NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY & COMPLAINT PROCEDURES

(including Sexual Harassment, Sexual Abuse/Assault, Stalking, and Dating Violence/Domestic Violence)
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NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY
& COMPLAINT PROCEDURES

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EXECUTIVE SUMMARY

The following is a brief summary of the Policy. Please read the full Policy for more details, including definitions and examples of discrimination and harassment; complaint reporting procedures and guidelines; and the investigation and resolution processes.

- Yeshiva University prohibits discriminatory practices and harassment of any kind and in any form.
- Complaints may be made to the University’s Title IX Coordinator, Security Department, Dean of Students, a member of the Unlawful Harassment Panel, Office of Human Resources, Office of General Counsel or Confidential Compliance Hotline. Complaints also may be made to any other University personnel identified as “campus security authorities” including the Undergraduate Office of Student Life, Einstein Office of Student Affairs, Cardozo Office of Student Services and Advising, Undergraduate Office of University Housing and Residence Life, and Einstein Housing Office.
- There is no time limit on when a complaint can be made.
- No University employee may discourage an individual from making a complaint.
- Any University employee with any knowledge of a violation of the Policy must report the incident to the Title IX Coordinator, Security Department, Dean of Students, a member of the Unlawful Harassment Panel, Office of Human Resources or Office of the General Counsel, even if the actual victim of such discrimination or harassment is not interested in filing a formal complaint.
- The University will respond to all complaints promptly, thoroughly and impartially.
- The University may take reasonable and prudent interim measures to protect the parties involved and the University community.
- Complaints of discrimination or harassment will be overseen by the Title IX Coordinator, and an impartial investigation will be commenced upon receipt of a complaint or upon receiving information which the University determines on its own warrants further investigation.
- All members of the University community must cooperate with investigations or be subject to disciplinary action.
- Retaliation is prohibited against anyone who in good faith filed and/or participated in the investigation of a complaint, even if the complaint is unsubstantiated. Those who knowingly make a false report will be subject to serious disciplinary action.

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I. POLICY STATEMENT

Yeshiva University is committed to maintaining an academic, work and living environment in which all individuals are treated with respect and dignity. Everyone at the University has the right to work and learn in an environment that promotes equal opportunities for all. Thus, this Policy prohibits discriminatory practices and harassment of any kind. Where discrimination or harassment has occurred, the University will act promptly to stop the discrimination or harassment, prevent its recurrence, and discipline and/or take other appropriate action against those responsible.

Equal Employment Opportunity

It is the policy of the University to ensure equal employment opportunity without discrimination or harassment on the bases of race, religion, color, creed, age, national origin or ancestry, sex, marital status, physical or mental disability, veteran or disabled veteran status, genetic predisposition/carerrier status, sexual orientation, gender identity, citizenship status or any other characteristic protected by any applicable law, ordinance or regulation. The University prohibits and will not tolerate any such discrimination or harassment.

To Whom Applicable

This Policy applies to all University faculty, administration (whether supervisors, administrators, senior or otherwise, and managers), athletic personnel, and other staff, whether full-time or part-time (hereinafter collectively, “Yeshiva University employees”), students, employees of contracted service providers, volunteers, and visitors, and covers their treatment of each other as well as others with whom they come into contact at the University and/or at University-sponsored and affiliated activities and events. The University’s disciplinary authority may not extend to third parties who are not students or employees of the University; however, a complaint that such a person engaged in a violation of this Policy will be investigated in accordance with this Policy as will a complaint made to the University by a third party if such complaint is connected to the University’s educational programs or activities.

With regard to discrimination and harassment as herein defined, this Policy supersedes all other procedures and policies set forth in other University documents.

Where Applicable

This Policy is intended to protect all afore-mentioned people and applies to conduct that occurs on University premises and/or at University-sponsored and affiliated activities and events, whether on University premises or at other locations, including, but not limited to, overnight trips, sporting events and
practices, study abroad programs, service learning programs and internships, and to all forms/uses of technology by all individuals covered by this Policy. The University may also address off-campus behavior that occurs other than at University-sponsored or affiliated events if it determines that the behavior, or the continued presence of the accused perpetrator, impairs, obstructs, substantially interferes with or adversely affects the mission, processes or functions of the University. Discrimination or harassment in any form (including sexual harassment and sexual abuse/assault) is a violation of this Policy and will be dealt with seriously, promptly and thoroughly.

II. DEFINITIONS

Unlawful Discrimination or Harassment

Unlawful discrimination or harassment includes discrimination or harassment based on race, religion, color, creed, age, national origin or ancestry, sex, marital status, physical or mental disability, veteran or disabled veteran status, genetic predisposition/carrier status, sexual orientation, gender identity, citizenship status or any other characteristic protected by any applicable law, ordinance, or regulation. Applicable laws that prohibit such discrimination and harassment include, but are not limited to, the following: Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin; Title IX of the Higher Education Act of 1972 (“Title IX”), which prohibits discrimination on the basis of sex; and Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability.

This Policy prohibits discrimination against or harassment of any individual based upon that individual’s membership in a protected class, regardless of whether it rises to the level of unlawful discrimination or harassment. In addition, this Policy protects all others listed in “To Whom Applicable” above, even if they are not members of a protected class, such as when one is discriminated against or harassed based on an inaccurate assumption that such person is a member of a protected class.

Examples of conduct 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. Harassment does not have to include intent to harm or be directed at a specific target. Prohibited harassment may involve a single episode or ongoing behavior depending on the severity of the issue. Further, this Policy forbids not only verbal harassment but harassment in any medium, including email and electronic social media.

Discrimination and harassment can take many forms. Prohibited conduct includes, but is not be limited to, behaviors commonly recognized as sexual harassment, sexual abuse/assault, other physical violence, threatening behavior and stalking. Sexual harassment, which under Title IX includes sexual abuse/assault (“sexual violence”), is a form of sex discrimination. All these behaviors are prohibited regardless of the relationship or gender of the parties involved, and thus any such harassment that occurs in a dating or domestic relationship is specifically prohibited by this Policy.

Sexual Harassment

Sexual harassment refers to any unwelcome or unwanted sexual advances, requests for sexual favors, or other verbal, physical, demonstrative, or electronic conduct or communication of a sexual nature when:

1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience; or
2) Submission or rejection of such conduct is used as the basis for a decision regarding an employment, academic, or other University-related activity affecting such individual; or

3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or participation in a University program, department or extra-curricular activity; or

4) Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working, learning, studying, or school environment.

Regarding the appropriateness of romantic or sexual relationships between University employees and students, see Yeshiva University Policy Regarding Romantic Relationships between Individuals of Unequal Power or Status (http://www.yu.edu/hr/policies/).

Sexual harassment under this Policy may occur in a single incident or consist of a series of incidents. It can occur between any two people covered by this Policy, including, but not limited to, two faculty or staff members, a faculty or staff member and a student, two students, a group and an individual, people of the same or different gender, or people of the same or unequal status or power.

Examples of conduct which may constitute sexual harassment include, but are not limited to: verbal comments of an overtly sexual nature, whether in the form of jokes, innuendoes, slurs, or other statements; the use of sexual teaching materials or comments of a sexual nature not relevant to the material being taught or any other academic purpose; remarks of a sexual nature about an individual's clothing or body; remarks speculating about an individual's sexual orientation, activity or previous sexual experiences; verbal harassment or abuse of a sexual nature; making offensive gender-based remarks; the display or transmission of sexually offensive objects, photographs, drawings, graffiti, email, electronic social media communications, computer graphics or programs when sexual content is not relevant to any academic purpose; non-verbal behaviors of a sexually degrading or offensive nature, such as gesturing, or leering; unwanted touching, hugging, or brushing against an individual's body; requests, demands or persistent pressure for sexual favors, particularly when accompanied by an offer of rewards or threats of retaliation concerning work, grades, promotions, tenure or any other academic or University-related decision; and sexual abuse/assault ("sexual violence").

Sexual Abuse/Assault ("Sexual Violence")

Sexual violence refers to physical contact with a sexual or intimate part of the body without consent. It includes various forms of sexual intercourse (e.g., rape, incest, statutory rape) as well as other forms of sexual touching (e.g., fondling).

- **Sexual or intimate body parts** include, but are not limited to: breasts, buttocks, genitals, the groin area, and upper thighs.

- **Lack of Consent** occurs when one is physically forced or verbally intimidated into doing something sexual or submitting to a sexual act, or when one has explicitly indicated a lack of consent, or when the circumstances make it obvious that consent has not been given.

- **Circumstances that make it obvious that consent has not been given include, but are not limited to:**
  1. being too intoxicated to say "no" or resist,
  2. being asleep and therefore unable to consent, or
(3) situations in which someone is deemed to be physically or mentally incapable of giving valid consent whether due to the use of intoxicants or any other reason (e.g., intellectual or other disability).

- Children under 17 years of age cannot legally consent under New York State Law to having sex or sexual contact with an adult (i.e., someone who is 17 years of age or older). Any sexual contact in New York between a child under 17 and an adult is a crime, and any such illegal behavior between a University student under 17 and a University employee or employee of a contracted service provider to the University will be reported to an appropriate law enforcement agency. Other jurisdictions may have different standards, and any illegal behavior in such jurisdiction also will be reported to the appropriate law enforcement agency.

Stalking

Stalking refers to engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others, or to suffer substantial emotional distress (i.e., significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling). Such a course of conduct means two or more acts, including, but not limited to, any actions directed at another person, whether done directly, indirectly or through others, via the telephone, electronic devices or any other means of communication, to follow, monitor, observe, surveil, threaten, or communicate to or about a person or interfere with the person’s property.

Examples of conduct that may constitute prohibited stalking include, but are not limited to: unwelcome/unwanted communications of any type, including face-to-face, telephone calls, voice messages, e-mail, text messages, postings, written letters or notes and unwanted gifts; use of threatening words or conduct; pursuing or following; observing and/or surveillance; trespassing or vandalism; entering or remaining on or near a person’s property, residence, classroom, place of employment or any other location where the person is present; interfering with or damaging a person’s property, including pets; and engaging in other unwelcome contact.

Dating Violence/Domestic Violence

Dating violence and domestic violence refer to intimidation, harassment, physical or emotional abuse of any person who is a current or former spouse, intimate partner, person with whom one shares a child in common, domestic partner, dating partner, or other adult or youth member of one’s family or household protected from a person’s acts under applicable domestic or family violence laws. Identification of a dating partner, and the existence of a social relationship of a romantic or intimate nature constituting a dating relationship, shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Examples of conduct that may constitute prohibited dating violence and domestic violence include, but are not limited to: name-calling, insults, put-downs; keeping or limiting a person from contacting family or friends; withholding money, food or other necessities; stopping a person from getting or keeping a job, getting to class, or staying in school; actual or threatened physical harm; sexual abuse/assault ("sexual violence"); stalking; possessiveness or extreme jealousy; intimidation; physical assault or threats thereof; and emotional isolation/manipulation.

III. FREE SPEECH & ACADEMIC FREEDOM

This Policy is intended to protect covered persons from discrimination and harassment, 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, or this Policy.

IV. **TITLE IX COORDINATOR**

Title IX prohibits discrimination on the basis of sex in education program and activities. Sexual harassment is a form of sex discrimination prohibited by Title IX. The University has designated an employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX. This employee is called the Title IX Coordinator and is responsible for ensuring Title IX compliance at the University, as well as compliance with this Policy. The Title IX Coordinator for the University is currently Renee Coker, who also serves the function of Director of Employee Relations & Equity Compliance Officer. The Title IX Coordinator is responsible for overseeing all Title IX complaints and other complaints under this Policy, identifying and addressing any patterns of systemic problems that are found based on review of such complaints or otherwise, and providing education and training about this Policy to the University community. Ms. Coker can be reached at 718-430-3771 or renee.coker@einstein.yu.edu. Her office is located on the Einstein Campus, 1300 Morris Park Avenue, Belfer Educational Center for Health Sciences, Room 1206, Bronx, New York 10461. In the event of Ms. Coker’s absence, the University’s Chief Human Resources Officer, Yvonne Ramirez, will carry out her duties. Ms. Ramirez can be reached at 718-430-2544 or yvonne.ramirez@einstein.yu.edu. She has offices on both the Einstein Campus - 1300 Morris Park Avenue, Belfer Educational Center for Health Sciences, Room 1209, Bronx, New York 10461; and on the Wilf Campus - 90 Laurel Hill Terrace, New York, New York 10033.

V. **COMPLAINT REPORTING PROCEDURES & GUIDELINES**

Complaints may be reported by the victim or by anyone else who has knowledge of a violation of this Policy. Anyone who wishes to initiate a complaint regarding a violation of this Policy may do so by contacting any of the following:

1) Title IX Coordinator,  
   [http://yu.edu/hr/diversity/](http://yu.edu/hr/diversity/)

2) University Security Department,  
   [http://einstein.yu.edu/administration/auxiliary-services/security/](http://einstein.yu.edu/administration/auxiliary-services/security/)

3) Dean of Students,  
   [http://yu.edu/student-life/contact-us/](http://yu.edu/student-life/contact-us/)  
   [http://einstein.yu.edu/administration/dean/](http://einstein.yu.edu/administration/dean/) (Einstein campus)  
   [http://cardozo.yu.edu/ossa](http://cardozo.yu.edu/ossa) (Cardozo campus)

4) A member of the Unlawful Harassment Panel,  
   [http://yu.edu/hr/harass-panel/](http://yu.edu/hr/harass-panel/)

5) Office of Human Resources,  
   [http://yu.edu/hr/](http://yu.edu/hr/)

6) Office of the General Counsel, or  
   [http://yu.edu/ogc/](http://yu.edu/ogc/)

7) The University’s Confidential Compliance Hotline at 866-447-5052 or via the web at  
In addition to those listed above, violations of this Policy may be reported to any other University personnel identified by the University as “campus security authorities” in the Annual Security Reports it publishes in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, including

- Undergraduate Office of Student Life (http://yu.edu/osl/);
- Einstein Office of Student Affairs (http://www.einstein.yu.edu/education/student-affairs/);
- Cardozo Office of Student Services and Advising (http://cardozo.yu.edu/ossa);
- Undergraduate Office of University Housing and Residence Life (http://yu.edu/student-life/housing/men/ and http://yu.edu/student-life/housing/women/); and
- Einstein Housing Office (http://www.einstein.yu.edu/administration/auxiliary-services/housing/)

If anyone other than the Title IX Coordinator is first notified, that person must promptly inform the Title IX Coordinator of the complaint. If the complaint involves an allegation of sexual violence, the Title IX Coordinator will promptly inform the Office of the General Counsel of such complaint.

There is no time limit on when a complaint of discrimination or harassment can be made to the University, however, the University’s ability to investigate and respond may be affected by any time delay in reporting. Therefore, the University strongly encourages victims to file complaints promptly. Prompt reporting will serve to enhance the University’s ability to investigate effectively and to preserve important evidence for future proceedings, including, for example, legal and disciplinary proceedings.

In the case of an anonymous report, such complaint will be investigated to the extent possible, however, all anonymous reporters should be aware that reporting anonymously may affect the University’s ability to investigate and respond effectively.

No University employee may discourage an individual from reporting. Any University employee with any knowledge, whether from firsthand observation, having been confided in or having heard about it in some other fashion, of a violation of this Policy must report the incident to the Title IX Coordinator, the University Security Department, the Dean of Students, a member of the Unlawful Harassment Panel, the Office of Human Resources or the Office of the General Counsel, even if the actual victim of such discrimination or harassment is not interested in filing a formal complaint. Certain University employees who are serving in a privileged professional capacity as defined by applicable New York State Law (such as a professional mental-health counselor) are not so obligated. No University employee is authorized to investigate or resolve a suspected violation of this Policy without the involvement of the Title IX Coordinator.

Anyone who has been the victim of sexual violence may initiate a complaint with the local police department as well as with the University. Should an individual decide to file a complaint with the police, the University will support such individual throughout the process. The University urges those who have been the victims of sexual violence to report these crimes to both the police and the University Security Department. Regardless of whether such person wants to make a complaint to either the University or the local police, he/she should promptly seek medical attention both to address his/her own health and to collect potential evidence should he/she later decide to file charges or obtain a protective order.
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 solely determinative of whether or not sexual violence 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 first and foremost concern for anyone who has been the victim of an incident of sexual violence is their physical safety. Thus, if anyone who has been a victim of such unlawful behavior is feeling physically unsafe, he/she should immediately call the University Security Department, the local police precinct or 911 for assistance.

In addition, if such person is in need of immediate medical treatment, he/she should go to the nearest hospital emergency room or call 911. The University is well aware of the emotional trauma often suffered by a victim of sexual violence, and therefore it has designated trained counselors in its Counseling Center to serve as sexual assault coordinators for the University. They can be reached by calling 646-685-0112 and asking for a sexual assault coordinator. These counselors can offer advice and support on a confidential basis as the victim begins to make choices regarding how to proceed post-assault. There are also many outside sources of support available to victims in these circumstances, including The NYC Alliance Against Sexual Assault (on-line at www.svfreenyc.org), which has compiled numerous resources available to victims, and the SOVRI (Support for Orthodox Victims of Rape and Incest) Hotline at Beth Israel Medical Center, 888-613-1613. The latter is a confidential (no caller-ID is used) hotline that may be called anonymously for information and support.

VI. GUIDING PRINCIPLES

Following a report of an incident to the Title IX Coordinator, the victim will be immediately advised of the University’s discrimination/harassment policies and procedures, as described herein, and may choose to proceed informally (see Section XIV) or to pursue a formal complaint (see Section XV). However, complaints of sexual violence may not be pursued through the informal process.

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

1) Every effort will be made, consistent with the need to discharge the University’s legal responsibilities, to respect the wishes of the alleged victim regarding further investigation. A complaint will not be pursued without the victim’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 XVII).

2) Victims are strongly encouraged to file a complaint promptly after the alleged incident in recognition of the fact that as time goes by, an investigation becomes more difficult. Memories may become unreliable, and information and witnesses may become unavailable. Promptness in filing complaints is therefore strongly encouraged, as it may be essential for a thorough and fair resolution.

3) Any attempt to penalize a victim or any other person who reports an incident of discrimination or harassment 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 XVIII). 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 XIX).
The University will respond to all reported complaints promptly, thoroughly and impartially. The alleged victim and the respondent will also be afforded the rights set forth in Appendix C.

VII. INTERIM MEASURES

The University may take reasonable and prudent interim measures to protect the alleged victim, the reporter (if different than the alleged victim), 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 changes to academic or living situations. The University also will consider the safety of all others in the University community when making decisions regarding appropriate interim measures. All parties to a complaint will be informed of any interim measures taken by the University.

VIII. INVESTIGATION OF REPORTED INCIDENTS

Complaints of discrimination or harassment, including sexual violence complaints, will be overseen by the Title IX Coordinator. 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), an impartial investigation will commence in accordance with the procedures set forth in this Policy. This investigation may be conducted by the Title IX Coordinator, the University Security Department or another appropriate entity as determined by the University. Depending on the nature of the allegations, the investigation may include interviews with the complainant and respondent, interviews of witnesses, collection of documentation, including email and other communications relevant to the complaint, a review of documents or any other steps deemed important by the investigator in order to thoroughly and fairly conduct the investigation. Each of the alleged victim and respondent will be given an equal opportunity to present relevant witnesses and other evidence as part of the investigation. No party or witness may have legal counsel present for any step of the process; provided that for complaints under Title IX, the alleged victim and respondent may have a person of his/her choice and at his/her expense (who may be an attorney) present during any University meeting and/or disciplinary proceeding with such party about the complaint. Such advisor is limited to an advisory role, and may only privately consult and advise his/her advisee. The advisor may not speak for the advisee at the meeting/proceeding, may not question witnesses, may not make any statements during the meeting/proceeding or otherwise actively participate in the meeting/proceeding. In addition, both parties will be given periodic updates by the Title IX Coordinator. For a more detailed explanation of the investigative process, as well as the adjudication process, see Appendix A, Informal Resolution, and Appendix B, Formal Resolution.

IX. DUTY TO COOPERATE IN INVESTIGATIONS

All members of the University community must cooperate with investigations of prohibited discrimination or harassment. Any University employee or student who has relevant information, but refuses to cooperate after being asked to do so during an investigation, may be subject to disciplinary action. Notwithstanding the foregoing, in no event will an alleged victim or alleged perpetrator be compelled to participate in the investigation.

X. AMNESTY PROVISION FOR STUDENTS

Because the health and safety of members of the University community is of paramount concern, to minimize any hesitation a student may have to report a violation of this Policy, while not overlooking violations of its policies, including its Drug and Alcohol Policy, the University will place great weight on
the positive impact of reporting an incident in deciding if any action is appropriate for the reporter's breach of appropriate standards of behavior.

XI. REQUEST BY COMPLAINANT NOT TO PURSUE INVESTIGATION

A complainant may decide after filing a complaint that he/she does not want to have the University pursue an investigation. Complainants and others should understand that compliance with such a request may limit the University’s ability to take action in response to the complaint and Title IX requires the University, in such a situation, to evaluate the request in the context of its responsibility to provide a safe and non-discriminatory and harassment-free environment. In evaluating such a request, the University will consider the seriousness of the alleged misconduct, the complainant’s age, whether there have been other complaints of misconduct against the respondent, the respondent’s right to receive information about the allegations if the information is maintained by the University as an “education record” under the Family Education Rights and Privacy Act (FERPA), and the applicability of laws mandating disclosure. Title IX requires that even when the University is requested not to pursue an investigation by the complainant, it take reasonable action in response to the information reported, and thus the University will take action as deemed necessary to comply with its Title IX obligations.

XII. DOCUMENTATION OF INVESTIGATIONS

The Title IX Coordinator will maintain records of all complaints (both formal and informal), investigations, findings (including the basis for those findings) and appeals. These records will be kept on file in accordance with the University’s records and retention policy. The Title IX Coordinator will notify the parties of the final outcome of the investigation in writing, including referral to the appropriate disciplinary procedures and any actions the University will take to eliminate the hostile environment and prevent recurrence, and also will discuss any action to be taken with respect to all student reports of discrimination or harassment with the appropriate disciplinary authority. See Appendix B. In addition, if someone other than the Title IX Coordinator engaged in the investigation, the Title IX Coordinator will be kept apprised of the progress of the investigation and the ultimate results, and the Title IX Coordinator will maintain records of the results, and will consult with the appropriate disciplinary authority with regard to the appropriate sanction. In any situation in which the designated disciplinary authority has a conflict of interest in deciding the appropriate sanction or is otherwise not available to act (e.g., there is a vacancy in the office), the investigative findings will be referred to the Office of the President for appropriate action.

XIII. UNLAWFUL HARASSMENT PANEL

The Unlawful Harassment Panel (http://yu.edu/hr/harass-panel/) is charged with providing advice and access to resources about possible courses of action in respect of an allegation of discrimination or harassment (e.g., referral for any member of the University community who is concerned because of behavior that he/she perceives as discrimination or harassment). If a complainant wishes to pursue an informal resolution to a complaint (see Section XIV), 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 allegations of sexual abuse/assault (“sexual violence”).

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. The present members can be accessed by clicking on the following: http://yu.edu/hr/harass-panel/.

XIV. 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 (alleged victim or other person reporting the discrimination/ harassment) does not wish to pursue a formal complaint but wants to end the discrimination/harassment. The manner in which an incident is handled will depend largely upon its severity or nature. Mediation is not an option for resolution in cases involving allegations of sexual abuse/assault (“sexual violence”). Members of the University community may seek advice from the Title IX Coordinator or the Unlawful Harassment Panel on alternative methods of resolving disputes or perceived acts of discrimination/harassment. For more information about the Informal Resolution Process, please refer to Appendix A.

XV. FORMAL RESOLUTION

Any individual who wishes to pursue the formal resolution process as described herein must file (preferably in writing) a complaint of discrimination or harassment with the Title IX Coordinator, stating the nature of the alleged discrimination/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.

XVI. THE APPEAL PROCESS

Except as otherwise provided in Appendix B, if dissatisfied with the disciplinary decision reached by the appropriate disciplinary authority, either the complainant or the respondent may appeal the disciplinary decision, as more fully described in Appendix B. If an appeal is filed, both parties will be notified of the outcome of the appeal in writing.

XVII. CONFIDENTIALITY

Information gathered during the informal or formal investigation process will be handled by the University with due diligence and care. Discreet inquiry, corrective counseling, and trust will be stressed by the University 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 a safe and non-discriminatory and harassment-free environment. For example, under conditions of potential imminent harm to the community, the University may be required by federal law to inform the community of the occurrence of an incident of sexual violence. In addition, consistent with law, information regarding violations of this Policy may be shared among University personnel as appropriate and necessary.

Complainant Request for Confidentiality

At any point a complainant may request confidentiality. This type of request means that the complainant does not want his/her name or other identifiable information revealed to the respondent and witnesses. If
the complainant makes such a request, the University will attempt to take all reasonable action to comply with it. However, because the University’s ability to investigate and respond to the allegations may be limited upon such a request for confidentiality, the University may be required by applicable laws to weigh the complainant’s request for confidentiality with the University’s commitment to provide a safe and non-discriminatory and harassment-free environment, and the complainant will be so informed. If the complainant continues to request that his/her name and other identifiable information not be revealed to the respondent and/or other witnesses, the University will proceed to evaluate the request as follows: it will consider the seriousness of the alleged misconduct, the complainant’s age, whether there have been other complaints of misconduct against the respondent, the respondent’s right to receive information about the allegations if the information is maintained by the University as an “education record” under FERPA, and the applicability of laws mandating disclosure. The Title IX Coordinator will notify the complainant if the University cannot maintain the complainant’s confidentiality. In all instances, the University will endeavor to reveal the complainant’s identity only to those individuals who need to know it in order for an investigation to commence or continue (as applicable).

If the University cannot take disciplinary action against the alleged perpetrator because the complainant has insisted on non-disclosure of his/her name and other identifiable information and the University has decided that it can comply with this request, the University will still pursue other steps to limit the effects of the alleged discrimination/harassment and prevent its recurrence.

XVIII. RETALIATION

This Policy prohibits retaliation against any individual who in good faith filed and/or participated in the investigation of a complaint, even if the complaint is unsubstantiated. Both the complainant and respondent will be so informed by the Title IX Coordinator at the outset of the process. Retaliation includes threats, intimidation, reprisals, harassment, and/or any other adverse action threatened, expressly or impliedly, or taken against anyone who reports a violation or suspected violation of this Policy or who participates in an investigation of a complaint. Such prohibited retaliation may take place in person, over the telephone or through electronic or social media means. Regardless of how it manifests itself, retaliation is prohibited. The University will take all reasonable action to protect individuals from retaliation. Anyone who either observes or becomes aware of such retaliatory behavior is strongly encouraged to report it to the Title IX Coordinator, and all University employees are under a business duty to do so. The Title IX Coordinator will review the facts and recommend the appropriate disciplinary action, leading up to and including expulsion for students and termination of employment for employees. Violations of this prohibition will be addressed through this Policy and/or other University disciplinary procedures, as deemed appropriate in the University’s discretion.

XIX. KNOWING FALSE CLAIMS OR INFORMATION

The University considers any allegation of discrimination or harassment a serious matter and encourages individuals to report all incidents of discrimination or harassment to the University as more fully described herein. All good faith reports will be treated with the seriousness that they deserve. However, as false claims of discrimination or harassment can have a serious effect on one’s reputation, any individual who knowingly files a false allegation of discrimination or harassment, 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 for students and termination of employment for employees.
XX. **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 for good cause (e.g., the unavailability of witnesses, an unusually complex investigation, the academic calendar or other considerations). Any party may request an extension of any deadline by submitting a written request to the Title IX Coordinator detailing the reason for such request and the amount of additional time requested. The Title IX Coordinator has total discretion to grant or deny any such request.

XXI. **REMEDIES**

In addition to any disciplinary action taken against a respondent, if sexual harassment that creates a hostile environment has occurred, the University will take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects on the complainant and others, as appropriate.

XXII. **EDUCATION/TRAINING**

As part of the University’s commitment to providing a safe and non-discriminatory and harassment-free environment, this Policy shall be disseminated widely to the University community through publications, websites, student orientation, new employee orientation, current employee training and other appropriate channels of communication. The University also mandates unlawful harassment training programs for University employees and students to promote awareness and a safe and respectful University environment.

XXIII. **RE-EVALUATION**

The University reserves the right to modify and/or amend any or all of the terms and/or procedures outlined herein at any time, in its sole discretion. In the event the University determines that circumstances warrant modification or amendment of this Policy, timely notice of the same will be communicated to all affected parties. This Policy is made available to the entire faculty, staff, and student body of Yeshiva University, as well as all interested others, and can be accessed at [http://yu.edu/hr/policies/](http://yu.edu/hr/policies/); [http://yu.edu/student-life/resources-and-services/standards-policies/](http://yu.edu/student-life/resources-and-services/standards-policies/); [http://einstein.yu.edu/administration/policies.asp](http://einstein.yu.edu/administration/policies.asp); and [http://cardozo.yu.edu/current-students/office-student-services-and-advising/policies](http://cardozo.yu.edu/current-students/office-student-services-and-advising/policies) or can be obtained from the Title IX Coordinator, the Office of Human Resources, the Office of General Counsel, the Undergraduate Office of Student Life, the Einstein Office of Student Affairs or the Cardozo Office of Student Services and Advising.

**Updated: August 2014**
Appendix A

Informal Resolution

The Title IX Coordinator or Panel Member(s) may recommend or, with the continued mutual consent of all parties, facilitate an informal means of addressing the issues raised in a complaint made pursuant to this Policy, including but not limited to:

1) An informal direct discussion between the complainant and the respondent in the presence of the Title IX Coordinator or a Panel Member(s);

2) An informal discussion with the respondent;

3) Requesting additional education for the area or department where the complaint originated; or

4) Commencing mediation of the complaint. Mediation is not an option for resolution in cases involving allegations of sexual abuse/assault (“sexual violence”). In cases where there is any possibility that the allegations do rise to this level, the complaint will be promptly brought to the attention of the Office of General Counsel by the Title IX Coordinator or the Panel Member involved. In cases not involving sexual violence, both the complainant and the respondent must agree to mediation if mediation is to go forward. The mediator will be designated by the Title IX Coordinator within 14 business days after 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: (i) ask the parties to give their versions of the incident, including both factual information and their feelings; (ii) identify key issues; (iii) seek the agreement of both parties on the issues; (iv) facilitate discussion; and (v) 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.

The complainant may at any time replace his/her informal complaint with a formal complaint and thereby proceed with the Formal Resolution process (see Appendix B). Formal complaints must be made to the Title IX Coordinator (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.

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.

If applicable, where a Panel Member is unable or unwilling to undertake the review of a complaint, for example because of a conflict of interest, the Title IX Coordinator will select another Panel Member.

In addition, at the reasonable request of a party to the complaint (for example, because of a conflict of interest), the Title IX Coordinator will select another Panel Member or mediator (as applicable). Where acceptable to both parties to the complaint, the Panel Member(s) involved may request that an additional Panel Member(s) and/or the Title IX Coordinator be present for the discussions.
Appendix B

Formal Resolution

Following a determination to pursue a formal resolution of a discrimination or harassment complaint received by the Title IX Coordinator:

1) The Title IX Coordinator will provide all parties involved with a copy of these procedures.

2) The Title IX Coordinator will request the complainant to provide to the Title IX Coordinator, within 10 business days after the Title IX Coordinator’s request and preferably in writing, a description of all facts that bear on the allegation of discrimination/harassment; specifically, the details surrounding the accusation, names of possible witnesses, and the nature and description of possible evidence. The complainant is expected to share with the Title IX Coordinator, or other appropriate investigative entity as designated by the University, any relevant supplemental information that subsequently becomes available.

3) The Title IX Coordinator will promptly inform the respondent of the allegation and ask the respondent to respond to it, preferably in writing, within 10 business days after such notice. Such response should include all facts that bear on the allegation of discrimination/harassment, including the names of possible witnesses and the nature and description of possible evidence. The respondent is expected to share with the Title IX Coordinator, or other designated investigator, any relevant supplemental information that subsequently becomes available. The Title IX Coordinator will inform the complainant of any defenses that the respondent may provide.

4) The Title IX Coordinator will explain to both parties, separately, that the University will first attempt to ascertain whether the allegation of discrimination/harassment is credible.

5) Where appropriate, in the judgment of the Title IX Coordinator, both the complainant and the respondent may be invited to engage in mediation or conciliation; however mediation will not be used to resolve a complaint of sexual violence.

6) The Title IX Coordinator may also work with the Office of General Counsel, as appropriate, in responding to the receipt of a complaint, and when the complaint involves an allegation of sexual violence, the Title IX Coordinator will promptly notify the Office of General Counsel of the existence of such complaint.

7) The Title IX Coordinator, or other designated investigator, 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 University to the other party and that will be used to adjudicate the complaint.

8) Both parties will be advised by the Title IX Coordinator that reasonable efforts will be made by the University to ensure confidentiality consistent with investigative needs and applicable laws (see Section XVII).

9) The Title IX Coordinator, or other designated investigator, will endeavor, as promptly as feasible, to interview all relevant parties and review all evidence, including witnesses and evidence identified by the parties.
10) The Title IX Coordinator will provide the complainant and the respondent with periodic status updates.

11) Other witnesses and evidence that may have a bearing on the complaint will also be considered during the investigation including, but not limited to, the following:
   
i. Evidence from individuals other than named witnesses who may have relevant information;

   ii. Evidence that either party may harbor negative feelings toward the other for unrelated reasons;

   iii. The timing of the complaint; and

   iv. Any prior discrimination or harassment complaints involving either of the parties.

However, character witnesses for either party will not be considered by the investigator (except, in the case of any faculty complaint, as may otherwise be expressly required by any applicable faculty handbook/policy).

12) The Title IX Coordinator, or other designated investigator, 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 regarding the allegations, and generally within 45 business days after receipt of the formal complaint.

13) The Title IX Coordinator, or other designated investigator, will determine the credible evidence and will then make a finding as to whether this Policy has been violated. A finding of a violation of this Policy will be based on a preponderance of evidence (i.e., that it is more likely than not that the discrimination or harassment occurred). The rules of criminal or civil procedures that govern judicial proceedings in court are inapplicable to this process. No party or witness may have legal counsel present for any step of this process, including the sanctioning phase discussed below; provided that for complaints under Title IX, the parties may have a personal advisor of their choice and at their expense (who may be an attorney) present during any University meeting and/or disciplinary proceeding with such party about the complaint. The party shall promptly notify the Title IX Coordinator, or other designated investigator, if he/she intends to use an advisor, and identify such advisor. Such advisor is limited to an advisory role, and may only privately consult and advise his/her advisee. The advisor may not speak for the advisee at the meeting/proceeding, may not question witnesses, may not make any statements during the meeting/proceeding or otherwise actively participate in the meeting/proceeding. The advisor will be subject to the same confidentiality expectations applicable to others in attendance at the meeting/proceeding. The advisor may be asked to leave the meeting/proceeding if he/she deviates from his/her role as specified.

14) Promptly following the conclusion of the investigation (and generally within 10 business days), the Title IX Coordinator will ensure that both the complainant and the respondent are notified, concurrently and in writing, of the findings, and will reiterate that such findings are to remain confidential, to the extent permitted by law. Neither the complainant nor the respondent is entitled to receive a copy of the internal investigative report or any other related documents, except, in the case of any faculty complaint, as may otherwise be expressly required by any applicable faculty handbook/policy. If the University determines to furnish a document to one party, it will also simultaneously furnish a copy to the other party. The complainant and
The respondent may respond to such findings, either verbally or in writing, and such response will be furnished to the appropriate disciplinary authority along with the investigation’s findings.

15) Findings and recommendations concerning students will be promptly referred to the applicable Dean of Students or his/her counterpart at the accused student’s school (Manhattan and Einstein Campuses) for consideration of appropriate disciplinary sanctions and the following procedures will be engaged in:

i. The applicable Dean of Students or his/her counterpart will consult with the Title IX Coordinator and the designated investigator (as applicable) to review the findings and recommendations, as well as any responses to such findings received from the complainant or respondent.

ii. The Dean of Students or his/her counterpart may meet separately with each party, as he/she may determine, to assist him/her in deciding appropriate disciplinary action.

iii. Generally within 14 business days after the conclusion of the investigation, the Dean of Students or his/her counterpart will determine the disciplinary action (if any) he/she considers to be fair and proportionate to the violation and in the interests of the University community, leading up to and including expulsion.

iv. In determining an appropriate disciplinary action, the Dean of Students or his/her counterpart 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 or his/her counterpart also will consider whether the respondent poses a continuing risk to the complainant and/or other members of the University community.

v. The University expects all cases involving a finding of sexual violence to involve consideration of the disciplinary actions of suspension or expulsion. Other sanctions that may be imposed include a warning, disciplinary probation, restriction from employment by the University, removal from University housing, removal from courses or activities, loss of privileges, no contact, exclusion from areas of the campus, removal or non-renewal of scholarships, a notation on the respondent’s official University transcript, community service, restitution, and a fine. In addition, the respondent may also be required to undergo an assessment and treatment by a therapist or counselor, attend an intervention treatment program and/or issue a letter of apology.

vi. The Dean of Students or his/her counterpart 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 or his/her counterpart shall be effective immediately.

vii. Either party may appeal the decision of the Dean of Students or his/her counterpart regarding discipline to the Provost (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 10 business days after the decision of the Dean of Students or his/her counterpart. The Provost or Executive Dean, as applicable, will generally not overturn the decision of the Dean of Students or his/her counterpart unless he/she finds that the Dean of Students or his/her counterpart exceeded the bounds of the rationally available choices given the facts and standards set forth in this Policy.
decision of the Provost or Executive Dean, as applicable, shall be final, and written notification of this decision will be made to both parties.

16) 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 for consideration of appropriate disciplinary action and such individuals must follow the procedures for determining appropriate discipline as set out in paragraph 15 above.

17) Findings and recommendations concerning all represented and non-represented employees will be promptly referred to the Chief Human Resources Officer for consideration of appropriate disciplinary action and the following procedures will be engaged in:

   i. The Chief Human Resources Officer will consult with the Title IX Coordinator and the designated investigator (as applicable) to review the findings and recommendations, as well as any responses to such findings received from the complainant or respondent.

   ii. The Chief Human Resources Officer may meet separately with each party, as he/she may determine, to assist him/her in deciding appropriate disciplinary action.

   iii. Generally within 14 business days after the conclusion of the investigation, the Chief Human Resources Officer will determine the disciplinary action (if any) he/she considers to be fair and proportionate to the violation and in the interests of the University community, leading up to and including termination.

   iv. In determining an appropriate disciplinary action, the Chief Human Resources Officer 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 Chief Human Resources Officer also will consider whether the respondent poses a continuing risk to the complainant and/or other members of the University community.

   v. The University expects all cases involving a finding of sexual violence to involve consideration of the disciplinary actions of suspension and termination.

   vi. The Chief Human Resources Officer 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 him/her shall be effective immediately. The decision of the Chief Human Resources Officer is final and neither party may appeal his/her decision.

   vii. Notwithstanding the foregoing, findings and recommendations concerning represented employees will be subject to the provisions of the appropriate collective bargaining agreement.

18) Findings and recommendations regarding faculty will be promptly referred to the Provost (Manhattan Campuses), and the Executive Dean (Einstein Campus) for consideration of appropriate disciplinary action and the following procedures will be engaged in:

   i. For Manhattan Campuses faculty, to the extent required by the applicable faculty handbook and subject to any time periods or other terms contained therein, the complainant and respondent will be provided copies of a Report of the Title IX Coordinator and given an opportunity to comment thereon. In addition, to the extent
required by the applicable faculty handbook and subject to any time periods or other terms contained therein, either the complainant or respondent may submit a request in writing to the Provost for a hearing before a Hearing Board, which will be conducted in accordance with the provisions of the applicable faculty handbook (see below). If no such request is made, the Provost will proceed to review the Report of the Title IX Coordinator for further disposition.

ii. Upon referral to the Provost or Executive Dean, as applicable, such administrator will consult with the Title IX Coordinator and the designated investigator (as applicable) to review the findings and recommendations, as well as any responses to such findings received from the complainant or respondent.

iii. The administrator may meet separately with each party, as he/she may determine, to assist him/her in deciding appropriate disciplinary action.

iv. Generally within 14 business days after the conclusion of the investigation, the administrator will determine the disciplinary action (if any) he/she considers to be fair and proportionate to the violation and in the interests of the University community, leading up to and including termination.

v. In determining an appropriate disciplinary action, the administrator 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 administrator also will consider whether the respondent poses a continuing risk to the complainant and/or other members of the University community.

vi. The University expects all cases involving a finding of sexual violence to involve consideration of the disciplinary actions of suspension or termination.

vii. The administrator 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 administrator shall be effective immediately.

viii. Either party may appeal the decision of the administrator regarding discipline to the President. The notice of appeal must be in writing and must be filed with the Provost or Executive Dean, as applicable, within 30 days after the decision of the Provost or Executive Dean, as applicable. The President will decide the appeal within 45 days after the appeal is filed. The decision of the President shall be final and written notification of this decision will be made to both parties.

ix. Notwithstanding the foregoing, findings and recommendations that involve suspension or termination of faculty members will be subject to the provisions of the appropriate faculty handbook/policy.

19) The University will endeavor to fully resolve all formal complaints generally within 60 business days (or, in the case of a faculty complaint, such other time period as may otherwise be required by the applicable faculty handbook/policy) after receipt of the formal complaint.
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 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, thorough and impartial investigation of the allegations.
- To participate or decline to participate in the process.
- 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.