**INTERIM**

*Fordham University’s Policy and Procedures against Harassment, Discrimination, and Retaliation in Employment*

**Purpose:**

Consistent with federal, state and local laws, this policy reaffirms Fordham University’s commitment to an environment free from harassment, discrimination, and retaliation for all members of the Fordham community, including in the workplace, in the broader work environment, and during all campus-related activities. This policy outlines:

- The behaviors that constitute unlawful harassment, discrimination, and retaliation;
- To whom this policy applies;
- The situations in which this policy applies;
- How to report a violation of this policy; and
- The procedures to investigate reports made pursuant to this policy.

**Scope:**

This policy applies to harassment and discrimination on the basis of sex, gender, race, color, national origin, alienage or citizenship status, religion, pregnancy, age, sexual orientation, disability\(^1\), marital status, gender identity/expression, status as a victim of domestic violence, military status, veteran status, caregiver status, an individual’s genetic information, or any other category protected by federal, state, or local laws (collectively, “protected categories”). It also applies to retaliation for reporting an actual or perceived violation of this policy, opposing practices prohibited by this policy, or participating in the reporting and investigation process.

\(^1\) An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities; or
- Has a record of such an impairment; or
- Is regarded as having such impairment.

An individual with a disability may be entitled to receive a workplace accommodation. Please contact Ms. Gulay Siouzios in the Office of Human Resources Management to discuss accommodation requests (via email at siouzios@fordham.edu or by calling 718-817-3897)
Any employee or individual affiliated with Fordham University who engages in
discrimination or harassment, or who retaliates against anyone who complains of
harassment or discrimination or participates as a witness in an investigation, will be
subjected to disciplinary action, up to and including termination. Others covered by this
policy also will be subject to sanctions and penalties for violating the policy.

Nothing contained in this policy is intended or shall be construed to alter the status of any
at-will Fordham employee.

**Responsible University Office/Officer:**
Office of Human Resources Management

**Whom this policy applies to:**
This policy applies to all employees, applicants for employment, students when acting in
the capacity of an employee, visitors, and guests, and third parties conducting business
with Fordham such as interns, independent contractors, and vendors. The policy applies
regardless of an individual's immigration status.

**Scope of the policy:**

A. Sexual and Gender Based Offenses:

All sex or gender based reports involving a student (other than graduate students in the
capacity of an instructor), either as a respondent or a complainant, will be governed by
Fordham University’s *Sexual and Related Misconduct Policy and Procedures For the
Fordham University Community* which can be found [here](#).

All sex or gender-based reports involving an employee will be reviewed by the Office of
Human Resources Management and the Title IX Office to determine the appropriate
procedural steps available to the parties.

B. Other Forms of Discrimination

This policy governs reports involving protected categories other than sex and gender if
the respondent is a Fordham University employee or a graduate student acting in the
capacity of an instructor. Reports involving a student-respondent will be referred to
Student Affairs and will be governed by Fordham University's *Student Code of Conduct*,
which can be found [here](#).

At the discretion of the Department of Public Safety, reports by or against visitors,
vendors, or contractors may be investigated pursuant to this policy, or may be reported
to law enforcement, or both.
If a member of Fordham’s community makes a report pursuant to this policy, and Fordham’s Office of Human Resources Management determines that this policy does not apply, Human Resources will promptly forward the report to the appropriate department for processing.

Fordham also recognizes that members of its community may serve dual roles. For example, a graduate student may have roles as both a student and an employee. If an individual serves in multiple roles at the University, their report will be processed based on their primary relationship with the University with respect to the facts and circumstances at issue.

Fordham University, in its sole discretion, shall determine by whom any particular claim should be investigated and resolved. Human Resources retains the right to refer any matter involving academic issues or affairs to the Department of Student Affairs and/or the appropriate academic unit for investigation and resolution.

**Where does this policy apply:**

This policy applies to conduct that takes place in the Fordham workplace, on Fordham’s premises, or at Fordham-sponsored or supervised programs or events, including Fordham University sponsored study abroad programs or Fordham University academic, learning, and service programs even if they occur off-campus. Calls, text messages, emails and social media use by employees can also constitute prohibited conduct, even if they occur away from Fordham’s campuses, occur on personal devices or during nonwork hours, depending on the circumstances.

This policy also covers conduct taking place off-campus to the extent that: (1) it becomes necessary to protect the safety of employees, students, visitors, or other members of the Fordham community; or (2) the conduct interferes with or limits any person’s employment, or impacts a student’s ability to participate in or benefit from the University’s educational programs and activities.

**Definitions:**

1) **Protected Category:** An individual’s sex, gender, race, color, national origin, alienage or citizenship status, religion, pregnancy, age, sexual orientation, disability, marital status, gender identity/expression, status as a victim of domestic violence, military status, veteran status, caregiver status, an individual’s genetic information, or any other category protected by federal, state, or local laws.

2) **Discrimination.** Actions, inactions or conduct that treats an individual differently, denies or grants a benefit because of an individual’s protected category.
3) **Harassment.** Harassment is defined as unwelcome verbal, visual, or physical conduct, which subjects an individual to inferior terms, conditions or privileges of employment or education, or creates an intimidating, offensive, or hostile environment. Harassment can include verbal (including slurs, “jokes,” insults, epithets, gestures or teasing), visual (including offensive posters, symbols, cartoons, drawings, computer displays, or e-mails) or physical conduct (including physically threatening another, blocking someone’s way, etc.) that denigrates or shows hostility or aversion towards an individual because of any protected category.

4) **Sexual Harassment.** Sexual harassment is a form of sex discrimination that may include all of the actions described under Paragraph 3 above, as well as other unwelcome conduct of a sexual nature, or which is directed at an individual because of that individual’s sex (including sexual orientation, gender identity or gender characteristics) when:

- Submission to that conduct or those advances or requests is made either explicitly or implicitly a term or condition of an individual’s employment or is used as the basis for employment decisions; or
- The conduct, or advances or requests have the purpose or effect of interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

Examples of conduct that violates this policy include, but are not limited to:

- Unwelcome sexual advances, flirtations, leering, whistling, touching, pinching, assault, blocking normal movement;
- Requests for sexual favors or demands for sexual favors in exchange for favorable treatment;
- Obscene or vulgar gestures, noises, posters, or comments;
- Sexual jokes or comments about a person’s body, sexual prowess, or sexual deficiencies;
- Propositions, or suggestive or insulting comments of a sexual nature;
- Derogatory cartoons, posters, and drawings;
- Sexually explicit emails or voicemails;
- Non-consensual touching of a sexual nature;
- Unwelcome sexually-related comments;
- Conversation about one’s own, or someone else’s, sex life;
- Conduct or comments consistently targeted at only one gender, even if the content is not sexual;
- Teasing or other conduct directed toward a person because of the person’s gender.
5) **Retaliation.** Retaliation means adverse conduct taken because an individual: (1) reported an actual or perceived violation of this policy; (2) opposed practices prohibited by this policy; or (3) participated in the reporting and investigation process described below.

Adverse conduct" includes but is not limited to: (1) express or implied threats or intimidation intended to prevent an individual from reporting harassment, discrimination or retaliation; and (2) denying employment opportunities (such as promotion or favorable work assignments) or academic benefits because a person covered by this policy reported harassment, discrimination, or retaliation or participated in the reporting and investigation process described below.

An employee is protected from retaliation as long as the employee had a good faith belief that the reported misconduct was prohibited, even if no policy violation is found.

Some examples of retaliation might be a termination, a demotion, a failure to promote, a decrease in pay, or a decrease in the number of hours assigned to work.

6) **Complainant.** A person who alleges to have been subjected to the behaviors prohibited by this policy. Fordham may serve as the Complainant when the person alleged to have been subject to behavior prohibited by this policy chooses not to act as the complainant.

7) **Respondent.** A person alleged to have violated this policy.

8) **Report.** Any verbal or written communication, notice, or complaint of an alleged violation of this policy.

9) **Investigators.** Individuals who have been trained to conduct investigations of alleged violations of this policy and who serve as neutral fact finders. As such, investigators do not function as advocates for any of the involved parties.

10) **Manager or Supervisor.** The individual(s) who have authority to impose sanctions on a Respondent, including discipline, discharge or modification of the terms and conditions of employment.

11) **Parties.** The Complainant and the Respondent are collectively referred to as the Parties.

12) **Third Party:** visitors, guests, and other individuals conducting business with Fordham such as interns, independent contractors, and vendors.
13) **Mediation**: managing conflict using an impartial person to help all parties resolve their disagreements and reaching a mutually agreeable solution.

**How to file a report:**

Any person to whom this policy applies, as defined above, should file a report with the Office of Human Resources Management in person or electronically, or another appropriate office by contacting the following individual(s):

- **Office of Human Resources Management**
  Gülay Siouzios  
  Assistant Director of Labor/Employee Relations  
  Faculty Memorial Hall, Room 506  
  (718) 817-3897  
  siouzios@fordham.edu

- **Title IX Office** (optional for Sex and Gender bias reports by employees):
  Kareem Peat  
  Director of Gender Equity/Title IX Coordinator  
  Faculty Memorial Hall, 2nd Floor  
  Rose Hill Campus  
  (718) 817-0181  
  titleix@fordham.edu

- **Department of Public Safety**: if the report needs to be made after hours, or involves a safety issue, or to report conduct of a Third Party. You may contact Public Safety at Thebaud Annex or by dialing (718) 817-2222.

- For emergencies, you may also contact **local law enforcement** by dialing 9-1-1.

If you are reporting a possible violation of this policy on behalf of another employee, you should indicate on the complaint form that the report is being submitted on another employee’s behalf.

Fordham University will review all complaints and determine whether an investigation is warranted. During the investigation, Fordham University will maintain the privacy of the individuals involved to the extent possible without compromising the investigation. All members of the Fordham community, including managers and supervisors, are required to cooperate with any internal investigation conducted pursuant to this policy.

All members of the Fordham community are encouraged to report any discrimination, harassment, or retaliation, or other behaviors that violate this policy. (Please see
Mandatory reporting requirements involving Title IX matters set out in the *Sexual and Related Misconduct Policy*.

**Employee and Supervisory Responsibilities:**

Deans and other academic leaders, administrative leaders, supervisors and managers who receive a report or information, or observe, or become aware of conduct that they reasonably suspect may violate this policy are required to report such suspected conduct. Reports can be made to the Senior Manager of Labor/Employee Relations in the Office of Human Resources Management or for sex and gender-based conduct to the Title IX Coordinator. Supervisors and managers may be subject to discipline for failing to report conduct they reasonably suspect may violate this policy.

Although we encourage those experiencing harassment, discrimination, or retaliation to come forward, no one will be penalized for failing to report their own experience to the University.

Complainants are encouraged to provide as much information as possible about the alleged violations of this policy in their report, such as:

- The name(s) of the individual(s) alleged to have engaged in the prohibited behavior;
- A description of the actions or decisions, incident(s) of harassment, and/or other actions that form the basis of the report;
- A list of the dates and times upon which the alleged practices took place as well as any other relevant dates and times; and
- The name(s) of any witnesses who might be able to verify the allegations, if applicable.

If known, the report should also identify any protected categories that are alleged to be at issue in discrimination or harassment allegations.

Even absent a report or investigation request, Fordham may investigate suspected violations of this policy to the extent possible and to the extent necessary to comply with applicable law.

**Mandatory Training:**

All employees must complete annual training relating to sexual harassment prevention offered by the Office of Human Resources Management. New employees will be required to complete the training as soon as possible but no later than 90 days from the date they start employment at Fordham University. If you would like to take the training in a language other than English, NYS offers the following training to satisfy the requirement at the following link provided by New York State.
Procedures under Fordham University’s Policy against Harassment, Discrimination, and Retaliation in Employment

How are reports investigated:

Step 1: Initial Case Assessment at Intake

The investigator reviews the report and determines if the allegations fit within the scope of this policy. The Office of Human Resources Management may refer the case to the complainant’s supervisor or academic leader, if it is determined that the issue does not rise to the level of discrimination, harassment or retaliation.

When there is a conflict and communication issues among the parties that may be resolved through formal mediation, the investigator will offer the opportunity to all parties to engage in a formal mediation process with a certified mediator. This is a voluntary process and all parties will be required to agree to mediation.

If one or all parties do not agree to mediate, the investigator will proceed with the investigative protocols.

Emergency Removal and other remedial measures

If the University determines, following a safety and risk analysis of reported misconduct, that a respondent poses an immediate threat to the physical health or safety of any employee, student or other community member, the University will take the necessary measures to reduce those risks. Emergency removal measures may include, but not limited to paid or unpaid administrative leave (suspension pending the outcome of the investigation), change in shift or work hours, change in work location or termination or the hiatus of an independent contractor/vendor contract etc.

The investigator will implement remedial action as needed to ensure all parties involved in the report are safe and can continue their employment, academic and/or administrative duties during the investigation period.

Step 2: Interviews and Presentation of Evidence

The investigator will meet with the complainant to gather specific information about their report. The complainant will be given up to 10 business days thereafter to provide a written statement and/or documents or other evidence to support their claims if they choose.
The investigator will interview the respondent(s) about the allegations. The respondent(s) will have up to 10 business days to provide a written statement and/or documents or other evidence to support if they choose.

The investigator may also meet with some, or all, of the witnesses identified by the parties. The investigator retains discretion to request or obtain written statements or perform telephone/video based meetings in lieu of in-person meetings, or to forgo meetings with certain witnesses, as appropriate.

If documents, emails, phone records, or video footage are relevant to the investigation, the investigator will take steps to obtain and preserve them. The investigator will also request all relevant documents, including electronic communications from the parties and, when appropriate, from witnesses.

To protect the privacy and confidentiality of the process, the University prohibits either party, witnesses, and advisors from recording or videoing any or all interviews or meetings held pursuant to this policy.

Undergraduate and graduate students will be offered the option to meet with the investigator in the presence of a “Support Person” (SP). Upon request, the University will arrange for a SP to be present during the interviews of all students.

Employees may request the presence of an "Advisor of Choice" as an advisor during the interview process. The Advisor may not answer questions on behalf of the employee or intervene during the interview process.

**Step 3: Investigation Report**

After interviewing the parties and witnesses and reviewing the relevant evidence, the investigator will prepare a report. The report will include findings of facts and conclusions regarding whether this policy has been violated. The investigator shall use a preponderance of the evidence standard in reaching their conclusion. This means that the evidence must demonstrate that it is more likely than not that the respondent engaged in the reported conduct.

The completed report will be submitted to the respondent’s area Vice President, the Provost, or their designee, for review to determine if corrective action is warranted. Reports that involve vendors will be submitted to the relevant area Vice President.

The investigator will provide their findings and conclusions to the complainant and the respondent(s) in the form of a Closing Letter that indicates the results of the investigation. Absent specific reasons that require a different approach, the investigator shall provide this information to the complainant and respondent on or about the same time.

**Corrective Action:**
The appropriate area Vice President, Provost, or designee shall make all corrective action determinations based on the full investigatory report and other pertinent information concerning the employee (i.e., tenure at the University, severity of the conduct, need for progressive discipline, etc.) with guidance from the Office of Human Resources Management.

**Conflicts of Interest:**

A conflict of interest may arise if a witness, investigator, support person or other participant in the process has a significant professional or personal involvement with the facts or the parties to a dispute. Any individual who has, or is concerned that they may have a conflict of interest shall report it to the Vice President of Human Resources or their designee for determination as to how to address the conflict. If there is a conflict of interest involving the Vice President of Human Resources, the Office of Legal Counsel shall decide how to address the situation.

**Duty of Cooperation, Confidentiality, and Non-Retaliation:**

All employees and students have an obligation to cooperate in investigations of alleged violations of this policy. Failure to do so may result in disciplinary action.

A complainant’s failure to participate (e.g., by failing to furnish information requested by the investigator or to be available for interview by the investigator) may affect Fordham’s ability to investigate the matter and may result in the report being closed for nonparticipation.

Fordham strives to maintain employee and student privacy to the greatest extent possible. Thus, all participants (including complainants, respondents, and witnesses) involved in any proceedings held under this policy are encouraged to refrain from discussing the alleged or suspected violations, particularly when necessary to protect witnesses and the integrity of the investigation process. Complainants are advised, however, that there may be situations where Fordham’s obligation to investigate alleged or suspected violations of this policy will override a complainant’s desire to maintain privacy.

Retaliation in any form will not be tolerated in instances that include, but are not limited to: (1) reporting an alleged violation of this policy; (2) interviewing or providing testimony about alleged violations of this policy; or (3) participating in any way in an investigation or an appeal based on this policy. Any person subject to this policy who has been found to engage in retaliation will be subject to disciplinary action.

**Legal Protections and External Remedies:**

Harassment and discrimination based on an individual’s protected characteristics are not only prohibited by Fordham University but also by state, federal, and, local law. Aside from the internal process at Fordham University, employees may also choose to pursue
legal remedies through the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State and protects employees, paid or unpaid interns, and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court. Complaints with DHR may be filed any time within one year (three years for sex harassment complaints) of the alleged harassment or discrimination. If an individual did not file with DHR, they can sue directly in state court under the HRL, within three years of the alleged harassment or discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to Fordham University does not extend your time to file with DHR or in court. The one year or three years are counted from the date of the most recent incident of harassment or discrimination.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney’s fees and civil fines.

DHR’s main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit www.dhr.ny.gov.

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.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (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 or discrimination. 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. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work 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 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

New York City Commission on Human Rights

New York City: Fordham University employees who work in New York City may file complaints of sexual harassment, including complaints of discrimination and harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Westchester County: Fordham University employees who work in Westchester County may file complaints of sexual harassment, including complaints of discriminatory harassment based on gender, with the Westchester County Human Rights Commission. Contact the Westchester County Human Rights Commission via email: humanrights@westchestergov.com or via phone at (914) 995-7710; or visit https://humanrights.westchestergov.com/

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

Contacts:

Office of Human Resources Management:
• Nancy Hark, Assistant Vice President for Human Resources, nhark@fordham.edu, (718) 817-4090
• Gülay Siouzios, Assistant Director of Labor/Employee Relations, siouzios@fordham.edu, (718) 817-3897

Cross-Reference to Related Policies:

• University Non-Discrimination Policy
• University Code of Conduct
• Sexual and Related Misconduct Policy and Procedures For the Fordham University Community

Exclusions & Special Situations:

This policy does not apply to students, cases that fall under Title VI Civil Rights Act of 1964, or Title IX of the Education Amendments of 1972.

Revision History: Fordham University Sexual Harassment in Employment Prevention Policy, dated October 9, 2018.