



JOB DESCRIPTION

General Description	
Position Title:	Ombudsperson
Name of Department:	Office of the Rector
Supervisor of the Position:	Rector
Location of Position:	Costa Rica – Headquarters
Length of Appointment:	One year with possibilities for extension
This is a one-year contractual position determined by terms and conditions to be negotiated with the University. It is NOT a full-time regular staff position.	
Statement of Qualifications	
Essential Qualifications for the Position:	<p>Position Requirements:</p> <ol style="list-style-type: none"> 1) A minimum academic qualification of LL.B., J.D. or equivalent professional law degree, or in lieu thereof, a Master’s degree in law, international law, human rights, gender studies, labour studies, or related fields. 2) At least seven years of <u>cumulative</u> professional work experience in <u>one or more</u> of the related areas: <ol style="list-style-type: none"> a. Investigating complaints of harassment, including sexual harassment, abuse of power, discrimination, or retaliation against whistle-blowers (hereinafter, referred to as ‘prohibited conduct’) in workplaces or academic institutions. b. Representing clients in cases involving prohibited conduct in institutional disciplinary inquiries, courts or tribunals. c. Providing legal advice to institutions in cases involving prohibited conduct. d. Implementing policies related to prevention and remediation of prohibited conduct in workplaces or academic institutions. e. Providing training in academic institutions or other organizations on prevention of prohibited conduct. f. Conducting mediation or conciliation for conflict resolution in workplaces or academic institutions. 3) Expertise in Costa Rican laws related to

	<p>prohibited conduct.</p> <p>4) Oral and written fluency in both English and Spanish (non-negotiable).</p>
Knowledge:	<ol style="list-style-type: none"> 1) The Candidate <u>must</u> be familiar with Costa Rican laws, policies and procedures for preventing and remediating prohibited conduct in workplaces and academic institutions. 2) The candidate must make herself/himself familiar with the UPEACE Policy on Prevention of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Power, <u>as well as</u> the UPEACE Policy on Protection against Retaliation for Reporting Misconduct and Cooperating with Duly Authorized Audits or Investigations (hereinafter, collectively referred to as ‘UPEACE Policies’) before applying (see Annexes 1 and 2). 3) The candidate must have knowledge of training tools for preventing prohibited conduct in workplaces and academic institutions.
Abilities and Skills:	<ol style="list-style-type: none"> 1) Strong ability to work independently and in unbiased manner in enforcing the UPEACE Policies. 2) Strong conflict resolution skills in mediation and conciliation as required in appropriate cases 3) Strong leadership skills in guiding and advising disciplinary panels on procedures for investigation. 4) Ability to meet deadlines as required by the UPEACE Policies and Costa Rican laws, as applicable. 5) Ability to ensure strict confidentiality as required by the position. 6) Ability and skills to conduct trainings for staff and students on preventing and remediating prohibited conduct. 7) Excellent skills in written and oral communication and drafting reports and recommendations in English and Spanish. 8) Basic computer skills (multimedia skills for trainings desirable).
Personal Suitability:	<ol style="list-style-type: none"> 1) Can ensure personal availability for addressing complaints of prohibited conduct within timeframes established by UPEACE Policies

	<p>and Costa Rican laws, as applicable.</p> <ol style="list-style-type: none"> 2) Demonstrates a strong sense of values and ethics, consistent with the mandate of the UN and the UPEACE. 3) Experience in multicultural or cross-cultural setting with wide diversity of student populations and staff.
Job Description	
General Responsibilities of the Position:	<p>The candidate will be responsible:</p> <ol style="list-style-type: none"> 1) For performing all duties required of the Ombudsperson by the UPEACE Policies related to prohibited conduct. 2) For strictly enforcing the UPEACE Policies related to prohibited conduct. 3) For conducting and/or organizing on-campus trainings for students and staff for prevention of prohibited conduct (approximately numbering 220 individuals; 3 to 4 trainings annually). 4) Assisting and providing advice to the University in development of an online module for training of staff and students on prevention and remediation of prohibited conduct. 5) Making recommendations to the Rector, as required, for preventing or remediating cases of prohibited conduct. 6) Submitting an annual Ombudsperson's Report to the Rector.
Specific Responsibilities of the Position:	<p>Under a contractual position:</p> <ol style="list-style-type: none"> 1) Receive complaints from students or staff with respect to prohibited conduct. 2) Promptly act on the complaints received as per the UPEACE Policies. 3) In appropriate cases, conduct, facilitate or organize mediation or conciliation for conflict resolution. 4) In appropriate cases, set up panels for investigating complaints of prohibited conduct and ensure compliance by Panels with procedures required by UPEACE Policies. 5) Provide legal and procedural guidance to Panels and disputants as required for ensuring due process. 6) Provide recommendations to the Rector as

	<p>required by UPEACE Policies.</p> <p>7) Conduct or organize periodic trainings for staff and students on prevention of prohibited conduct (approximately numbering 220 individuals; 3 to 4 trainings annually).</p> <p>8) Provide assistance and advice to the University in development of an online module for training of staff and students on prevention and remediation of prohibited conduct.</p> <p>9) Provide an annual Ombudsperson’s report to the Rector.</p>
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Compensation:

The compensation for this position will consist of a combination of:

- a. Base retainer of USD 500 per month.
- b. A predetermined hourly fee, negotiated with the University, for conducting or organizing periodic trainings for staff and students (numbering approximately 220 individuals; 3 to 4 trainings annually) for preventing and remediating prohibited conduct.
- c. A predetermined hourly fee, negotiated with the University, to be charged on a case by case basis, for addressing complaints of prohibited conduct initiated as per UPEACE Policies.

Please submit your resume (maximum 5 pages) in the English language, along with a cover letter expressing:

- a. Your interest in the position
- b. Your availability for the position
- c. Your suitability for the position
- d. A statement certifying that you have familiarized yourself with the two UPEACE Policies related to prohibited conduct
- e. A financial proposal for Points (b) and (c) under the heading ‘Compensation’ (see above).

Please reference **Position #2300** in your application. Your application should be sent in electronic format to the following e-mail only: jobshr@upeace.org.

The period for the submission of application ends 25 August 2018. At the end of the application period, the selection board will review all applications and contact only those candidates that will continue to the next phase of the selection process. These shortlisted applicants will be contacted before **31 August 2018**. The University for Peace is committed to promoting diversity and inclusiveness in terms of gender, ethnic and/or cultural identity, beliefs, disabilities or age.



Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority

Approved by the Council of the University for Peace at its 27th Session, celebrated at UPEACE HQ in San Jose, Costa Rica on 21-22 June 2017

Section 1: Definitions

1.1 Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, sexual orientation, gender identity, religion, nationality, ethnic origin, disability, age, language, social origin, appearance, political opinion, or other status. Discrimination may be an isolated event, policy, decision, conduct, omission or a series of them affecting one person or a group of persons similarly situated, and may manifest itself through harassment or abuse of authority.

1.2 Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person.

Harassment may take the form of words, gestures, actions or other conduct which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work or study environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Disagreement on work performance is normally not considered harassment and is not dealt with under this policy but under the Staff Manual of the University. Similarly, disagreement on academic performance is not normally considered harassment and is not dealt with under this policy but under the Student Handbook of the University.

1.3 Sexual harassment is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work or study, is made a condition of employment, enrolment, or academic performance, or creates an intimidating, hostile or offensive work or study environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of different or same sex. Persons of any sex, gender identities, or sexual orientations can be either the victims or the offenders.

With respect to Costa Rican staff of the University whose employment conditions are governed by Costa Rican labour laws, the Law No. 7476 titled 'Ley Contra El Hostigamiento Sexual en el Empleo y la Docencia, as amended by Law No. 8805 titled 'Modificacion de law Ley Contra el Hostigamiento Sexual en el Empleo y La Docencia, N° 7476', including with any amendments, supplements or



replacements thereto as may be made from time to time, shall be applicable. The present policy shall also be applicable to the extent it is not inconsistent with the said law.

1.4 Abuse of authority is the improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses their influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. It is equally serious when an academic or non-academic staff member uses their influence, power or authority to improperly influence the career or academic conditions of a student or alumnus. Resident and Visiting faculty of the University are expected to exercise reasonable academic quality control over performance by students, and therefore, their actions or decisions relating to assignment of grades, extension of deadlines, supervision of academic work, feedbacks, amongst others, will not normally constitute abuse of authority. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.

1.5 For the purposes of the present policy, discrimination, harassment, including sexual harassment, and abuse of authority shall individually and collectively be referred to as “prohibited conduct”. It is possible for the same act or omission to constitute more than one prohibited conduct at the same time.

Section 2: General principles

2.1 Every staff member (including resident faculty and administrative staff), student, intern, consultant, visiting faculty, visiting scholar, and contractor has the right to be treated with dignity and respect, and to work and study in an environment free from discrimination, harassment and abuse. Consequently, any form of discrimination, harassment, including sexual harassment, or abuse of authority is prohibited.

2.2 The University has the duty to take all appropriate measures to ensure a harmonious work and study environment, and to protect its staff and students from exposure to any form of prohibited conduct, through preventive measures and the provision of effective remedies when prevention has failed.

2.3 In their interactions with others, all staff members, students, interns, consultants, visiting faculty, visiting scholars, contractors, and other persons to whom the present policies apply, are expected to act with tolerance, sensitivity and respect for differences. Any form of prohibited conduct at the University or in connection with its activities is a violation of these principles and may lead to



disciplinary action, whether the prohibited conduct takes place at the University, in the course of official travel, an official mission, or authorized field course, or in other settings in which it may have an impact on the University.

2.4 The present policy shall apply to all staff and students of the University. The University shall make the present policy applicable also to all visiting faculty, scholars, and interns, by incorporation in contracts. Similarly, the policy shall apply to all other consultants and contractors in whose contracts the present policy has been incorporated.

2.5 Complaints of prohibited conduct may be made by any staff member, student, visiting faculty, visiting scholar, consultant, contractor, *gratis* personnel, including interns, or any other person who may have been subject to prohibited conduct on the part of any person to whom this policy applies in a work-related or study-related situation, in accordance with Section 5 below. A Report of prohibited conduct may also be submitted by a third party who has direct knowledge of the situation, in accordance with Clause 5.11 below.

Section 3: Duties of Stakeholders

3.1 All staff members, students, visiting scholars, visiting faculty, interns and other persons to whom this policy applies have the obligation to ensure that they do not engage in or condone behaviour which would constitute prohibited conduct with respect to their peers, supervisors, supervisees, students and all other persons performing duties for the University or studying at the University.

3.2 Managers, supervisors, heads of departments, and coordinators of programmes, including those in the academic departments and programmes, have the duty to take all appropriate measures to promote a harmonious work and study environment, free of intimidation, hostility, offence and any form of prohibited conduct. They must act as role models by upholding the highest standards of conduct. Managers and supervisors, including in the academic departments and programmes, have the obligation to ensure that complaints of prohibited conduct are promptly addressed in a fair and impartial manner in accordance with Section 5 below. Failure on the part of managers and supervisors to fulfil their obligations under the present policy may be considered a breach of duty, which, if established, shall be reflected in their annual performance appraisal, and may result in administrative or disciplinary action, as appropriate.

Section 4: Preventive measures

4.1 Prevention of prohibited conduct is an essential component of the action to be taken by the University. In the discharge of its duty to take all appropriate measures to ensure a harmonious work



and study environment and to protect its staff and students from any form of prohibited conduct, the following preventive measures will be used.

4.2 The University shall conduct regular and mandatory awareness programmes for all staff and students to raise awareness of the University's zero tolerance of prohibited conduct, to provide guidance on the relevant policy and procedures and to foster the creation of a harmonious working and study environment, free from intimidation, hostility, offence and any form of prohibited conduct or retaliation. In particular, all staff members and students shall be required to complete a mandatory online training programme on prevention of discrimination, harassment, sexual harassment and abuse of authority. The successful completion of this programme shall be reflected in staff members' performance appraisal. Only students who successfully complete the programme shall be entitled to graduate or receive transcripts from the University.

4.3 Other programmes will continue to be offered to all persons to whom this policy applies, including during orientation for students and professional development sessions for staff. Specific training will be provided to those involved in informal resolution and the formal procedures set out in Section 5 below.

4.4 The Head of Human Resources office shall ensure that staff, visiting faculty, visiting scholars, interns, consultants and contractors are provided with a copy of this policy upon commencement of their appointments/services. Similarly, the Director for Academic Administration shall ensure that all students are provided with a copy of this policy upon commencement of their academic studies at UPEACE.

4.5 Staff members, students, visiting scholars, visiting faculty, interns, consultants, contractors, and any other persons to whom this policy applies are responsible for familiarizing themselves with the University's policy on prohibited conduct and with the various options and internal channels available for addressing such conduct.

4.6 In order to resolve problems which could potentially give rise to instances of prohibited conduct, managers, supervisors, heads of departments, and coordinators of programmes shall maintain open channels of communication and ensure that staff members or students who wish to raise concerns can do so freely and without fear of adverse consequences.

4.7 If there is a need for confidential guidance or advice on matters which could give rise to instances of prohibited conduct, staff members, students, visiting scholars, visiting faculty, interns, consultants and contractors may consult the Ombudsperson/s, who are bound by strict rules of confidentiality under their terms of reference. Staff members, students and other stakeholders may also consult



any of the other officials listed in section 5 below.

Section 5: Corrective measures

5.1 Individuals who believe they are victims of prohibited conduct are encouraged to deal with the problem as early as possible after they become aware that it has occurred. The aggrieved individual may choose an informal or a formal resolution process, as explained below. Regardless of the choice made, the aggrieved individual is encouraged to prepare and keep a written record of events, noting dates, places, a description of what happened and the names of any witnesses and of anyone who may have information concerning the incident or situation at issue.

5.2 All reports and allegations of prohibited conduct shall be handled with sensitivity in order to protect the privacy of the individuals concerned and ensure confidentiality to the maximum extent possible.

5.3 Managers and supervisors, including those in the academic departments and programmes, have the duty to take prompt and concrete action in response to reports and allegations of prohibited conduct. Failure to take action may be considered a breach of duty and may result in administrative action and/or the institution of disciplinary proceedings.

5.4 Persons accused of prohibited conduct may seek assistance from any of the persons listed in Clause 5.6 below.

Informal Procedures

5.5 In many cases, the situation can be resolved informally. An informal approach, including Restorative Justice, offers the opportunity to resolve a complaint or grievance in a non-threatening and non-contentious manner. Aggrieved individuals are encouraged to notify the offender of their complaint or grievance and ask them to stop the conduct that gives rise to the said complaint or grievance, as, in some instances, the alleged offender may not be aware that their behaviour is offensive. However, disparity in power or status or other considerations may make direct communication or confrontation difficult, and aggrieved individuals are not required to confront the offender. In no circumstances can informal approach be forced onto either the aggrieved individual or the alleged offender. Where the prohibited conduct complained of also constitutes a criminal offence, such as in aggravated forms of sexual harassment, informal resolution cannot be a substitute for formal procedures, although they may take place in addition to such formal procedures.



5.6 Aggrieved individuals may ask for assistance from a third party in seeking informal resolution, including Restorative Justice. Depending on the situation and on their level of comfort with one official rather than another, they may seek the assistance of any of the following:

- (a) the Ombudsperson/s;
- (b) the Head of the Department concerned or any other staff member in such department;
- (c) the Head of Human Resources;
- (d) the Secretary of the Governing Council of the University;
- (e) the Registrar of the University;
- (f) a member of the Rector's or Deans' offices;
- (g) a member of the students' representative body.

5.7 The official from whom assistance has been requested may, with the consent of the aggrieved individual, meet informally with the alleged offender to apprise them of the situation and discuss the manner in which it might be resolved to the satisfaction of all concerned. Where the prohibited conduct complained of may also constitute a criminal offence, such as in aggravated forms of sexual harassment, the officials listed in Clause 5.6 above from whom assistance has been sought shall encourage the aggrieved party to submit an official complaint in accordance with Clause 5.11 and shall also proceed to submit a report under the said Clause.

5.8 All involved in the informal resolution process must recognize the need to treat the situation with the necessary sensitivity and confidentiality.

5.9 Regardless of the outcome, the officials listed in Clause 5.6 above shall provide continuing support to the aggrieved party at every stage of the process taking into account the positive or negative consequences of the proposed course of action. If the temporary assignment of the aggrieved party or the alleged offender to another position is proposed, this may not take place without the consent of the individual concerned.

5.10 An unsuccessful attempt to resolve the matter informally does not preclude it from being pursued formally under the following provisions.

Formal procedures

5.11 In circumstances where informal resolution is not desired or deemed appropriate by any of the parties involved in the informal procedures, or the same has been unsuccessful, or where the prohibited misconduct complained of may also constitute a criminal offence, the aggrieved individual may submit a written complaint or electronic complaint from an official email address to the Ombudsperson, or in case the position is held jointly, then to either or both of the Co-



Ombudspersons. In case the complaint is against one of the Co-Ombudspersons, then the written or electronic complaint may be submitted either to the other Ombudsperson or to the Rector of the University. Formal resolution may also be initiated by the submission of a written or electronic report of prohibited conduct from a third party who has direct knowledge of the situation to the Ombudsperson, or in case the position is held jointly, then to either or both of the Co-Ombudspersons (and/or to the Rector, in case of a report against one of the Co-Ombudspersons). Complaints or Reports against the Rector should be submitted directly to the President of the Governing Council and such complaints/reports shall be dealt with by the Governing Council under procedures it may deem appropriate. In case the allegations are against any visiting staff, consultant, visiting faculty, visiting scholar, or intern, a copy of the written or electronic complaint or report should be sent to the Rector, Dean/s, Head of Human Resources and to the Secretary to the Governing Council for monitoring purposes. In case the allegations are against any student, a copy of the written or electronic complaint or report should be sent to the Rector, Dean/s, Registrar, and to the Secretary to the Governing Council for monitoring purposes. In exceptional cases where the complainant or the third party is not in a position to do so, complaints or reports may also be accepted orally by the Ombudsperson/s or the Rector as the case may be. However, in such cases, the oral complaints or reports must be converted promptly into written format by the Ombudsperson/s or the Rector as the case may be, including information mentioned in Clause 5.12 below, and the said document must be signed by the complainant or the third party before it can be considered to be part of a formal procedure.

5.12 The complaint or report should describe the incident(s) of alleged prohibited conduct in detail and any additional evidence and information relevant to the matter should be submitted. The complaint or report should include:

- (a) The name(s) of the aggrieved individual(s) and the alleged offender(s);
- (b) Date(s) and location(s) of incident(s);
- (c) Description of incident(s);
- (d) Name(s) of witness(es), if any;
- (e) Names of person(s) aware of incident(s), if any;
- (f) Any other relevant information, including documentary evidence if available;
- (g) Date of submission and signature of the aggrieved individual or third party making the report.

5.13 Upon receipt of a formal complaint or report, the Ombudsperson/s will promptly review the complaint or report, to assess whether it appears to have been made in good faith and whether there are sufficient grounds to warrant a formal investigation. If that is the case, the Ombudsperson/s, shall promptly, and in any case, no later than 5 days, appoint a panel (hereafter referred to as the 'Panel') of at least three individuals from the University or, if necessary, from outside the University,



in accordance with Clause 5.14 below. In case of complaint against one of the Co-Ombudspersons, the role of the said Ombudsperson for the purpose of the formal procedures applicable to that case shall be taken over by the Rector.

5.14 In selecting the members of the Panel, the Ombudsperson/s or the Rector, as the case may be, shall take into consideration the nature of the alleged prohibited conduct, the need for neutrality and impartiality of the Panel members with respect to both the aggrieved individual and the alleged offender, and the ability of each member in discharging the duty assigned with competence and due diligence. No Panel shall have all members of the same sex. In cases involving sexual harassment where the aggrieved individual is a female, then the Panel shall have two female members. In case the Panel is established for a complaint or report involving a student as either a victim or an alleged offender, then one member of the Panel shall be a representative of the student body. The student member shall be nominated by the Ombudsperson/s. The Panel members should treat the situation with the necessary and appropriate sensitivity and confidentiality.

5.15 All proceedings shall be governed by the general principles of due process, proportionality, probity and impartiality. In cases of sexual harassment, a pro-victim approach will be adopted, which for the purposes of this policy, includes the principle that in case of doubt, an interpretation in favour of the victim should be preferred.

5.16 The aggrieved individual and the alleged offender shall be promptly informed by the Ombudsperson/s or the Rector, as the case may be, of the establishment of the Panel. The alleged offender shall be informed of the nature of the allegation(s) against them. In order to preserve the integrity of the process, information that may undermine the conduct of the investigation or result in intimidation or retaliation shall not be disclosed to the alleged offender at that point. This may include the names of witnesses or particular details of incidents.

5.17 At the request of a party or of its own motion, the Ombudsperson/s or the Panel may recommend to the Rector, along with reasons, the imposition of precautionary measures. In case the complaint is against an Ombudsperson/s, the Rector may on his or her own motion, and a reasoned decision, also impose precautionary measures. The following precautionary measures may be adopted:

- a) The staff member or student may be relocated for a renewable period of up to three months, provided that the conditions reasonably permit. In case the alleged offender is a student, choice between relocation to a programme or course other than that of the victim, or taking alternative courses in the online modality will be presented to the alleged offender, who shall be entitled to choose between the two options provided.



b) In exceptional cases where the presence of the alleged offender on campus may vitiate the work or study environment, a staff member may be suspended from work with pay. In case the alleged offender is a student, in exceptional cases where the presence of the alleged offender on campus or in online courses may vitiate the study or work environment, the student may be suspended from participation in academic coursework at the University. Except where the student concerned is determined to have committed a prohibited conduct in accordance with this policy, the University shall guarantee enrolment in the courses missed during the period of suspension, or alternative courses in case the coordinator of the programme and the student concerned agree, when they are so offered in the next academic year.

c) The alleged offender may be directed to refrain from contacting or communicating, directly or indirectly, with the aggrieved individual.

d) The alleged offender may be directed to refrain from interfering with the work or study of the aggrieved individual.

e) Any other precautionary measures, as may be deemed necessary by the Rector, may be imposed to ensure physical and mental safety and security of the aggrieved individual.

5.18 The Panel shall, within five days from its establishment, convene to determine the place and dates for the hearings, and the procedures to be followed, in accordance with this policy. Following the meeting, the Panel shall promptly serve a notice to the alleged offender along with the following:

a) The present policy and the UPEACE Policy on Protection against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations.

b) The complaint or report received along with any testimonies or documentary evidence which may have been submitted along with the complaint or report. The identity of the complainant, informant, or any witness when it is so submitted, may be withheld by the Panel only if it is so requested specifically by any person/s mentioned above in relation to themselves, and if the Panel considers that the due process rights of the alleged offender will not be impacted by such non-disclosure.

A period of no less than ten days from the issuance of the notice shall be given to the alleged offender to submit a written response along with any testimonies or documentary evidence in support of their case. The Panel shall also state in the notice, the date, place and time when the first hearing shall take place. Such hearing shall be scheduled at a date no sooner than the expiry of ten days from the end of the period afforded to the alleged offender to respond to the notice. The notice shall be signed



by all members of the Panel. A copy of the notice along with all its annexes shall be provided on the same day to the aggrieved individual. The aggrieved individual or alleged offender may also provide a list of witnesses whose testimonies they wish to produce in the hearings.

5.19 The investigation shall include interviews with the aggrieved individual, the alleged offender, and any other individuals who may have relevant information about the conduct alleged, including any witnesses which the parties may name. The aggrieved individuals and alleged offenders are entitled to be represented by lawyers in such hearings. All persons interviewed in the course of the investigation shall be reminded of the UPEACE Policy on Protection against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations.

5.20 The Panel may conduct as many hearings as are required for completion of the investigation. In a case concerning sexual harassment, Panels shall endeavour to complete the hearing in no more than two sittings. After the conclusion of the hearings, the Panel shall prepare a detailed preliminary report within a period of ten days, giving a full account of the facts that the Panel has ascertained and attaching all documentary evidence, such as written statements by witnesses or any other documents or records relevant to the alleged prohibited conduct. The preliminary report shall be provided to the aggrieved individual and the alleged offender at the same time. A period of ten days from the date of provision of the preliminary report to the aggrieved individual and the alleged offender shall be provided to them to respond in writing to the preliminary report.

5.21 After the expiry of twenty days from the date of provision of the preliminary report, regardless of whether the aggrieved individual or the alleged offender has responded in writing, the Panel shall conduct its final hearing, where the aggrieved individual and the alleged offender may submit their final arguments. A prior notice of at least ten days shall be provided to the aggrieved individual and the alleged offender with respect to the date and place of the final hearing.

5.22 Within a period of five days from the conclusion of the final hearing, the Panel shall submit its final report to the Ombudsperson/s, or to the Rector as the case may be. The Final Report of the Panel shall contain the following:

- a) the names and positions in relation to the University of the aggrieved individual and alleged offender;
- b) the names and addresses of the lawyers, in case any party is so represented;
- c) facts which have been established along with evidence and reasoning in support of such findings;



- d) a statement of the unfounded allegations, if any, along with reasoning in support of such findings;
- e) the recommendations of the Panel;
- f) dissenting Opinions of member/s of the Panel, if any; and
- g) date and place of the Final Report, and the signatures of all members of the Panel.

A copy of the Final Report shall be provided by the Ombudsperson/s to the Rector, the Disciplinary Authority, aggrieved individual and the alleged offender.

5.23 For the purpose of the present policy, the Disciplinary Authority shall be as follows:

- a) In case the complaint or report is against a staff member or a student, the Dean. In case there is more than one Dean, then the Rector shall designate the Disciplinary Authority on a case-by-case basis.
- b) In case the complaint or report is against the Dean/s or the Ombudsperson/s, the Rector.

5.24 After taking into account the findings and recommendations of the Panel, and except where the findings are against the Ombudsperson/s, the recommendations of the Ombudsperson/s, the Disciplinary Authority shall make a final decision on the case within a period of 10 days. The final decision along with detailed reasons shall be promptly communicated to the aggrieved individual and the alleged offender. In case the Disciplinary Authority is the Dean/s, then the final decision shall be communicated at the same time to the Rector and the Ombudsperson/s.

5.25 The aggrieved individual or the alleged offender may submit an appeal against the decision of the Disciplinary Authority within 10 days from the communication of such decision, to the Rector. In case the Disciplinary Authority is the Rector, then appeal may be submitted to the President of the Governing Council of the University. Appeals shall be decided within a period of 10 days from the date of such submission. Decisions on appeals shall be communicated to the aggrieved individual and the alleged offender at the same time.

5.26 On the basis of the final decision of the Disciplinary Authority or the Appellate Authority, and where deemed necessary, taking into account the opinion of the Ombudsperson/s, the Rector shall, within a period of 10 days, take one of the following courses of actions:



(a) If the final decision is that no prohibited conduct took place, the Rector will close the case and so inform the alleged offender and the aggrieved individual in writing.

(b) If the final decision is that there was a factual basis for the allegations and that, while not sufficient to justify disciplinary action against the alleged offender, the facts would warrant some other form of corrective or preventive action, the Rector shall determine the type of action to be taken and inform the alleged offender of such proposed action. Such action may include mandatory training, reprimand, a change of functions or responsibilities, counselling or other appropriate corrective measures. The aggrieved individual shall be promptly informed of the final measures determined as appropriate.

(c) If the final decision is that the allegations were well-founded and that the conduct in question amounted to prohibited conduct, the Rector shall determine what disciplinary action may be necessary.

i) Disciplinary action against staff members to whom Costa Rican labour laws are applicable, shall proceed in accordance with such laws. Without prejudice to the applicable laws, such disciplinary action may include written reprimand of misdemeanour reflected in work performance appraisal, suspension without pay for an appropriate period, or dismissal without any liability on the part of the University, amongst others.

ii) With respect to staff members to whom Costa Rican labour laws are not applicable, the disciplinary actions mentioned in sub-clause (i) above, amongst others, may be taken.

iii) With respect to students, disciplinary actions may include written reprimand of misdemeanour reflected in academic transcripts, suspension from the University for an appropriate period without any liability on the part of the University, or expulsion from the programme of studies and/or the University without any liability on the part of the University, amongst others.

iv) Disciplinary action against any visiting faculty, visiting scholar, consultant, or intern, may include written reprimand of misdemeanour reflected in work performance appraisal, suspension without pay for a period determined appropriate, or termination of contract without any liability of the University, amongst others.



v) Disciplinary action against any contractor or staff of contractor may include suspension or termination of the contractual obligations, amongst other options, as may be applicable in terms of the contract.

The decision of the Rector shall be final for the purposes of this policy. In all cases, the aggrieved individual shall be informed by the Rector of the outcome of the investigation and of the action taken.

5.27 If the final decision is that the allegations of prohibited conduct were unfounded and based on malicious intent, the Rector shall decide whether disciplinary or other appropriate action should be initiated against the person who made the complaint or report.

5.28 The timelines mentioned in this Section shall be diligently followed, unless extension is deemed necessary by the Ombudsperson/s, Panel, Disciplinary Authority, or the Rector as the case may be. Extension of timelines should not be granted in cases involving sexual harassment, in relation to which the final decision must be made within a period of three months from the date of complaint or report.

5.29 In case the University has more than one Ombudsperson jointly holding responsibilities, the Co-Ombudspersons shall make all decisions and recommendations required by this Section jointly. In cases where Co-Ombudspersons (or in cases of complaint against one of the Co-Ombudspersons, then the Rector and the other Co-Ombudsperson) cannot come to a consensus on any of their joint tasks under this Section, a third member may be appointed by the Rector on a case-by-case basis as necessary.

Section 6: Monitoring

General

6.1 The Ombudsperson/s shall provide annual report to the Rector and the Governing Council, which shall include an overview of all preventive, corrective, disciplinary, and other measures taken with a view to implementing the present policy.

6.2 As stated in Section 5.11 above, a copy of any formal complaint or report of prohibited conduct shall be submitted to the Rector, Office of Human Resources, Secretary to the Governing Council, Dean/s, and/or Registrar as the case may be, for the purpose of monitoring the complaints and reports received and actions taken.



Monitoring during the investigation

6.3 Where an investigation is initiated following receipt of a formal complaint or report of prohibited conduct, appropriate measures shall be taken by the Ombudsperson/s to monitor the status of the aggrieved party, the alleged offender and the work unit(s) concerned and/or student and student groups that may be affected until such time as the Panel's Final Report has been submitted in accordance with Clause 5.22. The purpose of such monitoring shall be to ensure that all parties comply with their duty to cooperate with the investigation and that no party is subjected to retaliation as a result of the complaint or the investigation. Where retaliation is detected, the Ombudsperson/s or the Rector as the case may be, shall be promptly notified and the matter shall be handled in accordance with the UPEACE Policy on Protection against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations.

Post-investigation review

6.4 Once corrective measures or disciplinary action have been taken, the immediate academic or administrative supervisors, as applicable, shall keep the situation under review. These measures may include, but are not limited to, the following:

- (a) monitoring the status of the aggrieved party, the alleged offender, the work unit(s) concerned, and/or student and student groups that may be affected, at regular intervals in order to ensure that no party is subjected to retaliation as a consequence of the investigation, its findings or the outcome. Where retaliation is detected, the Ombudsperson/s shall be promptly notified in accordance with the UPEACE Policy on Protection against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations.
- (b) ensuring that administrative or disciplinary measures taken as a result of the investigation have been duly implemented;
- (c) identifying other appropriate action, in particular preventative action, to be taken in order to ensure that the objectives of the present policy are fulfilled.

Section 7: Final provisions

7.1 The present policy shall enter into force upon approval by the Governing Council of the University.



Policy on Protection against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorized Audits or Investigations

Approved by the Council of the University for Peace at its 27th Session, celebrated at UPEACE HQ in San Jose, Costa Rica on 21-22 June 2017

Section 1: General

1.1 It is the duty of staff members, students, visiting scholars, visiting faculty, interns, and other persons to whom the University's policies apply to report any material breach of the University's regulations, rules, administrative procedures or policies to one or more officials whose responsibility it is to take appropriate action. An individual who makes such a report has the right to be protected against retaliation. An individual is presumed to make such a report in good faith unless and until proven otherwise.

1.2 It is also the duty of staff members, students, visiting scholars, visiting faculty, interns and other persons to whom this policy applies to cooperate with duly authorized audits and investigations. An individual who cooperates with a duly authorized audit or investigation has the right to be protected against retaliation. An individual is presumed to cooperate in good faith unless and until proven otherwise.

1.3 Retaliation against individuals who have reported misconduct or who have cooperated with audits or investigations violates the fundamental obligation of all staff members, students, visiting scholars, visiting faculty, interns and other persons to whom the University's policies apply, to uphold the highest standards of efficiency, competence and integrity and to discharge their functions and regulate their conduct with the best interests of the University in view.

1.4 Retaliation means any direct or indirect detrimental action recommended, threatened or taken because an individual engaged in conduct protected by the present policy. When established, retaliation is by itself a misconduct and although not necessarily so, it may also amount to prohibited conduct within the meaning of the UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of authority.

Section 2: Scope of application

2.1 Protection against retaliation applies to any staff member, student, visiting scholar, visiting faculty, intern and any other person who has a duty to report misconduct or cooperate with duly authorized audits or investigations and who:



(a) reports the failure of one or more staff members, students, visiting scholars, visiting faculty, interns and other persons to whom the University's policies apply to comply with his or her obligations under the University's rules, regulations, administrative procedures or policies, including any request or instruction from any such person to violate such rules, regulations, administrative procedures or policies. In order to receive protection, the report should be made as soon as possible and not later than two years after the individual first becomes aware of the misconduct. The individual must make the report in good faith and must submit information or evidence to support a reasonable belief that misconduct has occurred; or

(b) cooperates in good faith with a duly authorized investigation or audit.

2.2 The present policy is without prejudice to the legitimate application of regulations, rules, administrative procedures, and policies including those governing evaluation of work or academic performance, and non-extension or termination of appointment. However, the burden of proof shall rest with the University administrators authorized to apply such regulations, rules, administrative procedures and policies, who must prove by clear and convincing evidence that they would have taken the same action absent the protected conduct referred to in section 2.1 above.

2.3 Intentionally making a report or providing information that is false or misleading constitutes misconduct and may result in disciplinary or other appropriate action. It may also amount to prohibited conduct within the meaning of the UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority.

Section 3: Reporting misconduct through established internal mechanisms

3.1 Reports of prohibited conduct covered by the UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority should be made in accordance with the procedures mentioned in the said policy. Reports of other misconduct may be made to the Office of the Ombudsperson/s, the Head of the Department concerned, the Rector, the Dean/s or exceptionally, to the President of the Governing Council of the University. It is the duty of the aforesaid authorities to protect the confidentiality of the identity of the individual making such a report and all communications through those channels to the maximum extent possible, unless the law or university regulations, rules, administrative procedures or policies otherwise require, or the individual concerned provides prior consent to disclosure.



Section 4: Reporting misconduct through external mechanisms

4.1 Notwithstanding Section 3 above, protection against retaliation will be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms, where the criteria set out in subparagraphs (a), (b) and (c) below are satisfied:

(a) such reporting is necessary to avoid:

- (i) a significant threat to the individual's safety and security; or
- (ii) a significant threat to public health and safety; or
- (iii) substantive damage to the University's operations; or
- (iv) violations, actual or threatened, of national or international law; *and*

(b) the use of internal mechanisms is not possible because:

(i) at the time the report is made, the individual has reasonable grounds to believe that they will be subjected to retaliation by the person(s) they should report to pursuant to the established internal mechanism; or

(ii) it is likely that information or evidence relating to the misconduct will be concealed or destroyed if the individual reports to the person(s) they should report to pursuant to the established internal mechanisms; or

(iii) the individual has previously reported the same information through the established internal mechanisms, and the University has failed to inform the individual in writing of the status of the matter within three months of such a report; *and*

(c) the individual does not accept payment or any other material benefit from any party for making such report.

Section 5: Reporting retaliation to the Ombudsperson/s, the Rector, or the President of the Governing Council

5.1 Individuals who believe that retaliation has been taken or is recommended or threatened against them because they have reported misconduct or cooperated with a duly authorized audit or investigation should forward all relevant information and documentation available to them to the Office of the Ombudsperson/s as soon as possible. In case the complaint is against the Ombudsperson/s, such complaint may be made to the Co-Ombudsperson (if the position is jointly held) or to the Rector. Reports may be made in person, by regular mail, by e-mail, by fax, or by phone.



5.2 The functions of the Ombudsperson/s or the Rector, as the case may be, with respect to protection against retaliation for reporting misconduct or cooperating with a duly authorized audit or investigation are as follows:

- (a) to receive reports of retaliation or of recommendations or threats of retaliation;
- (b) to keep a confidential record of all reports received;
- (c) to conduct a preliminary review of the report to determine if (i) the individual who made the report engaged in a protected conduct; and (ii) there is a prima facie case that the protected conduct was a contributing factor in causing the alleged retaliation or recommendation or threat of retaliation.

5.3 The Ombudsperson/s or the Rector, as the case may be, will seek to complete their preliminary review as soon as practicable, and in any case, no more than 15 days of receiving the report of retaliation or recommendation or threat of retaliation.

5.4 All offices, staff members, students, visiting scholars, visiting faculty, interns and other persons to whom this policy applies shall cooperate with the Ombudsperson/s or the Rector, as the case may be, and provide access to all records and documents requested by such persons, except for medical records that are not available without the express consent of the staff member, student, or any other person concerned to whom the policy applies.

5.5 If the Ombudsperson/s or the Rector, as the case may be, find that there is no credible case of retaliation or recommendation or threat of retaliation but find that there is an interpersonal problem, they will advise the individual who made the report of the existence of informal mechanisms of conflict resolution in the University.

5.6 If the Office of the Ombudsperson/s or the Rector as the case may be, find that there is a managerial problem based on the preliminary review of the report or the record of reports relating to a particular department or office, they will advise the manager concerned.

5.7 If the Ombudsperson/s or the Rector, as the case may be, find that there is a credible case of retaliation or recommendation or threat of retaliation, an investigation shall be initiated through the establishment of a Panel. Procedures incorporated in Sections 5.13 to 5.22 of the UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of authority, shall apply to such investigation, with such modifications as may be deemed necessary by the Panel. In case the Ombudsperson/s or the Rector find that there is a credible case of retaliation or recommendation or threat of retaliation which may likely also amount to prohibited conduct under



the UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority, then the said policy, including further procedures incorporated in Sections 5.23 to 5.29, shall also apply as if they form part of this present policy.

5.8 In cases of retaliation or recommended or threatened retaliation not amounting to prohibited conduct within the meaning of UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority, the following further procedures shall apply.

5.9 Pending the completion of the investigation, the Ombudsperson/s may recommend that the Rector take appropriate measures to safeguard the interests of the individual who made the complaint, including but not limited to temporary suspension of the action reported as retaliatory and, with the consent of the staff member or student who made the report, temporary reassignment of the individual within or outside the individual's office or programme/course of study, or placement of the individual staff member on special leave with full pay. The Rector may also take such measures at his full discretion.

5.10 Once the Panel's final report has been submitted, the Ombudsperson/s shall inform in writing to the individual who made the report of the outcome of the investigation and shall make recommendations on the case to the Rector. The recommendations may include disciplinary actions to be taken against the retaliator. In case of reports against the Ombudsperson/s, the Rector shall decide what actions may be taken.

5.11 Reports against the Rector shall be made to the President of the Governing Council of the University, who shall deal with such reports in accordance with such procedures as the Governing Council may approve.

Section 6: Protection of the person who suffered retaliation

6.1 If retaliation against an individual not also amounting to prohibited conduct within the meaning of the UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority, is established, the Ombudsperson/s or the Rector as the case may be, may, after taking into account any recommendations made by the Panel and after consultation with the individual who has suffered retaliation, recommend to the administrative or academic supervisor of the individual concerned appropriate measures aimed at correcting negative consequences suffered as a result of the retaliation or recommended or threatened retaliation. In case of staff members, such measures may include, but are not limited to, the rescission of the retaliatory decision or recommendation or threat of retaliation, including reinstatement, or, if requested by the individual, transfer to another office or function for which the individual is qualified, independently of the person who engaged in retaliation or recommendation or threat of retaliation. In case of students,



such measures may include, but are not limited to, the rescission of the retaliatory decision or recommendation or threat or retaliation, including those relating to academic performance or supervision, or if requested by the individual, transfer to another programme or course mutually agreed upon with the Dean. Such measures may also include directions to the retaliator to refrain from acts of retaliation or recommendations or threats of retaliation.

6.2 If the Ombudsperson/s is/are not satisfied with the response from the supervisor concerned or the retaliator concerned, they may make a recommendation to the Rector to take appropriate action.

6.3 The procedures set out in the present policy are without prejudice to the rights of an individual who has suffered retaliation to seek redress through the internal recourse mechanisms. An individual may raise an issue of violation of the present policy by the Administration in any such internal recourse proceedings.

Section 7: Action against the person who engaged in retaliation

7.1 Retaliation against an individual because that person has reported misconduct on the part of one or more University staff, student, intern, visiting scholar, visiting faculty, intern or other persons to whom this policy applies, or has cooperated with a duly authorized audit or investigation of the University constitutes misconduct which, if established, shall lead to disciplinary action against the retaliator, as deemed necessary or appropriate by the Rector. In case of staff members who are governed by Costa Rican labour laws, such disciplinary actions may be taken in accordance with such laws. In abundant caution, it is reiterated that in case of retaliation also amounting to a prohibited conduct within the meaning of the UPEACE Policy on Prohibition of Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority, procedures of the said policy, including for disciplinary actions, shall be followed.

Section 8: Prohibition of retaliation against outside parties

8.1 Any retaliatory measures against a contractor or its employees, agents or representatives or any other individual engaged in any dealings with the University because such person has reported misconduct by University staff, student, intern, visiting scholar, visiting faculty, intern or other persons to whom this policy applies, will also be considered misconduct. Provisions of Section 7 shall apply as if the contractor or its employee, agent or representative or such other individual were the individual referred to in Section 7.



University for Peace



Section 9: Final provisions

9.1 The present policy shall enter into force upon approval by the Governing Council of the University.