



NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY & COMPLAINT PROCEDURES

**(including Title IX Sexual Harassment, Sexual Abuse/Assault, Stalking,
Domestic Violence, Dating Violence, and Other Sexual Misconduct)**

**Azrieli Graduate School of Jewish Education and Administration -- Benjamin N. Cardozo School of Law
-- Bernard Revel Graduate School of Jewish Studies -- Ferkauf Graduate School of Psychology --
The Katz School of Science and Health -- Stern College for Women -- Sy Syms School of Business --
Wurzweiler School of Social Work -- Yeshiva College**

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& COMPLAINT PROCEDURES**

(including Title IX Sexual Harassment, Sexual Abuse/Assault, Stalking, Dating Violence, Domestic Violence, and Other Sexual Misconduct)

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

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and religion; New York State Human Rights Law, which prohibits discrimination on the basis of age, race, creed, color, national origin, sexual orientation, sex, domestic violence victim status, arrest record, conviction record, predisposing genetic characteristics, military status, familial status, marital status or disability; 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

complaining individual is not the intended target of the sexual harassment. A sexually harassing hostile work environment may include words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Conduct that does not constitute a Title IX violation may still be a violation of the University's Other Sexual Misconduct Policy.

2. **Quid Pro Quo Harassment**

Quid Pro Quo Harassment occurs when a University employee either explicitly or implicitly conditions the provision of an aid, benefit, or service of the University of an individual's participation in unwelcome sexual conduct. Conduct that does not meet the level of a Title IX violation may still be a violation of the University's Other Sexual Misconduct Policy.

3. **Sexual Assault**

Sexual Assault is any nonconsensual sexual act prohibited by law, including when the victim lacks capacity to consent. This Policy prohibits sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v), incorporating definitions from the uniform crime reporting system of the Federal Bureau of Investigation, which include:

- 1) *Rape* is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, forcibly or without affirmative consent or where the victim is incapable of affirmative consent due to mental or physical incapacity.
- 2) *Statutory Rape* is non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.
- 3) *Fondling* is the touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or without affirmative consent (as defined below) or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of ause 251(be)4(c)4(a)4(use)-6()

child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person similarly situated to a spouse of the victim, or by any other person against an adult or youth victim who is protected from that person's acts.

Examples of conduct that may constitute, whether alone or in combination, domestic violence include, but are not limited to: a pattern of 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.

6. **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. Stalking may include contact through a third party.

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 (“

- b. Submission to 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
- c. 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 (even if, in the case of a University employee or non-employee working at the University, the complaining individual is not the intended target of the sexual harassment); or
- d. Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working, learning, studying, or school environment (even if, in the case of a University employee or non-employee working at the University, the complaining individual is not the intended target of the sexual harassment). A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex.

You do not need to determine whether conduct falls under any of these definitions prior to speaking with the Title IX Coordinator, the Deputy Title IX Coordinator or any other University resources. The University encourages all individuals with concerns to bring them forward.

Affirmative Consent (“Consent”)

Affirmative Consent is defined as a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. This definition does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act;
- Consent is required regardless of whether the person initiating the act is under the influence under

Don'ts:

- Let friends engage in activities, such as excessive alcohol/drug consumption, that impedes judgement and that therefore could lead to actions, including sexual advances, that are unwelcome and/or endanger the rights, safety, and well-being of others.
- Let friends walk/run alone in secluded areas or at night.
- Leave a friend or acquaintance alone at a party.
- Leave residence hall doors unlocked.
- Let friends drink to the point of impairment.
- Place yourself in a vulnerable situation where you are unable to voice consent.

IV. FREE SPEECH & ACADEMIC FREEDOM

This Policy is intended to protect covered persons from discrimination, harassment and sexual misconduct, not to r

measures. The Title IX Coordinator will consider the individual's wishes with respect to implementing supportive measures, and will notify individuals of the availability of supportive measures with or without filing a formal complaint.

Intentional and/or continued violations of a University-

- 7) The University's Confidential Compliance Hotline at (866) 447-5052 or via the web at <https://www.integrity-helpline.com/you.jsp>.

In addition to those listed above, suspected violations of this Policy may be reported to 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 (the "*Clery Act*"), including:

- Undergraduate Office of Student Life (<http://yu.edu/osl>)
Beren Campus – (646) 592-4125 / Wilf Campus – (212) 960-5411
- Cardozo Office of Student Services and Advising (<http://cardozo.yu.edu/ossa>)
(212) 790-0429
- Undergraduate Office of University Housing and Residence Life
Beren Campus - (646) 592-4163 - <http://yu.edu/student-life/housing/women/>
Wilf Campus – (646) 592-4215 - <http://yu.edu/student-life/housing/men/>

If any of these aforementioned people, other than the Title IX Coordinator, is first notified of a complaint, that person must promptly inform the Title IX Coordinator of the suspected violation of the Policy. If the complaint involves an allegation of sexual misconduct, the Title IX Coordinator will promptly inform the Office of the General Counsel of such complaint. There is no time limit on when a report or complaint pursuant to this Policy 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 ex3m0 g80.00000912 0 612 792 reW0.6000(nd reW* nBsioll)-3(e)-5(g)10(a)4(t(nd re 2(ua)4(1)58(m

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. (For additional resources, see **Section XXIII**.)

VIII. GUIDING PRINCIPLES

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

- 1) Every effort will be made, consistent with the need to discharge the University's responsibilities and protect the safety of the University community, to respect the wishes of the alleged victim regarding further investigation. A complaint will not be pursued without the victim's consent, unless the University is obligated to do so or, in its judgment, the allegations are serious enough to warrant further action (see **Section XI**).
- 2) Victims are strongly encouraged to file a complaint promptly after the alleged incident because as time goes by, an investigation becomes more difficult. Memories may become unreliable, and information and wtr16@hu7()-29(prompt1)-12(y)30()-29(a)4(f212 0 612 7921 93.)-5(c)48nd

notified of such additional information as required by the applicable Appendix B or C. Should the University decide to investigate additional allegations that arise during the course of an investigation, the complainant and respondent will be notified of those allegations as well. In all cases, the complainant and respondent will be provided with an equal opportunity to present witnesses (fact and expert), as well as other inculpatory and exculpatory evidence.

A detailed explanation of the investigative process, as well as the adjudication process, is set out in **Appendix A**, Informal Resolution; **Appendix B**, Formal Resolution of Complaints Involving Title IX Sexual Harassment, Including Sexual Abuse/Assault, Stalking, Domestic Violence and Dating Violence; and **Appendix C**, Formal Resolution of Complaints Involving Title IX Sexual Harassment.

The University expects all members of the University community to cooperate with investigations. However, in no event will an alleged victim or respondent be compelled to participate in the investigation.

X. 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. In such a situation, the University will evaluate the request in the context of the University's responsibility to provide a safe, non-discriminatory, and harassment-free environment. In evaluating such a request, the University will consider several factors, including the seriousness of the alleged misconduct, the complainant's age, whether a weapon or force was involved, the parties involved, whether there have been other complaints of misconduct against the respondent, and the applicability of laws mandating an investigation or other action. See **Section XXIII** for information regarding confidential support services.

XI. RECORDS

The Title IX Coordinator will maintain, for at least seven years, records of all reports and complaints (both formal and informal), investigations, findings (including the basis for those findings), and if applicable, hearings, any recordings of hearing, any disciplinary sanctions imposed on respondent, and appeals. The Title IX Coordinator will similarly maintain, for at least seven years, records of any remedies provided to restore or preserve equal access to the University's education programs and activities, any actions (including supportive measures) taken in response to a report, and all training material described in **Section XXI**.²

Promptly following the final resolution of a complaint, the Title IX Coordinator will provide a copy of these records to the Office of the General Counsel. All of these

XII. INFORMAL RESOLUTION AND UNLAWFUL HARASSMENT PANEL

Members of the University community may seek advice from the Title IX Coordinator, a Deputy Title IX Coordinator or the Unlawful Harassment Panel on alternative methods of resolving disputes or perceived acts of discrimination/harassment.

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, 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.

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. A list of the present members can be found at: <http://yu.edu/hr/harass-panel/>.

Informal Resolution of Complaints Involving Title IX Sexual Harassment

instances, the University will attempt to comply with requests for confidentiality unless doing so would impede its ability to provide a safe and nondiscriminatory environment.

XVIII. TIME LIMITS

The University will exercise due diligence in complying with the stated time limits set forth in this Policy. However, stated time limits may be extended depending on the nature of the allegations, the time of year, and any other unforeseen or extenuating circumstance. Any party may request an extension of any deadline by submitting a written request to the Title IX Coordinator, Deputy Title IX Coordinator, Investigator, or other relevant person(s) detailing the reason for such request and the amount of additional time requested. The person to whom the request is submitted has the discretion to grant or deny any such request.

XIX. REMEDIES AND SANCTIONS

If the University determines that an individual has engaged in an act of Title IX Sexual Harassment or Other Sexual Misconduct, sanctions which may be imposed by the University include suspension or expulsion for students, and termination of employment for employees.

In addition to any disciplinary action, the University may take action to eliminate a hostile environment created by discrimination, Title IX Sexual Harassment, or Other Sexual Misconduct; to prevent the recurrence of the discrimination, harassment or sexual misconduct; and to address the effects of the discrimination, harassment or sexual misconduct on the parties involved, the witnesses and the University community, as appropriate. Such efforts may include additional training and awareness programs for the University community.

More information about possible sanctions can be found in **Appendix B**, Formal Resolution of Complaints Involving Title IX Sexual Harassment and **Appendix C**, Formal Resolution of Complaints Not Involving Title IX Sexual Harassment.

XX. EDUCATION/TRAINING

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

Those Involved in Investigations. The Title IX Coordinator, Deputy Title IX Coordinator, Investigators, Decision-Makers, University administrators rendering decisions on sanctions and appeal, and any person who facilitates an informal resolution process will receive training on the definition of Title IX Sexual Harassment, the scope of the University's education program or activity, how to conduct an investigation and

- **Manhattan Family Justice Center can provide a wide range of services and support. The Manhattan location is at 80 Centre Street, New York, NY 10013; Phone: (212) 602-2800; <https://www1.nyc.gov/site/ocdv/programs/family-justice-centers.page>.**
- **Family Court Volunteer Lawyer Program** (part of the New York State Access to Justice Program)
900 Sheridan Avenue
Bronx, NY 10451
Phone: (718) 618-2150
Hotline: (718) 618-2150
- **Safe Horizon (NYC)**
2 Lafayette Street, 3rd Floor
New York, NY 10007
Phone: (212) 227-3000
<http://www.safehorizon.org/help@safehorizon.org>
Hotline: (866) 689-4357

Immigration & Visa Assistance Services for Victims of Sexual & Interpersonal Violence

- Non-Confidential University Resource

Yeshiva University Office of International Students and Scholars

500 West 185th Street, Furst Hall, Room 413
New York, NY 10033
(646) 592-4203
oiss@yu.edu

- Other Resources not affiliated with the University

U.S. Citizenship and Immigration Services (USCIS)

<http://www.uscis.gov/citizenship/learners/find-help-your-community>
USCIS Find Legal Services Webpage
<http://www.uscis.gov/avoid-scams/find-legal-services>

Board of Immigration Appeals (BIA) (Listing of attorneys by state who provide immigration services either for free or for little cost)

<http://www.justice.gov/eoir/probono/states.htm>

American Immigration Lawyers Association (AILA)

Immigration Lawyer Referral Service
<http://www.ailalawyer.org/>

American Bar Association (ABA)

(Information on finding legal services by state)

<http://apps.americanbar.org/legalservices/findlegalhelp/home.cfm>

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (0 g0484003004500484004F004C>300484005900484005600030057004B0

Where the parties reach mutual agreement through the informal resolution process – and the University determines that the agreement is acceptable – the agreement terms will be implemented and the matter will be deemed resolved and closed.

Where the parties do not reach mutual agreement, or where an agreement was reached but a party fails to comply with the terms, the Title IX Coordinator may refer the matter for investigation and formal resolution. At such time, any statements made or information offered by either party during the informal resolution process may be used or considered during the subsequent investigation and formal resolution.

If applicable, where a Unlawful Harassment Panel Member is unable or unwilling to participate in the informal resolution process, for example because of a conflict of interest, the Title IX Coordinator or Deputy 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 or Deputy Title IX Coordinator will select another Panel Member or mediator (as applicable). Where acceptable to both parties, the Panel Member(s) involved may request that an additional Panel Member(s) and/or the Title IX Coordinator or Deputy Title IX Coordinator be present for the discussions.

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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 or Deputy 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 or Deputy Title IX Coordinator will select another Panel Member or mediator (as applicable). Where acceptable to both parties, the Panel Member(s) involved may request that an additional Panel Member(s) and/or the Title IX Coordinator or Deputy Title IX Coordinator be present for the discussions.

Informal Resolution is not available in cases of alleged sexual assault, stalking, domestic violence, or dating violence or to resolve allegations that an employee sexually harassed a student.

Appendix B

NOTICE OF ADDITIONAL ALLEGATIONS

THE INVESTIGATION

An investigator (who may be, but is not required to be, the Title IX Coordinator or a Deputy Title IX Coordinator) will promptly, fully, fairly and impartially investigate the complaint, and each party will have equitable opportunities to present witnesses, and review and present information and relevant inculpatory and exculpatory evidence.

The Investigator will seek to conclude the investigation as soon as practicable after receipt of the formal complaint. The Investigator will provide the parties with periodic status updates.

The Investigator is responsible for gathering information sufficient to reach a determination about the respondent's responsibility. The Investigator will review all information gathered or provided by the parties and will determine the appropriateness, relevance and probative value of the information developed or received during the investigation. Information about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

THE LIVE HEARING

Upon receipt of the final investigative report from the Investigator, the Title IX Coordinator or Deputy Title IX Coordinator will identify a decision-maker to cond

DECISION

As soon as practicable, the decision-maker will issue a written decision simultaneously to each party regarding the respondent's responsibility based on a preponderance of the evidence. This written decision will: (i) identify the allegations, (ii) describe the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held, (iii) identify findings of fact that support the determination, (iv) make conclusions regarding the application of this Policy to the facts, (v) include a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and any disciplinary sanctions the recipient imposes on the respondent, (vi) provide information about whether remedies designed to restore or preserve access to the University's education programs or activities will be provided, and (vii) provide information about the procedures for sanctioning (if applicable) and bases for appeal.

In all cases, there are only three possible grounds for appeal:

1. An alleged material violation of the established procedures in this Policy (including conflict of interest or bias on the part of the Title IX Coordinator, the Investigator, or the decision-maker);
2. Evidence that could affect the outcome is now available that could not have been obtained at the time of the determination/initial hearing; or
3. The sanction is excessive, inconsistent with or insufficient for th

Appendix C

Formal Resolution of Complaints Not Involving Title IX Sexual Harassment

Following a determination to pursue a formal resolution of a complaint not involving Title IX Sexual Harassment received by the Title IX Coordinator or Deputy Title IX Coordinator:

I. FOR COMPLAINTS INVOLVING SEX/SEX-BASED DISCRIMINATION, SEXUAL HARASSMENT, SEXUAL ABUSE/ASSAULT, STALKING, DOMESTIC VIOLENCE AND DATING VIOLENCE INVOLVING STUDENTS

- 1) The Title IX Coordinator or Deputy Title IX Coordinator (or his/her designee) will provide all parties involved with a copy of these procedures (which may be via a link to these procedures

of the parties, and any mitigating circumstances. The Title IX Coordinator or Deputy Title IX Coordinator (or other designated investigator or person) will decide the appropriate disciplinary actions. The Title IX Coordinator or Deputy Title IX Coordinator will simultaneously notify the parties as soon as practicable of the sanctions to be imposed, and the right to appeal (as provided below).

- 15) If a hearing officer is selected to make the finding and determine sanctions as provided above, then a hearing officer will be selected by the Title IX Coordinator or Deputy Title IX Coordinator (in consultation with the Office of the General Counsel) depending on the nature of the case and the parties involved. The hearing officer may be the Title IX Coordinator, a Deputy Title IX Coordinator, another University employee, or an outside individual, but may not be the person who handled the investigation. The process will then be as follows:
 - i. The hearing officer will schedule a hearing as soon as possible after the conclusion of the investigation, and the Title IX Coordinator or Deputy Title IX Coordinator will simultaneously notify the parties as soon as practicable of the date, time and place of the hearing.
 - ii. Prior to the hearing, the hearing officer will review the investigation report, as well as any responses to the investigation report submitted by the complainant or respondent.
 - iii. At the hearing, the hearing officer may question the parties in order to assist him/her in

the hearing officer may consider the respondent's past violations of University policy, as well as the nature and severity of the violation(s), the impact statements of the parties, and any mitigating circumstances.

- vi. The Title IX Coordinator or Deputy Title IX Coordinator will simultaneously notify the parties as soon as practicable of the sanctions to be imposed, and the right to appeal (as provided below).

16) The University expects all cases involving a finding of sexual violence, stalking, domestic violence and dating violence to involve consideration of suspension or expulsion for students, and termination of employment for employees. 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 and facilities, 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.

17) **Appeal Process.**

- i. In all cases, there are three possible grounds for appeal:

- An alleged material violation of the established procedures in this Policy;
- Evidence is now available that could not have been obtained at the time of the determination/initial hearing; or
- The sanction is excessive, inconsistent or insufficient with the nature of the offense.

- ii. Either party may appeal the decision of the Title IX Coordinator or Deputy Title IX Coordinator (or other designated investigator/person) or hearing officer, as applicable, (based on the grounds described above) to an **Appeal Panel** (of two or more persons, or as otherwise may be required by applicable law, rule or regulation) selected by the Title IX Coordinator or Deputy Title IX Coordinator (or other designated investigator/person) or hearing officer, as applicable, may not serve on the Appeal Panel. A request for an appeal must consist of a plain, concise, and complete written stateocedures in this Policy;

of responsibility either in whole or in part, and/or alter the sanctions, depending on the circumstances. The matter can also be referred back for further investigation or consideration if appropriate.

- vi. The Appeal Panel will issue its determination as soon as practicable from the date of the submission of all appeal documents by both parties. The Title IX Coordinator or Deputy Title IX Coordinator will simultaneously notify the parties as soon as practicable of the decision.
 - vii. Appeal decisions are final.
 - viii. If there is no appeal, the Title IX Coordinator or Deputy Title IX Coordinator also will simultaneously notify the parties that the initial decision is final because the time for an appeal has expired.
- 18) Notwithstanding the foregoing, to the extent permitted by law, (i) findings and recommendations concerning represented employees will be subject to the provisions of the appropriate collective bargaining agreement, and (ii) findings and recommendations that

II. FOR ALL OTHER COMPLAINTS

- 1) The Title IX Coordinator or Deputy Title IX Coordinator (or his/her designee) will provide all parties involved with a copy of these procedures (which may be via a link to these procedures on the University's website).
- 2) The Title IX Coordinator or Deputy Title IX Coordinator (or his/her designee) will request the complainant to provide to the Title IX Coordinator or Deputy Title IX Coordinator, within 5 days after the Title IX Coordinator's or Deputy Title IX Coordinator's request and preferably in writing, a description of all facts that bear on the allegations; 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 Deputy 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 or Deputy Title IX Coordinator (or his/her designee) will promptly inform the respondent in writing (and send a copy to the complainant) of the allegations (including the date, time, location, nature of the alleged misconduct, and factual allegations) and ask the respondent to respond to them within 5 days after such notice. Such response should include all facts that bear on the allegations, including the names of possible witnesses and the nature and description of possible evidence. The respondent is expected to share with the Title IX Coordinator or Deputy Title IX Coordinator, or other appropriate investigative entity as designated by the University, any relevant supplemental information that subsequently becomes available. The Title IX Coordinator or Deputy Title IX Coordinator will inform the complainant of any defenses that the respondent may provide. The Title IX Coordinator or Deputy Title IX Coordinator (or his/her designee) may ask to meet with the parties separately to discuss the allegations.

Where appropriate, in the judgment of the Title IX Coordinator or Deputy 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 assault, stalking, domestic violence or dating violence or an allegation that an employee sexually harassed a student.

- 4) The Title IX Coordinator or Deputy Title IX Coordinator may also work with the Office of the General Counsel, as appropriate, in responding to the receipt of a complaint.
- 5) The Title IX Coordinator or Deputy Title IX Coordinator (or other designated investigator) will fully, fairly

- 9) The Title IX Coordinator or Deputy Title IX Coordinator (or his/her designee) will provide the complainant and the respondent with periodic status updates.
- 10) The Title IX Coordinator or Deputy Title IX Coordinator (or other designated investigator) will seek to conclude the investigation as promptly as practicable (see Section XIX).
- 11) The Title IX Coordinator or Deputy Title IX Coordinator (or other designated investigator) will compile a neutral investigation report and will then determine the credible evidence and 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).
- 12) The Title IX Coordinator or Deputy Title IX Coordinator will simultaneously inform the parties of the conclusion of the investigation and the finding. The complainant and 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. 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.
- 13) Findings and recommendations concerning an employee-respondent will be promptly referred to the Chief Human Resources Officer for consideration of appropriate disciplinary action. The Chief Human Resources Officer will consult with the Title IX Coordinator or Deputy 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. With respect to faculty, the Chief Human Resources Officer also will consult with the Provost. The parties will be notified of any sanctions to be imposed. There is no right to appeal.
- 14) Notwithstanding the foregoing, (i) findings and recommendations concerning represented employees will be subject to the provisions of the appropriate collective bargaining agreement, and (ii) findings and recommendations that involve suspension or termination of faculty members will be subject to the provisions of the appropriate faculty handbook/policy.
- 15) Findings and recommendations concerning a student-respondent will be promptly referred to the applicable Dean of Students or his/her counterpart at the student-respondent's school for consideration of appropriate disciplinary action. The Dean of Students or his/her counterpart will consult with the Title IX Coordinator or Deputy Title IX Coordinator and the designated

Appendix D

Student Bill of Rights

The University is committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in University-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful

Appendix E

Student Alcohol and Drug Use Amnesty Policy

The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to University officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to a University official or law enforcement will not be subject to a code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

The University will provide students with the assistance needed to respond to high risk drinking and/or other drug abuse. In a crisis, students are encouraged to seek such assistance by contacting the Security Department or 911. Counseling services or drug and alcohol abuse counseling are available at the University's Counseling Centers.

Security Department - <http://yu.edu/safety-security/>

Beren Campus Security Department

50 East 34th Street, 1st Floor

(917) 326-4885

security@yu.edu

24-Hour Hotline: 1-888-STERN YU (1-888-783-7698)

Cardozo School of Law Security Department

55 Fifth Avenue (Basement)

(212) 790-0303 or (212) 790-0308

security@yu.edu

Wilf Campus Security Department

2521 Amsterdam Avenue (1st Floor)

(212) 960-5221

security@yu.edu

24-Hour Hotline: 212.960.5200 (in-house Ext. 200)

1-888-YU SAFTY (1-888-987-2389)

University Counseling Centers – <http://www.yu.edu/student-life/counseling/>

Wilf Campus Counseling Center

500 West 185th Street, FH 520

(646) 592-4200

counseling@yu.edu

Beren/Cardozo Campus Counseling Center

215 Lexington Ave, Suite 1303 (13th floor)

(646) 592-4210

counseling@yu.edu

Appendix F

New York Crime Definitions

The Violence Against Women Act (VAWA) and its regulations require the University to include certain New York State definitions in its Annual Security Report and also require that these definitions be provided in other materials disseminated by the University. Relevant New York definitions are set forth below.

CONSENT:⁷ Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. A person is incapable of consent when he or she is: less than 17 years old; or mentally disabled; or mentally incapacitated; or physically helpless; or committed to the care and custody of the state department of correctional services, a hospital, the office of children and family services and is in residential care, or the other person is a resident or inpatient of a residential facility operated by the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital.

CONSENT, ABBREVIATED: Clear, unambiguous, and voluntary agreement between the participating to engage in specific sexual activity.

DATING VIOLENCE: New York State does not specifically define "dating violence." However, under New York Law, intimate relationships are covered by the definition of domestic violence when the crime is committed by a person in an "intimate relationship" with the victim. See "Family or Household Member" for definition of "intimate relationship."

DOMESTIC VIOLENCE: An act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person's child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act.

FAMILY OR HOUSEHOLD MEMBER: Person's related by consanguinity or affinity; persons legally married to one another; person formerly married to one another regardless of whether they still reside in the same household; persons who have a child in common regardless of whether such persons are married or have lived together at any time; unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that

⁷ For the purposes of this Policy, the University defines consent as affirmative consent as defined in the body of this Policy, which is consistent with N.Y. Educ. Law § 6441.

may be considered in determining whether a relationship is an “intimate relationship” include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”; any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship.

PARENT: means natural or adoptive parent or any individual lawfully charged with a minor child’s care or custody.

SEXUAL ASSAULT: New York State does not specifically define sexual assault. However, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape.

SEX OFFENSES; LACK OF CONSENT: Whether or not specifically stated, it is an element of every sexual act committed without consent of the victim.

SEXUAL MISCONDUCT: When a person (1) engages in sexual intercourse with another person without such person’s consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person’s consent; or (3) engages in sexual conduct with an animal or a dead human body.

RAPE IN THE THIRD DEGREE: When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

RAPE IN THE SECOND DEGREE: When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree the defendant was less than four years older than the victim at the time of the act.

RAPE IN THE FIRST DEGREE: When a person engages in sexual intercourse with another person (1)

being physically helpless; (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

FORCIBLE TOUCHING: When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. It includes squeezing, grabbing, or pinching.

PERSISTENT SEXUAL ABUSE: When a person commits a crime of forcible touching, or second or third degree sexual abuse within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which a sentence was imposed on separate occasions of one of one of the above mentioned crimes or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.

SEXUAL ABUSE IN THE THIRD DEGREE: When a person subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that (1) such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than five years older than such other person.

SEXUAL ABUSE IN THE SECOND DEGREE: When a person subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.

SEXUAL ABUSE IN THE FIRST DEGREE: When a person subjects another person to sexual contact (1) by forcible compulsion; (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old.

AGGRAVATED SEXUAL ABUSE: For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE: When a person inserts a (1) foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old.

AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE: When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person (1)(a) by forcible compulsion; (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than 11 years old; or (2) causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE: When a person inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person by (1) forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.

AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE: When a person subjects another person to sexual contact: (1) By forcible compulsion; or (2) when the other person is incapable of consent by

such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

STALKING IN THE THIRD DEGREE: When a person (1) Commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping,

Appendix G

	felony charges, the final charging decision is made by a Grand Jury.	
Who investigates?	Police or other law enforcement officials.	Investigators employed or retained by the University; these individuals may work for different departments within the University, including, but not limited to, the Security Department, Student Affairs and Academic Affairs.

Procedures.

Sanctions.	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating University policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the University.
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Appendix H

Employee Complaint Form For Reporting Sexual Harassment

YESHIVA UNIVERSITY

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment. The University's Non-Discrimination and Anti-Harassment Policy & Complaint Procedures serves as its sexual harassment prevention policy (among other things).

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it (via personal hand delivery or email) to:

Deputy Title IX Coordinator – Human Resources
Ms. Renee Coker, Senior Director, Talent Management
Yeshiva University – Human Resources - Wilf Campus, BH 806
2495 Amsterdam Avenue, New York, New York 10033
(646) 592-4336 / renee.coker@yu.edu

The University prohibits retaliation for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the University will complete this form, provide you with a copy, and follow its Non-Discrimination and Anti-Harassment Policy & Complaint Procedures by investigating the claims as outlined in the policy.

- Email
- Phone
- In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name: _____

Job Title: _____

Work Location/School/Department: _____

Work Phone: _____

COMPLAINT INFORMATION

1. Complaint of Sexual Harassment is made against:

Name: _____

Job Title: _____

Work Location/School/Department: _____

Work Phone: _____

- Relationship to you: Supervisor
 Subordinate
 Co-Worker
 Other: _____

2. Please explain in detail the circumstances regarding the complaint. Please describe what happened, and provide date(s) Sexual Harassment occurred and where it occurred. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

Is the Sexual Harassment continuing? Yes No

3. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

The last question is optional, but may help facilitate the investigation.

4. Have you previously complained or provided information (verbal or written) about related incidents? Yes No

If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information. _____

Signature: _____ *Date:* _____