

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 effort 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 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 de-listed on the basis of alleged violations of FPS 43 until the Appendix A and FPS 43 procedures are completed.

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.