

HOFSTRA UNIVERSITY HARASSMENT POLICY

I. Introduction

As an academic institution of higher learning, Hofstra University is dedicated to providing an environment conducive to intellectual and personal growth, with all members of the community encouraged to participate to the fullest extent of their abilities. For Hofstra, this means a firm institutional commitment to academic freedom as defined in Section II of the Faculty Statutes. It also involves a commitment to norms of professional and interpersonal respect ensuring that no individuals are subjected to harassment or discriminated against in any way on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status or any other characteristic protected by state or federal laws. These protected traits are referred to as “protected characteristics or beliefs” elsewhere in this Policy.

Harassment based on any of these characteristics is a form of discrimination prohibited by law and by Hofstra University. Whenever a violation of this policy is brought to the University’s attention through appropriate channels or when the University otherwise becomes aware of a violation of this policy, prompt corrective action will be taken. All members of the Hofstra community are encouraged to contact the appropriate University offices if infringements of this policy come to their attention. Retaliation against anyone who files a complaint under this policy or participates in an investigation is prohibited.

II. Harassment Policy Statement

A. Harassment Prohibited

Hofstra University abides by the principle that its students, faculty, staff and administrators have a right to be free from unlawful harassment within the University community. Harassment is the creation of a hostile or intimidating environment in which verbal or physical conduct based on one’s protected characteristics or beliefs, because of its severity and/or persistence, is likely to significantly interfere with an individual’s work or education, or enjoyment of other University opportunities or activities. Harassment also includes coercive or threatening behavior based on one’s protected characteristics or beliefs.

This policy covers the conduct of all University employees and students, as well as third parties such as vendors, contractors and visitors to campus. This applies to all areas of University programs and activities both on and off-campus, including overseas programs.

B. Definition of Sexual Harassment

Generally, sexual harassment is conduct that exploits power or authority in order to elicit sexual submission, or inappropriate sexual conduct that creates an intimidating, hostile or abusive environment for working, learning, or enjoying other opportunities and activities. Sexual harassment can include a wide range of behaviors, from the actual coercing of sexual relations, to repeated or egregious sexual suggestions or comments, to the unwelcomed emphasizing of sexual identity. The definition of sexual harassment, discussed more fully below, will be interpreted and applied consistent with current legal standards, as well as accepted standards of mature behavior, professional responsibility, academic freedom, and freedom of expression.

Sexual harassment in any situation is reprehensible; it is particularly damaging when it exploits the educational dependence and trust between and among students, faculty, staff and administrators. When the authority and power inherent in certain relationships, whether overtly, implicitly, or through misinterpretation, is abused in this way, there is potentially great damage to all parties involved, and to the educational climate of the institution.

For the purposes of this policy, sexual harassment may be defined as unwelcome sexual advances, requests for sexual favors, and other nonverbal, expressive or physical conduct of a sexual nature, when

- submission to such conduct is explicitly or implicitly made a term or condition of employment or status in a course, program or activity; or
- submission to or rejection of such conduct is used as a basis for an academic or employment decision affecting the individual, or for a decision regarding an individual's status in a course, program or activity; or
- such conduct has the purpose or effect, when judged from the perspective of a reasonable person in the position of the complaining individual, of unreasonably interfering with an individual's academic or work performance, or creating an intimidating, hostile or offensive environment for working, learning, or enjoying other University opportunities, programs and activities.

Determining whether sexual conduct creates an intimidating, hostile, or offensive environment or substantially interferes with an individual's academic or work performance or enjoyment of other University opportunities depends on the specific facts and the context in which the conduct occurs. To constitute sexual harassment, the conduct must be severe or pervasive. Thus, a hostile environment may arise from a single incident if sufficiently egregious, for example, certain physical contact, or from repeated actions such as repeated sexual comments, suggestions or jokes. Further, if such conduct or remarks take place in the teaching context, to conclude that they create an abusive environment it must be shown that

they are not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

Sexual harassment can involve conduct toward an individual of the opposite sex or of the same sex. In addition, sexual harassment may occur between peers or between individuals in a hierarchical relationship.

Examples of conduct covered by this policy (subject to the above conditions) include, but are not limited to:

- unwanted flirtation, advances or propositions of a sexual nature;
- insults, humor, jokes, or anecdotes (not legitimately related to the subject matter of a course, if one is involved) that belittle or demean an individual's or a group's sexuality or sex;
- unwelcomed comments of a sexual nature about an individual's body or clothing;
- unwarranted displays of sexually suggestive objects or pictures;
- unwelcomed touching such as patting, pinching, hugging, or brushing against an individual's body;
- explicit or implied suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments or status, salary, academic standing, grades, participation in programs or activities, athletic opportunities, receipt of financial aid; grants, leaves of absence, letters of recommendation, or other similar matters;
- tangible action taken against an individual (e.g. a demotion, lower grade) for refusing to submit to sexual advances, or threatening to take such actions; and
- sexual assault. (For additional information about sexual assault involving students, see the Sexual Assault Policy contained in the Guide to Pride).

C. Definition of Other Forms of Harassment

Unlawful harassment, other than sexual harassment, is conduct that denigrates or shows hostility or aversion to a person on the basis of a protected characteristic or belief when such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive environment for working, learning, or enjoying other University opportunities, programs and activities.

Protected characteristics or beliefs are listed in Section I of this policy.

Examples of other forms of harassment covered by this policy, include, but are not limited to:

- verbal abuse, ridicule, slurs, epithets, stereotyping, and offensive and unwelcome jokes and comments;
- threatening, intimidating, or hostile acts; and
- displaying or distributing offensive materials, writings, graffiti, or pictures that denigrate or show hostility or aversion towards an individual or group based on any of the protected characteristics or beliefs set forth in this policy.

III. Harassment Complaint Procedure

Any member of the University community, including a student or employee, who believes that he or she has been subjected to harassment in violation of this policy may pursue redress through the appropriate complaint procedure. This complaint procedure is provided for the prompt and equitable resolution of complaints alleging harassment by members of the University community, including faculty members, staff members, administrators, and other persons. However, complaints of harassment against students arising out of their conduct as students shall be made to the Dean of Students Office and will be handled in accordance with the provisions set forth in the Student Judicial Code. Members of the University community may also choose to pursue one of the informal options discussed below.

A. Confidentiality

1. Generally, it is the policy of Hofstra University to protect the confidentiality of members of the University community who may be involved in harassment complaint procedures, insofar as that is reasonably practicable. Specifically, the identity of the complaining party, the identity of the accused offender (hereinafter referred to as the “responding party”), and information relating to the harassment complaint will be disseminated only to those individuals who have a legitimate need to know, or as reasonably necessary for the purpose of investigating or resolving the complaint.

Complaining parties should be informed and understand that, upon their advising a Harassment Adviser or the Equal Rights and Opportunity Officer of a harassment complaint, the University may be legally required to investigate that complaint. Therefore, complaining parties should understand that the complaint may be disclosed, as necessary, to persons other than the one(s) to whom the complaint is made, including the party complained of (hereafter referred to as “the responding party”).

Although the University will endeavor to maintain the confidentiality of harassment complaints and proceedings in accordance with this policy, it cannot absolutely guarantee against the further dissemination of information by individuals to whom such information was reasonably disclosed by the University in the course of a harassment investigation.

2. Waiver of Confidentiality: A complaining party, or a responding party may be deemed to have waived, directly or indirectly, the confidentiality provisions of this policy by voluntarily disclosing information about the complaint or the complaint proceedings to parties within or outside the University community who are not directly involved in the investigation or complaint process. The University retains the right to respond as it deems appropriate, including the right to rebut or refute such allegations consistent with applicable law.

B. Retaliation

No individual shall be penalized or retaliated against in any way by a member of the University community for his or her participation in this complaint procedure: This protection includes both the complaining and responding parties and individuals who participate in an investigation of a harassment complaint. Every effort should be made to protect members of the University community so they may use or participate in the harassment complaint procedure without fear of reprisal or retaliatory action. Threats, other forms of intimidation, and retaliation against a complaining or responding party or any other party involved in implementing or utilizing the University's harassment complaint procedure are violations of this policy, and, thus, may be grounds for disciplinary action, including separation from the University, consistent with appropriate procedures.

Individuals who believe they have been retaliated against in violation of Hofstra's harassment policy must follow the complaint procedures outlined herein, and such complaints will be processed in accordance with those procedures.

C. Informal Procedure

The goal of the informal options is to end quickly the offending behavior without utilizing disciplinary action or the formal complaint procedure. However, no one is required to pursue an informal resolution and a complaining party may proceed immediately to the formal complaint procedure. If the informal options are not feasible or desired or do not result in a mutually agreeable solution or cessation of the offending conduct, the formal complaint procedure is available as well.

Informal options include:

- Talking directly to the other party or writing a letter describing the unwelcome behavior and asking him or her to stop.
- Consulting with a University Harassment Adviser. Harassment Advisers are individuals specially trained by the University who are available to anyone to discuss issues relating to harassment or the University's policy and procedures. Harassment Advisers may assist the parties in resolving a

complaint informally without the need to file a formal complaint. A current list of Harassment Advisers is available from the Human Resources Office and the Equal Rights and Opportunity Officer.

- Speaking to members of the Student Counseling Center or campus Chaplains. Such conversations may be confidential because of the legal protections held by the specific persons receiving the information.

D. Formal Procedure¹

1. Step One

- a. **Whom to Contact:** Individuals who believe they have been subjected to harassment in violation of this policy and seek to file a formal complaint should contact the Equal Rights and Opportunity Officer at (516) 463-6473, C/O Office of Human Resources, 205 Hofstra University, Hempstead NY 11549.² The Equal Rights and Opportunity Officer is the designated official responsible for the investigation of harassment complaints made by members of the University community, as well as for coordinating the processing of such complaints under this policy. Individuals who believe they have been subjected to harassment by a student in violation of this policy should contact the Dean of Students. If such a complaint is made to the Equal Rights and Opportunity Officer, the complaint will be forwarded to the Dean of Students for handling in accordance with the provisions of the Student Judicial Code. Complaints by individuals who believe they have been subjected to harassment by a third party such as a vendor, contractor or visitor to campus will be handled by the Equal Rights and Opportunity Officer, even though not subject to this formal complaint procedure.
- b. **Timing of Complaint:** An initial complaint of harassment to the Equal Rights and Opportunity Officer must be made within six months of the most recent occurrence of alleged harassment. The Equal Rights and Opportunity Officer is authorized to waive this timeliness requirement in extenuating circumstances. Even if the time to file a complaint has elapsed, any member of the University community who becomes aware of a potential violation of this policy is encouraged to report the violation to the Equal Rights and Opportunity Officer so that appropriate action may be taken. In order to facilitate investigation of a complaint, prompt reporting is encouraged.

¹ The Formal Complaint Proceedings Before the University Harassment Review Board for responding parties other than full-time faculty bargaining unit members and the Faculty Procedures for Formal Harassment Complaint Proceedings Before the University Harassment Review Board (“Faculty Procedures”) are attached hereto as Appendices A and B, respectively.

² In the event that the complaining party believes that the Equal Rights and Opportunity officer may have a conflict of interest, or for other compelling reasons, he or she may report the complaint to the Director of Human Resources, or, where the complaining party is a student, to the Dean of Students. This officer will then take the role of the Equal Rights and Opportunity Officer in the procedure.

- c. Making a Written Complaint: If the complainant, after an initial discussion with the Equal Rights and Opportunity Officer, decides to proceed, the complainant must make the complaint in writing by filing a Harassment Complaint Form (hereinafter referred to as “Formal Complaint”). Such forms may be obtained from the Equal Rights and Opportunity Officer.

Investigation By the Equal Rights and Opportunity Officer: The Equal Rights and Opportunity Officer or a designee shall conduct an investigation of the Formal Complaint, which shall include discussing the nature of the complaint and its allegations with the responding party, reviewing any relevant documents or other materials, and interviewing potential witnesses to the alleged harassment, including administrators, faculty members, staff members, students or other persons who may have knowledge of the situation. If the responding party is a member of a union, the party will be advised before the date scheduled for his/her interview that s/he is entitled to request that a union representative be present during his or her interview. When the responding party is a bargaining unit member, the union will be notified in accordance with the relevant Appendix.

Neither the complaining party nor the responding party is entitled to the participation of legal representatives during the course of the Equal Rights and Opportunity Officer’s investigation of the complaint. The responding party shall have the right to submit a written response to the Formal Complaint, accompanied by any relevant documents or other materials he or she may wish to include (including any witnesses he or she may wish to suggest), within ten (10) calendar days of receiving a copy of the Formal Complaint.

- d. Informal Resolution: The Equal Rights and Opportunity Officer is authorized and encouraged to explore informal resolution of the complaint at any time after the complaint is received. The Equal Rights and Opportunity Officer shall advise both the complaining and responding parties that conciliation of the complaint is available should the parties so desire. Informal resolution is designed to obtain an expedient, mutually acceptable solution to a harassment problem without the necessity for conducting further investigation or hearings. The purpose of informal resolution is to attempt through discussion and inquiry to make an effort to resolve or “work out” the issue in a non-adversarial manner. Therefore, the Equal Rights and Opportunity Officer should be able to use a great degree of discretion and flexibility in deciding what kind of informal means would be most effective in accomplishing this end, provided that the result achieved is acceptable to both parties in interest.

If the Equal Rights and Opportunity Officer is able to resolve the complaint to both parties’ satisfaction, the Equal Rights and Opportunity Officer should provide the parties with a written statement reflecting the terms of

the resolution and stating that the agreed-upon resolution will be undertaken. The written statement of informal resolution should be signed by the complaining party and the responding party. Upon the signing of the written statement of informal resolution, the matter will be deemed closed, and no party will be permitted to appeal, contest, re-open, or otherwise attempt to set aside or amend the terms of the informal resolution as long as the terms are adhered to.

- e. False Complaints: Due to the nature of harassment, complaints of harassment cannot always be substantiated. Lack of corroborating evidence should not discourage a complaining party from seeking relief through the procedures outlined above. However, complaints found to have been intentionally dishonest or made maliciously or without regard for the truth will subject the complaining party to disciplinary action in accordance with relevant University procedures.
- f. Interim Action: If, at any point after proceedings have been initiated under this complaint procedure, it is determined that the responding party's continuance in his or her position within the University community threatens immediate harm to the complaining party or others, the Equal Rights and Opportunity Officer or other responsible officials, including the Provost or a Vice President may recommend to the President that the responding party be placed on leave with pay pending the outcome of the complaint procedure. After reviewing the current state of the evidence and consulting, as appropriate, with the individuals making the recommendation, the President may accept or reject the recommendation. The responding party's union will be notified if the President decides to suspend the responding party. The decision at this stage is preliminary in nature, is not a finding of fact, and any ultimate decision of the merits will be based solely on the hearing record. Prior to being placed on such leave, the responding party is entitled to submit a written statement to the President stating why he or she should not be placed on leave. This provision shall not restrict the President's authority with respect to administrative employees and is subject to any applicable collective bargaining agreement and disciplinary provisions with respect to union-represented employees.
- g. Reasonable Cause Determination: After the investigation has been conducted, the Equal Rights and Opportunity Officer shall render a written determination as to whether there is reasonable cause to believe that the harassment policy may have been violated.

(1.) "No Reasonable Cause" Finding

A finding of "no reasonable cause" means that the investigation has not revealed sufficient facts or circumstances indicating that the complaint

may have merit. If the Equal Rights and Opportunity Officer makes a finding of no reasonable cause, he or she shall promptly notify the complaining party and the responding party in writing. The complaining party shall have five (5) calendar days from receipt of such notice in which to file a written appeal of the finding to the President. If the complaining party does not file an appeal of the no reasonable cause finding within the allotted time, the complaint will be dismissed. The President shall notify the responding party that an appeal has been filed and shall provide a copy of the appeal and supporting documents to the responding party, who shall have the right to file a written response thereto. The responding party's written response must be filed within five (5) calendar days after receiving notice of the appeal and copies of the supporting documents.

Upon receipt of the respective parties' written appeals, the President shall appoint a senior administrator to review the merits of the appeal. This administrator, after reviewing the respective parties' written appeals, and any other evidence or information he or she may deem relevant, may either affirm or reverse the Equal Rights and Opportunity Officer's determination of no reasonable cause. The decision of this administrator is final and non-appealable. If the Equal Rights and Opportunity Officer's determination is affirmed, the harassment complaint will be dismissed. If the determination is reversed, the matter will be remanded to the Equal Rights and Opportunity Officer, who shall proceed as if a reasonable cause finding has been made.

(2.) "Reasonable Cause" Finding

A finding of "reasonable cause" means that the investigation has revealed facts or circumstances indicating that a violation of the harassment policy may have occurred, and, therefore, further proceedings are warranted. If the Equal Rights and Opportunity Officer makes a finding of reasonable cause, he or she shall promptly notify the complaining party and the responding party in writing. Upon making a reasonable cause finding, the Equal Rights and Opportunity Officer should attempt to reach an informal resolution, as discussed in Section II.D.1.e, and, if necessary, proceed to Step Two in the complaint procedure.

h. Instituting Step Two Proceedings

If the Equal Rights and Opportunity Officer is unable to reach an informal resolution of the matter within ten (10) calendar days of the date the reasonable cause finding was made, the Equal Rights and Opportunity Officer shall so notify both the complaining party and the responding party in writing, and shall inform the parties that, if the complaining party

chooses to proceed to Step Two, the case will be referred to the University Harassment Review Board for commencement of formal proceedings.

Timing: The complaining party has ten (10) calendar days from receipt of such notice to submit a written request to initiate proceedings under Step Two of the University's harassment complaint procedure, as described below.

2. Step Two

- a. **Initiation of Proceedings:** To initiate Step Two of the complaint procedure, the complaining party must file a written statement of intention to proceed to Step Two within the prescribed time period. The statement must be submitted to the Equal Rights and Opportunity Officer.
- b. **The University Harassment Review Board:** The University Harassment Review Board (the "UHRB") shall be responsible for processing Step Two harassment complaints within the University. The Equal Rights and Opportunity Officer will notify the University's General Counsel that Step Two proceedings have been initiated and the General Counsel will see to the formation of the committee. The members will be appointed, as described in the next paragraph, for the duration of the case.

In the event that the responding party is a full-time faculty bargaining unit member, the UHRB shall be constituted pursuant to the Faculty Procedures, attached at Appendix B. In all other cases, the UHRB shall consist of three (3) members: the Provost or the Provost's designee, as Chair, one representative from the constituency of the complaining party and one representative from the constituency of the responding party. For purposes of this complaint procedure, the constituency for a faculty member shall be the faculty (excluding department chairs and except as otherwise provided in the Faculty Procedures for full time faculty bargaining unit members), the constituency for a student shall be the Dean of Students Office, the constituency for an administrative employee shall be the administration (excluding department chairs), and the constituency for a union represented staff member (office, clerical, technical employee or maintenance employee) shall be the membership of the same collective bargaining unit. Except for proceedings pursuant to Appendix B, all faculty members shall be appointed by the Faculty Affairs Committee of the University Senate through the Senate Executive Committee. The Dean of Students shall be responsible for selecting a representative from the Dean of Students Office. All administrative employees shall be appointed by the President. All union-represented staff members shall be appointed by the appropriate union.

Prior to the commencement of proceedings before the UHRB pursuant to Appendix A, members of the UHRB will be trained by the Equal Rights and Opportunity Officer with respect to harassment issues, current standards concerning what conduct may constitute harassment and any other specific issues necessary for determination of the complaint before them. The members of the UHRB in a proceeding pursuant to Appendix B will be trained annually by the Equal Rights and Opportunity Officer with respect to harassment issues and current standards concerning what conduct may constitute harassment. The AAUP has the right to attend these training sessions.

Both the complaining party and the responding party shall be provided with a list identifying the members of the UHRB who will serve as the hearing committee. Any member of the UHRB with an interest in the matter, or who the complaining party or the responding party justifiably maintains has a conflict of interest, may be asked to disqualify himself or herself from participating in processing the complaint. Requests for disqualification should be made within five working days of receipt of the list, and should be submitted to the UHRB, which will provide a copy of such request to the other party. A UHRB member may request disqualification of himself or herself by submitting a statement to the parties and the UHRB setting forth the basis for disqualification. Any disputes concerning disqualification will be decided by the Provost or his/her designee. If a member of the UHRB is disqualified, another member shall be appointed as in the paragraph above or, where the responding party is a full-time faculty member, as in Appendix B.

Formal Complaint Proceedings Before the University Harassment Review Board: The UHRB shall commence formal proceedings for determination of the complaint promptly but no later than fifteen (15) calendar days after Step Two proceedings are initiated. This process shall include hearings before the UHRB in which the complaining party, responding party and other relevant witnesses shall have the opportunity to provide testimony and documents. At the conclusion of the hearings, the UHRB will make written findings and recommend a penalty, if applicable.

- c. Hearing before the UHRB: The UHRB shall conduct hearings, which shall be governed by this Policy and, as applicable, by (a) Formal Complaint Proceedings Before the University Harassment Review Board (which applies to all responding parties, including adjunct faculty members, other than full-time faculty bargaining unit members), attached at Appendix A and (b) the Faculty Procedures where the responding party is a full-time faculty bargaining unit member, attached at Appendix B. The UHRB shall report its findings, which must be based on a preponderance of the evidence in the record considered as a whole, in writing to the President, with copies to the complaining and responding parties.

3. Step Three

Within fifteen (15) calendar days after receiving a copy of the UHRB's written finding either party may submit written objections to the findings with the President of the University. Such written objections should set forth, in detail, the reasons why the objecting party believes the UHRB's findings should not be affirmed, or why the recommended penalty should not be adopted, by the President. A copy of the written objections will be provided to the other party in interest, who may file a written response within fifteen (15) calendar days after receipt of the objections.

In addition to filing written objections, either party may request a hearing before the President, which the President may grant in his discretion. The hearing may be attended by the objecting party (with one advisor), the other party (with one advisor), the President, the Equal Rights and Opportunity Officer, and the UHRB. At the hearing, each party will be permitted to present his or her position orally (limited to thirty (30) minutes), and the President may question each. These proceedings will be recorded.

Within thirty (30) calendar days of the submission of written objections or the hearing, whichever is later, the President shall issue his final decision, in writing. If neither party files objections to the UHRB's findings within the prescribed time period, the President will issue a final decision within thirty (30) calendar days after receiving the findings and recommendations. After giving due consideration to the UHRB's findings and recommendations, the President may accept or reject the findings and recommendations, including any recommendation regarding penalty.

Any penalty imposed by the UHRB or the President shall be consistent with any applicable collective bargaining agreement or disciplinary provisions with respect to union-represented employees. A copy of the decision will be provided to each party. The President's decision will be final and binding on all parties. Notwithstanding the foregoing, where the responding party is a full-time faculty bargaining unit member, the President's decision is subject to review as set forth in Appendix B.

4. Informal Resolution of Complaint Permitted

At any time during the Step Two or Step Three process, the President, the UHRB or the Equal Rights and Opportunity Officer shall have authority to enter into an informal resolution of the complaint that is acceptable to both the complaining party and the responding party. As noted above, upon the informal resolution of a complaint, the matter will be deemed closed, and no party will be permitted to appeal, contest, re-open, or otherwise attempt to set aside or amend the terms of the informal resolution as long as the terms are adhered to.

5. Extensions of Time

All of the time limits contained in the foregoing and in the attached Appendices may be extended by mutual written agreement of the party requesting the extension and the Equal Rights and Opportunity Officer (Step One), the UHRB (Step Two) or the President (Step Three).

6. Harassment File

The Office of the Equal Rights and Opportunity Officer shall maintain a file of all harassment complaints and their outcomes, including harassment complaints by students against students. The UHRB or the President may inquire of the Equal Rights and Opportunity Officer whether prior cases exist in which the responding party was involved where the case resulted in a finding by the UHRB against the responding party or where the case was informally resolved in conformance with FPS 43. Additionally, the UHRB may consider for purposes of determining an appropriate penalty prior cases involving other parties that involve the same or similar conduct to that alleged in the complaint under consideration. The complainant and the responding party shall be given copies of all information provided to the UHRB in response to such a request.

7. Independent Investigation

The University reserves the right to conduct an investigation of a complaint of harassment independent of or in addition to the procedure provided herein at any time.

IV. Policy Review

The University Senate including representatives from the University and the AAUP shall be responsible for periodically reviewing this policy and its implementation to assess its effectiveness and make recommendations regarding possible changes. The Equal Rights and Opportunity Officer shall deliver an annual report on the activities of the Office of the Equal Rights and Opportunity Officer to the University's General Counsel.

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APPENDIX A

FORMAL COMPLAINT PROCEEDINGS BEFORE THE UNIVERSITY HARASSMENT REVIEW BOARD

As soon as possible, but within *fifteen (15) calendar days* after Step Two proceedings are initiated, the UHRB shall commence formal proceedings for determination of the complaint. This process should include the following steps:

1. The Equal Rights and Opportunity Officer shall forward to the UHRB, the complaining party, the responding party, and, if the responding party is a member of a union, the responding party's union,¹ a copy of the Harassment Complaint Form ("Formal Complaint"), any written response of the responding party ("Written Response"), and this Appendix A.
2. The UHRB should notify the responding party that it will: (a) conduct a full investigation of the complaint; (b) determine whether the alleged conduct occurred; (c) if the alleged conduct occurred, determine whether the conduct constitutes harassment in violation of the University policy; and (d) determine an appropriate penalty if warranted.
3. The complaining party shall be provided with a full copy of the Written Response to the complaint, including any documents or other materials submitted by the responding party in support of the response.
4. The UHRB shall commence formal proceedings for determination of the complaint promptly but no later than fifteen (15) calendar days after Step Two proceedings are initiated. Both the complaining party and the responding party shall be notified by the UHRB of their right to be represented by advice from an attorney or any other individual of their choice in hearings before the UHRB. There shall be no more than one (1) advisor per party present at any UHRB hearing. The parties or their advisors are not permitted to examine or cross-examine witnesses, such power being reserved exclusively to the UHRB. The parties or their advisors may submit to the UHRB suggested questions for the UHRB to ask a particular witness, and the UHRB, in its discretion, may ask or not ask any question so submitted. The parties or their advisors also are entitled to suggest, but not insist, that a particular witness or witnesses be called by the UHRB. The parties are permitted to raise objections to questions posed by the UHRB during the examination of a witness, or to any evidence offered for consideration by the UHRB during the course of the hearing, which objections will be considered and ruled upon by the UHRB. Further, the parties are permitted to make opening and closing remarks to the UHRB, subject to any time limitations imposed by the UHRB in its discretion.

¹ The responding party, if a union member, will be advised that absent his or her objection, his/her union will be notified only that a Formal Complaint has been filed. With the responding party's consent, copies of the Formal Complaint, Written Response, and all evidence collected will also be provided to the union

5. Hearing proceedings shall be recorded by stenographic or other means, and a written transcript of the proceedings shall be made. This transcript shall be held by the Office of the Equal Rights and Opportunity Officer. Such transcript shall be made available only to: the complaining party, the responding party, and, if the responding party is a member of a union, the responding party's union in conformance with footnote 1, and the members of the UHRB. The cost of the transcript shall be borne by the University. Access to transcripts of the proceedings shall be conditioned upon the signing of a confidentiality stipulation by the inspecting party.
6. The hearing shall include to the extent possible:
 - a. *Examination of the complaining party, the responding party, and any relevant witnesses who may be of assistance in resolving the complaint.* The complaining party and the responding party and their advisors, if any, shall be informed of the identity of any relevant witness to be examined by the UHRB and shall have the right to be present during the UHRB's examination of any witness. The complaining and responding parties shall have the opportunity to rebut or otherwise comment on the witness's testimony should they so desire. Further, as provided above, either party may submit to the UHRB suggested questions for the UHRB to ask a particular witness, and the UHRB, in its discretion, may ask or not ask any question so submitted.
 - b. *Careful review of any documents and other information submitted by the parties or witnesses, or any other documents and information the UHRB may deem relevant.* The complaining party and the responding party should be provided copies of all documents and information considered by the UHRB during the course of the hearing, and shall be permitted to comment on such evidence should they so desire.
7. The complaining party and the responding party shall have the right to submit to the UHRB, throughout the hearing process, any additional relevant documents, information or witnesses they believe necessary to support their position.
8. At any time during the hearing process, either party may request from the UHRB documents or information in the possession or custody of the University that he or she believes is essential for prosecuting or defending the complaint. The request should be in writing and should specify with reasonable particularity the documents or information sought. The UHRB shall comply with the request unless it appears that the request is unduly burdensome, overly broad, or not relevant to determining the issues raised by the complaint. If the request involves confidential documents or information, the University shall have the right to require the parties to enter into a confidentiality stipulation agreeing not to disclose such documents or information outside the confines of the complaint process, prior to producing such confidential materials.
9. UHRB hearings shall be closed, and may only be attended by the complaining party (and his or her advisor), the responding party (and his or her advisor), and, if the responding party is a member of a union, the responding party's union (which may

include a union representative and/or the union's counsel) in conformance with footnote 1, the members of the UHRB, testifying witnesses, counsel for the UHRB, and personnel necessary for administration of the hearing. The parties and their advisors have a right to be present throughout the hearing. However, testifying witnesses may only be present for their own testimony.

10. The UHRB shall not be bound by technical rules of evidence, but may consider any relevant, material, and reliable evidence that it believes will contribute to an informed result. Further, the UHRB shall have discretion in deciding which evidence to accept and how much weight should be accorded particular documents or testimony. Subject to the procedures prescribed herein, the UHRB may establish its own rules regarding procedural matters, including but not limited to the order of testimony and presentation, scheduling, adjournments, and communication with the UHRB.
11. If the UHRB finds related misconduct that does not constitute harassment, the UHRB shall refer the matter to the University Administrator responsible for addressing such issues.
12. The UHRB shall provide a copy of its written finding to the complaining party, the responding party and, if the responding party is a member of a union, the responding party's union, and the President. If applicable, the finding should include a recommended penalty. The UHRB may recommend any penalty that it deems appropriate under the circumstances, including, but not limited to, administrative actions such as a written warning, probationary status, suspension or dismissal, or expulsion.
13. If the UHRB finds that the complaining party has been intentionally dishonest, malicious or frivolous in making the allegations, the UHRB shall, after consultation with the Equal Rights and Opportunity Officer, recommend an appropriate penalty.

APPENDIX B

FACULTY PROCEDURES FOR HARASSMENT COMPLAINT PROCEEDINGS BEFORE THE UNIVERSITY HARASSMENT REVIEW BOARD

The following procedures apply to all disciplinary actions brought against bargaining unit members for alleged violations of FPS 43 last revised September 23, 2014:

1. Adequate Cause Requirement. Bargaining unit members may not be disciplined without adequate cause relating, directly and substantially, to the fitness of the member in his/her professional capacity as teachers, librarian or researcher. Discipline includes but is not limited to a written warning, suspension or termination. Discipline will not be used to restrain bargaining unit members in their exercise of academic freedom or other rights of American citizens.
2. Service of Charge Statement. The Harassment Complaint Form (hereinafter referred to as “Formal Complaint”), as prepared by the complaining party, framed with reasonable particularity, will be served on the full-time faculty responding party (such full-faculty bargaining unit member hereinafter referred to as “responding party”) and the AAUP in conformance with footnote 1 below.¹ The responding party will also be provided with copies of any other evidence collected during the initial investigation. The complaining party (if not the University) will also be provided with all evidence collected during the initial investigation, including any statements submitted by the responding party. Documents submitted in efforts to reach an informal settlement are not part of the hearing record.
3. When Step Two proceedings are initiated in accordance with FPS 43, the responding party and the AAUP will be notified by the University. If the responding party did not submit a written response to the complaint at an earlier stage of the investigation or wishes to supplement his/her response s/he may do so within ten (10) days of notification of the initiation of Step Two.
4. (a) The UHRB shall consist of five (5) members: The Provost or the Provost’s designee, who shall serve as Chair; the Vice President for Student Affairs or a designee; two (2) tenured faculty members selected from a standing pool, as described below; and one (1) person selected from the joint administrative/tenured faculty pool, as described below. The Provost’s designee shall have the title provost or dean and the designee of the Vice President for Student Affairs shall be from the Office of Student Affairs and have a title at the director level or above.

(b) The tenured faculty pool shall consist of a standing group of six (6) tenured faculty members, with faculty in the standing group assigned in random rotating order established after the standing group is selected. Unless the parties agree to an

¹ The responding party will be advised that absent his or her objection, the AAUP will be notified only that a Formal Complaint has been filed. With the responding party’s consent, copies of the Formal Complaint and all evidence collected will also be provided to the AAUP.

alternative method of joint selection, the standing group shall be selected through a mechanism whereby the University Administration and the AAUP each submit a list of proposed tenured faculty members in an agreed upon number to a neutral third party; any overlapping names shall constitute the standing group; and if the standing group is not then sufficient in number, the neutral party shall request that the University Administration and the AAUP each numerically rank the remaining names on the two lists, with each party having the right to veto any name on the other party's list; the faculty members with the highest combined rankings shall serve as the standing group of six (6) faculty. The neutral third party may ask each party to submit additional names until the standing group of six (6) is established.

- (c) The joint administrative/tenured faculty pool shall consist of three (3) administrators and three (3) tenured faculty. The pool shall be selected in the same manner as for the tenured faculty pool. The designee to a particular UHRB panel shall alternate between an administrator and a faculty member on a case-by-case basis, so that every other hearing includes either an administrator or a faculty member. The designee in the first hearing will be selected randomly and panelists thereafter shall be assigned in random rotating order. The designees shall also rotate from within the same classification; i.e. administrators serve in rotating order in every other UHRB panel and faculty serve in rotating order in every other panel. If a participant is disqualified or unable to serve, he or she shall be replaced by a member of the same constituency.
 - (d) The details of the selection process whereby the UHRB is constituted shall be completely confidential. All appointees must commit to serve for one full academic year and may be reappointed.
 - (e) When a UHRB panel is constituted, there shall be due regard for the diversity of the panel, ensuring that representatives from both genders serve on any given UHRB panel.
5. Disqualification Procedures. Members of the UHRB who deem themselves disqualified for bias or interest will remove themselves from the case, either at the request of a party or on their own initiative as set forth in FPS 43. No individual who has been involved in the investigation of the charge may serve on the UHRB. No faculty member from the same department as the responding party shall serve on the UHRB.
 6. Pre-Hearing Meetings. The UHRB may, with the consent of the parties concerned, hold joint pre-hearing meetings with the parties in order to (i) simplify the issues, (ii) effect stipulations of facts, (iii) provide for the exchange of documentary or other information, and (iv) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.
 7. Hearing Date and Notice. The hearing will be scheduled on a date that is mutually acceptable to all parties within the timeframe set forth in FPS 43. Service of notice of hearing with specific charges in writing will be made on the responding party, the

complaining party (if not the University) and the AAUP in conformance with footnote 1 above, at least ten (10) days prior to the hearing. The parties may waive a hearing by mutual consent. If the parties waive the hearing, the UHRB will rest its recommendation upon the evidence in the record.

8. Private Hearing. The hearing will be private, however the President or Grievance Officer of the AAUP and counsel to the AAUP will have the right to attend the hearing, unless the responding party objects. In the event that the AAUP does not represent the responding party in this proceeding, the responding party is entitled to have a representative at the hearing. The representative may be an attorney or any other individual of their choice. The complaining party is also entitled to have a representative at the hearing. The representative may be an attorney or any other individual of their choice. The University's counsel will serve as counsel to the UHRB.
9. Transcript. Hearing proceedings shall be recorded by stenographic or other means, and a written transcript of the proceedings shall be made. Subject to the signing of a confidentiality stipulation, the transcript shall be made available only to: the complaining party; the responding party; their representatives; the AAUP in conformance with footnote 1 above; and any member of the UHRB. The cost of the transcript shall be borne by the University.
10. Burden of Proof. The following burden of proof rests with the complaining party. The complaining party must establish that the responding party violated the University's Harassment Policy based on a preponderance of the evidence in the record considered as a whole.
11. Adjournments. The UHRB will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
12. Opportunity to Obtain Evidence. The parties will be afforded an equal opportunity to obtain necessary witnesses and documentary or other evidence. The Administration will cooperate with the UHRB in securing witnesses and making available documentary and other evidence.
13. Examination. The parties will be afforded equal rights, through the UHRB, to examine witnesses, cross-examine witnesses, and submit evidence. The parties may propose all of the questions that they wish to ask witnesses to the UHRB, including follow up questions. The Chair of the UHRB will pose those questions. Subject to the procedures prescribed herein, the UHRB may establish its own rules regarding procedural matters, including but not limited to the order of testimony and presentation, scheduling, adjournments, and communication with the UHRB.
14. Rules of Evidence. The UHRB will not be bound by strict rules of legal evidence, and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

15. Findings Based on Record. The UHRB's findings of fact and decision will be based solely on the hearing record. Statements made by a party during settlement discussions or in efforts to informally resolve the matter are inadmissible in the UHRB proceeding and may not be shared with or considered by the UHRB.
16. Confidentiality. It is the policy of Hofstra University to protect the confidentiality of members of the University community who may be involved in harassment complaint procedures, insofar as that is reasonably practicable. Except for such simple announcements as may be required, covering the time of the hearing and similar matters, public statements and publicity about the case by any party or administrative officers will be avoided so far as possible. The responding party and the complaining party (if not the University) and the AAUP will be notified of the decision in writing.
17. Step Three. The determinations of the UHRB, of whether the harassment policy was violated and the recommended penalty, will be submitted to the President. Either party may submit written objections to the findings with the President pursuant to the procedures set forth in Step Three of FPS 43. In the event the President grants a hearing pursuant to FPS 43, the AAUP may attend in addition to those noted in FPS 43 unless the responding party objects. In the event that the President disagrees with the recommendation of the UHRB s/he will state the reasons for doing so in writing. The President's final decision shall be provided to both parties and the AAUP.
18. Arbitration. If either party or the AAUP disagrees with the decision of the President, that party or the AAUP may appeal to arbitration. The standard for review by an Arbitrator will be that the President (a) acted in an arbitrary or capricious manner; (b) failed to apply the written criteria of the University; or that (c) the procedural due process to which either party was entitled under the Collective Bargaining Agreement or any other applicable policies or laws were violated. The demand for arbitration must be filed pursuant to the rules of the American Arbitration Association in accordance with its Voluntary Labor Rules then in effect, and by serving the other party with a copy of the demand for arbitration. The demand for arbitration must be filed and served no later than thirty (30) days after the issuance of the President's final decision. The costs of such arbitration shall be shared by the parties.
19. The AAUP and the University reserve all rights and arguments with regard to the precedential value of any resolutions or determinations made pursuant to these procedures and FPS 43 in which the AAUP was not a participant.
20. The paragraphs above apply only to FPS 43 proceedings brought against full-time AAUP members. Proceedings brought against adjunct faculty alleging violations of FPS 43 will be governed by FPS 43 and Appendix A to FPS 43. An adjunct may not be delisted on the basis of alleged violations of FPS 43 until the Appendix A and FPS 43 procedures are completed.