts call for such an investigation.

4. The respondent may decline to participate in the informal process and may request that a formal complaint be filed. No negative inference may be drawn from such a request.

5. Where a Panel Member is unable or unwilling to undertake the review of a complaint, for example because of a conflict of interest, the Diversity & Affirmative Action Officer will select another Panel Member.

6. At the reasonable request of a party to the complaint (for example, because of a conflict of interest), the Diversity & Affirmative Action Officer will select another Panel Member or mediator (as applicable).
7. Where acceptable to both parties to the complaint, the Panel Member(s) involved may request that an additional Panel Member(s) and/or the Diversity & Affirmative Action Officer be present for the discussions.
Appendix B

Formal Procedures and Investigation

1. The Diversity & Affirmative Action Officer will provide all parties involved with a copy of these procedures. The complainant will be advised to submit his/her complaint, preferably in writing, within 10 business days of the Diversity & Affirmative Action Officer’s request. The complainant will be asked to provide a description of all facts that bear on the allegation of harassment; specifically, the details surrounding the accusations, names of possible witnesses, and the nature and description of possible evidence. The complainant is expected to share with the Diversity & Affirmative Action Officer any supplemental information that subsequently becomes available.

2. Upon receipt of a formal complaint, the Diversity & Affirmative Action Officer will explain that the University will first attempt to ascertain whether the allegation of harassment is credible. Where appropriate, in the judgment of the Diversity & Affirmative Action Officer, both the complainant and the respondent may be invited to engage in mediation or conciliation. The Diversity & Affirmative Action Officer may also work with the Office of General Counsel, as appropriate, in responding to the receipt of a complaint. The Diversity & Affirmative Action Officer will fully and impartially investigate the complaint, and each party equally will have the opportunity to present witnesses and other evidence. Each party will also be afforded similar and timely access to all information that may be provided by the Diversity & Affirmative Action Officer to the other party.

3. The Diversity & Affirmative Action Officer will promptly inform the respondent of the allegations and ask the respondent to respond to them, preferably in writing, within 10 business days of such notice. Such response should include all of the facts that bear on the allegations, including the names of possible witnesses and the nature and description of possible evidence. The respondent is expected to share with the Diversity & Affirmative Action Officer any supplemental information that subsequently becomes available. The Diversity & Affirmative Action Officer will inform the complainant of any defenses that the respondent may provide.

4. Both parties will be advised by the Diversity & Affirmative Action Officer that reasonable efforts will be made by the University to ensure confidentiality consistent with investigative needs and applicable laws (see Section IX).

5. The Diversity & Affirmative Action Officer will endeavor, as promptly as feasible, to interview all relevant parties and review all evidence, including witnesses and evidence identified by the parties. The Diversity & Affirmative Action Officer will provide the complainant and the respondent with periodic status updates.

6. The Diversity & Affirmative Action Officer will also consider other witnesses and evidence that may have a bearing on the complaint, including but not limited to, the following:
   a. Evidence from individuals other than named witnesses who may have relevant information;
   b. Evidence that either party may harbor negative feelings toward the other for unrelated reasons;
   c. The timing of the complaint; and
   d. Any prior harassment complaints involving either of the parties.

7. The Diversity & Affirmative Action Officer will seek to conclude the investigation as promptly as practicable, and in any event generally within 30 business days after receipt of the respondent’s statement to the allegations, and generally within 45 business days after receipt of the formal complaint.
The decision of the Diversity & Affirmative Action Officer will be based on a preponderance of evidence (i.e., it is more likely than not that the harassment occurred). The rules of criminal or civil procedures that govern judicial proceedings in court are inapplicable to the process.

8. Promptly following the conclusion of the investigation (and in any event generally within 10 business days), the Diversity & Affirmative Action Officer will advise both the complainant and the respondent of the determination of findings, in writing, and will reiterate that such findings are to remain confidential. Neither the complainant nor the respondent is entitled to receive a copy of the internal investigative report or any other related documents. If the University determines to furnish a document to one party, it will also furnish a copy to the other party.

9. Findings and recommendations concerning students will be promptly referred to the applicable University Dean of Students or his/her counterpart (Manhattan Campuses) for further adjudication in accordance with the applicable Student Discipline Procedures or to the Committee on Student Promotions and Professional Standards-CSPPS (Einstein Campus) for further adjudication in accordance with CSPPS bylaws in consultation with the Graduate Division. In the absence of applicable procedures, the following process shall be followed:

The applicable Dean of Students (or his/her counterpart) will consult with the Diversity & Affirmative Action Officer and review his/her findings and recommendations, as well as any responses to such findings received from the complainant or respondent. The Dean of Students will meet with both parties, either jointly or separately as he/she may determine. Generally within 14 business days of such meeting, the Dean of Students will determine the disciplinary action (if any) it considers to be fair and proportionate to the violation and in the interests of the University community, leading up to and including expulsion. In determining an appropriate disciplinary action, the Dean of Students may consider any record on the part of the respondent of past violations of University Policy, as well as the nature and severity of the violation(s) and any mitigating circumstances. The Dean of Students also will consider whether the respondent poses a continuing risk to the complainant and/or other members of the University community. The University expects all cases involving a finding of sexual assault to involve consideration of the disciplinary actions of suspension or expulsion. The Dean of Students will promptly notify the respondent and, to the extent legally permitted, the complainant in writing of his/her decision, and the disciplinary action imposed by the Dean of Students shall be effective immediately. The respondent may appeal the decision of the Dean of Students to the Provost and Senior Vice President for Academic Affairs (Manhattan Campuses) or the Executive Dean (Einstein Campus). The notice of appeal must be in writing and must be filed with the Provost or Executive Dean, as applicable, within 5 business days of the decision of the Dean of Students. The Provost or Executive Dean, as applicable, will generally not overturn the decision of the Dean of Students unless he/she finds that the Dean of Students exceeded the bounds of the rationally available choices given the facts and standards set forth in this Policy. The decision of the Provost or Executive Dean, as applicable, shall be final.

10. Findings and recommendations concerning post-doctoral trainees on the Einstein Campus will be promptly referred, as appropriate, to the Director of the Belfer Institute or the Associate Dean for Clinical Affairs and Graduate Medical Education.

11. Findings and recommendations concerning all represented and non-represented employees will be promptly referred to the Chief Human Resources Officer for further disposition.

12. Findings and recommendations concerning represented employees will be subject to the provisions of the appropriate collective bargaining agreement.

13. Findings and recommendations regarding faculty will be promptly referred to the Provost and Senior Vice President (Manhattan Campuses), and the Executive Dean (Einstein Campus).
14. The University will endeavor to fully resolve all formal complaints generally within 60 business days after receipt of the formal complaint.

15. In the case of a student complaint, the University will notify the complainant of the outcome of any disciplinary proceedings as permitted by applicable laws.
Appendix C

Rights of the Parties

The complainant and the respondent will be afforded the following rights in the process:

• To be treated with respect, dignity, and sensitivity throughout the process.

• To seek support services at the University.

• To confidentiality and protection under applicable laws, including the Family Education Rights and Privacy Act (FERPA). The University will make all reasonable efforts to ensure preservation of privacy and restrict information to those with a legitimate need to know.

• To be informed of the process.

• To receive a written determination of findings after the investigation, and to appeal the determination.

• To a prompt and thorough investigation of the allegations.

• To participate or decline to participate in the process.

• To refrain from making self-incriminating statements.

• To report the incident to law enforcement if he/she wishes to do so.

• To understand that information collected in the process may be subpoenaed in criminal or civil proceedings.