



The City University of New York

**POLICIES AND PROCEDURES ON NON-  
DISCRIMINATION AND SEXUAL HARASSMENT**

Office of Human Resource Management

July 2010

**The City University of New York**

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## **I. Non-Discrimination Policy**

### **Statement of Principles**

The City University of New York, located in a historically diverse municipality, is committed to engendering values and implementing policies that will enhance respect for individuals and their cultures. The University believes that, in order to truly benefit from this diversity, the University must foster tolerance, sensitivity and mutual respect among all members of its community. Efforts to promote diversity and to combat bigotry are an inextricable part of the educational mission of the University. Diversity among the University's many members strengthens the institution, promotes the exchange of new ideas, and enriches campus life.

The University does not condone and will not tolerate discrimination or harassment in employment or in its educational programs and activities.

The City University of New York continues to recognize the important need to maintain at each campus equal access and opportunity for qualified students, faculty and staff from all ethnic and racial groups and from both sexes.

### **Policy Statement**

It is the policy of The City University of New York and the constituent colleges and units of The University to recruit, employ, retain, promote, and provide benefits to employees and to admit and provide services for students without regard to race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender identity, marital status, legally registered domestic partnership status, disability, predisposing genetic characteristics, alienage, citizenship, military or veteran status, or status as a victim of domestic violence.

Sexual harassment, a form of sex discrimination, is prohibited under the University's Policy Against Sexual Harassment.

The City University of New York, as a public university system, adheres to federal, state, and city laws and regulations regarding non-discrimination and affirmative action including among others Section 1324b of the Immigration and Nationality Act (INA), Executive Order 11246, as amended, Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, as amended and the Age Discrimination Act of 1975, the New York State Human Rights Law and the New York City Human Rights Law. The "protected classes," as delineated in Executive Order 11246: (i.e. Black, Hispanic, Asian/Pacific Islander, American Indian/Alaskan Native and Women), were expanded on December 9, 1976 by the Chancellor of The City University of New York to include Italian-Americans. The Office of Management and Budget further expanded these protected classes in 2006 to include two or more races (not

Hispanic or Latino) and replaces Asian/Pacific Islander, with Asian (not Hispanic or Latino) and Native Hawaiian (not Hispanic or Latino) and Black will be renamed as Black or African American (not Hispanic or Latino).

Should any federal, state, or city law or regulation be adopted that prohibits discrimination based on grounds or characteristics not included in this policy, this policy shall be read to prohibit discrimination based on those grounds or characteristics, as well.

### **Responsibility for Compliance**

The President of each college of the University, the Senior Vice Chancellor at the Central Office, and the Dean of the Law School shall have ultimate responsibility for overseeing compliance with this Policy at his or her respective unit of the University.

### **Discrimination Complaints**

The City University of New York is committed to addressing discrimination complaints promptly, consistently and fairly. There shall be a discrimination complaint procedure administered by each unit of the University.

Retaliation against any member of the University community who has made a complaint of discrimination is prohibited.

Effective: July 1, 2010

Board Approved: June 28, 2010 (Non-Discrimination Policy)

## **II. Legal Justifications for Filing a Complaint of Discrimination**

**Section 1324b of the Immigration and Nationality Act**, enacted in 1986, prohibits employers from intentional employment discrimination based upon citizenship or immigration status, national origin, and unfair documentary practices or “document abuse” relating to the employment eligibility verification or Form I-9 process. Document abuse prohibited by the statute includes improperly requesting that an employee produce more documents than required by the I-9 form, or a particular document, such as a “green card”, to establish the employee’s identity and employment authorization; improperly rejecting documents that reasonably appear to be genuine during the I-9 process; and improperly treating groups of applicants differently when completing the I-9 form.

**Executive Order 11246** (1965), as amended by 11375 (1967), prohibits discrimination in employment by all institutions with federal contracts over \$10,000. Sets forth contractor obligations, enforcement procedures, administrative responsibilities, and describes the equal opportunity obligations. Only administrative remedies are provided for in Executive Order 11246.

**Title VII, Civil Rights Act** (1964), as amended by the Equal Employment Opportunity Act of 1972, prohibits discrimination in employment (including hiring, upgrading, salaries, fringe

benefits, training, and other conditions of employment on the basis of race, color, religion, national origin, or sex).

**Title VI, Civil Rights Act (1964)** prohibits discrimination or the denial of benefits on the ground of race, color or national origin (but not sex) in any program or activity receiving federal financial assistance.

**Equal Pay Act (1963)**, as amended by the Education Amendments of 1972 (Higher Education Act) prohibits discrimination in salaries (including almost all fringe benefits) on the basis of sex. Covers all employers.

**Title IX of the Education Amendments of 1972 (Higher Education Act)** prohibits discrimination or the denial of benefits in any program or activity receiving federal financial assistance on the ground of gender.

**Title VII (Sect. 799A) and Title VIII (Sect. 845)** of the Public Health Service Act, as amended by the Comprehensive Health Manpower Act and Nurse Training Amendments Act of 1971, prohibits discrimination in admission of students on the basis of sex.

**Age Discrimination in Employment Act**, enacted in 1967 and amended in 1978, (ADEA) prohibits employers with 20 or more employees from discriminating against individuals over the age of 40 with certain exceptions, one of which specifically includes tenured faculty members.

**Section 504 of the Rehabilitation Act of 1973** defines and forbids acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving federal financial assistance.

**Section 503 of the Rehabilitation Act of 1973** requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified handicapped individuals.

**Vietnam Era Veterans Readjustment Act of 1972** with the 1974 Amendments requires government contractors to take affirmative action to employ and advance in employment disabled veterans and veterans of the Vietnam era. Disabled veterans and veterans of the Vietnam era may file a complaint for alleged violation of this Act. The complaint must first be filed with a local Veteran's Employment Representative within 130 days from the date of the alleged violation.

**Americans with Disabilities Act of 1990** prohibits discrimination on the basis of disability.

**Civil Rights Act of 1991** strengthens and improves Federal civil rights laws, provides for damages in cases of intentional employment discrimination and clarifies provisions regarding disparate impact actions.

**New York City Human Rights Law** prohibits discrimination on a number of grounds including arrest or conviction record and status as a victim of domestic violence, stalking, and sex offenses. In addition, it prohibits retaliation and bias-related harassment.

**New York State Human Rights Law** specifies that it is unlawful discriminatory practice for an employer to refuse to hire or employ or to bar or discharge an individual from employment or to discriminate against an individual in compensation or in terms, conditions, or privileges of employment due to his or her status as a protected class.

### **III. Complaint Procedure for Review of Allegations of Unlawful Disparate Treatment Discrimination**

(The University has developed separate procedures for implementation of the Policy Against Sexual Harassment. For details see Section V)

#### **1. Discrimination Defined**

- a. Treating members of a protected class less favorably because of their membership in that class. The protected groups are set forth in CUNY's non-discrimination policy.
- b. Harassment is a type of discrimination involving oral, written, graphic or physical conduct relating to an individual's race, color, or national origin (including an individual's ancestry, country of origin, or country of origin of the individual's parents or other family member) or other protected characteristic that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to work for, participate in or benefit from the educational institution's programs or activities.

#### **2. Responsible Offices and Individuals**

##### **a. Responsibilities of the Presidents**

The President of each college of the University, the Executive Vice Chancellor and Chief Operating Officer at the Central Office, the Deans of the Law School, Graduate School of Journalism and Sophie Davis School of Biomedical Education shall have ultimate responsibility for overseeing compliance with the Non-Discrimination Policy (hereinafter the "Policy") at his or her respective unit of the University. Each President shall:

- Appoint an Affirmative Action/Compliance and Diversity Officer (AA/CDO), a Sexual Harassment Coordinator and at least one Deputy Coordinator, a 504/ADA Compliance Coordinator and a Title IX Coordinator. The AA/CDO may be appointed to perform one or more of these functions.
- Ensure that the individuals appointed to handle allegations of discrimination/harassment, including sexual harassment, are fully trained and equipped to carry out their responsibilities.

- Assure that supervisors receive orientation on the University's Non-Discrimination Policy and Policy Against Sexual Harassment.
- Annually disseminate to all employees the Non-Discrimination Policy, the Policy Against Sexual Harassment, and the Form for Notification of Protected Categories, and include the names, titles, telephone numbers, and office locations of the AA/CDO, the Sexual Harassment Coordinator and Deputy Coordinator(s), the 504/ADA Compliance Coordinator, and in addition, to students, the Title IX Coordinator, and the Chief Student Affairs Officer. Such information should be widely disseminated and included in all orientations (including supervisory orientation sessions), handbooks, newsletters, and on the colleges' websites. In addition, the *Policies and Procedures on Non-Discrimination and Sexual Harassment* should be incorporated into the training curriculum for employees that are involved in investigating discrimination complaints.
- Submit annually to the Office of the Vice Chancellor for Faculty and Staff Relations an annual report on non-discrimination, which shall include information on complaints filed within the past year and their resolution, and other information.

**b. Responsibilities of the Affirmative Action/Compliance and Diversity Officer (AA/CDO) and the Chief Student Affairs Officer.**

- The AA/CDO is responsible, as the President's designee, for providing confidential consultation, informal complaint resolution and investigation of all internal complaints of discrimination/harassment.
- The AA/CDO and the Chief Student Affairs Officer or his/her representative are responsible, as the President's designees, for handling and providing for prompt and equitable resolution of student discrimination/harassment complaints under applicable laws, rules, and/or regulation.

**c. Responsibilities of the Sexual Harassment Coordinator, Deputy Coordinator and Sexual Harassment Awareness and Intake Committee are set forth in Section IV.**

**d. Responsibilities of Supervisory Personnel**

Supervisory personnel exercise authority on behalf of the University. They include deans, directors, department chairpersons, executive officers, administrators, or other persons with supervisory responsibility. They must take steps to create a workplace free of discrimination and harassment, and must take each and every complaint seriously.

- Each supervisor must arrange for the posting, in his or her area, of the University's Non-Discrimination Policy with the names, titles, telephone

numbers, and office locations of the AA/CDO, the Sexual Harassment Coordinator and Deputy Coordinator(s), the Chief Student Affairs Officer, the 504/ADA Compliance Coordinator and the Title IX Coordinator.

**e. Responsibilities of the University Community-at-large**

- Members of the University community, who become aware of allegations of discrimination including sexual harassment, should encourage the aggrieved individual to report the alleged act to the AA/CDO or the Sexual Harassment Coordinator, as applicable.

**3. Confidentiality**

The privacy of individuals who bring complaints of discrimination, who are accused of discrimination, or who are otherwise involved in the complaint process should be respected, and information obtained in connection with the filing, investigation, or resolution of complaints should be handled as confidentially as possible. It is not possible, however, to guarantee absolute confidentiality and no promise of complete confidentiality should be made to University employees or students who are involved in the complaint process.

**4. Making a Complaint of Discrimination**

Any applicant for employment or individual who is employed by or enrolled at The City University of New York may file a complaint of discrimination. The University places a strong emphasis on prompt action to resolve complaints alleging discrimination. Members of the University community who believe they have been discriminated against or harassed are strongly encouraged to report allegations as promptly as possible. Delay in making a complaint may make it more difficult for a unit of the University to investigate the allegations.

The complaint procedure that follows applies to all job applicants and employees and in some instances, former employees of The City University of New York. Students employed by CUNY have the right to equal employment opportunity in their capacity as employees.

Sexual harassment, a form of sex discrimination, is prohibited under the University's Policy Against Sexual Harassment. Members of the University community who believe they have been sexually harassed are strongly encouraged to report their allegations as promptly as possible to the Sexual Harassment Coordinator (who in most cases is the AA/CDO). For details on reporting a complaint of sexual harassment see Section IV.

**Whom to Contact**

Any employee, applicant for employment, or student, may file a complaint of discrimination or sexual harassment.



Individuals who believe they are being or have been discriminated against or harassed in violation of university policy are encouraged to contact, as soon as possible, the AA/CDO.

At the time the individual makes his/her complaint, the AA/CDO should provide the complainant with the complaint form (Attachment A) and with information about the various internal and external mechanisms through which the complaint may be filed (Attachment B).

In the event that an employee on an assignment off campus files a complaint of discrimination the AA/CDO should investigate the complaint promptly, including coordinating, when necessary, with the off campus entity. Students who participate in field placement assignments should be informed, prior to reporting to the assignment, of CUNY's procedures regarding complaints of discrimination while on field placement assignments.

#### **5. Preliminary Review of Discrimination Complaints**

Individuals who believe they have been victims of discrimination/harassment may contact the AA/CDO to discuss issues relating to discrimination, with or without filing a complaint. The AA/CDO may conduct a preliminary fact-finding review. At its conclusion, the AA/CDO shall inform the complainant of the options available. These include seeking informal resolution to the problems the complainant has encountered or asking that a full investigation be conducted. Based upon the facts of the case, the AA/CDO may also advise the complainant that his or her case is more suitable for adjudication by another entity within the University.

#### **6. Informal Resolution**

Individuals who believe they have been discriminated against may choose to resolve their complaints informally. Informal resolution is a confidential process where parties can participate in a search for fair and workable solutions. Informal resolution requires the consent of both parties and suspends the complaint procedure for up to thirty (30) working days, which can be extended, at the discretion of the AA/CDO, upon consent of both parties. The AA/CDO should determine if informal resolution is appropriate in light of the nature of the complaint.

All complaints, whether formal or informal, should be made in writing. The parties may agree upon a variety of resolutions, including but not limited to modification of work assignment, training for a department, or an apology. Resolutions should be agreed upon, signed by, and provided to the complainant(s) and respondent(s). Once both parties reach an informal agreement, it is final. Because informal resolution is voluntary, sanctions may be imposed against the accused only for a breach of the executed voluntary agreement.

The complainant may advise the AA/CDO at any time during the informal resolution process that he or she wishes to withdraw a complaint.

The AA/CDO or either party may at any time, prior to the expiration of thirty (30) working days, declare that attempts at informal resolution have failed. Upon such notice, the AA/CDO may commence a full investigation.

If no informal resolution of a complaint is achieved, the individual shall refer the matter to the AA/CDO to conduct a more thorough investigation of the complaint. Individuals must complete the form annexed as Attachment A.

## **7. Investigation of Discrimination Complaints**

- a. Full investigation of a discrimination complaint may occur when:
  1. The AA/CDO determines, upon review of a complaint, that an investigation is warranted, or
  2. Informal resolution has failed.
- b. It is recommended that the investigation include the following, to the extent feasible:
  1. Interviewing of the complainant by the AA/CDO.
  2. Informing the complainant that an investigation is being commenced, that interviews of the accused and possibly other people shall be conducted, and that the President shall determine what action, if any, to take after the investigation is completed.
  3. Interviewing of the accused by the AA/CDO. The accused should be advised that a complaint of discrimination has been received, that an investigation has begun, which may include interviews with third parties, and that the President shall determine what action, if any, to take after the investigation is completed. The accused should be given a copy of the complaint (with sensitive information such as the complainant's home address and telephone number redacted) and an opportunity to respond. An accused employee who is covered by a collective bargaining agreement may consult with a union representative and have a union representative present during the interview.
  4. Determining if, in addition to the complainant, the accused, and those persons named by them, there are others who may have relevant information regarding the events in question and whether there is documentary evidence that may be relevant to the complaint. Persons interviewed should be advised that information related to the complaint should be kept confidential and not disclosed further, except as necessary during the complaint process.
  5. Informing the accused that retaliation against any person who files a complaint of discrimination, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited

under University policy and federal and state and city law. The accused should be informed that if retaliatory behavior is engaged in, he/she shall be subject to severe discipline, up to and including termination of employment or, if the accused is a student, permanent dismissal from the University.

6. Informing the complainant of the right to file a complaint with the appropriate federal or state or city agency and requesting that the complainant advise the AA/CDO if he or she has filed a complaint with an external agency. In the event that the AA/CDO learns that the complainant has filed a complaint with an external agency, he or she should inform the Office of General Counsel and coordinate the investigation accordingly.
- c. Withdrawing a complaint.
    1. A complaint of discrimination may be withdrawn at any time. Only the complainant(s) may withdraw a complaint. Requests for withdrawals must be submitted to the AA/CDO in writing. The AA/CDO, prior to making the determination to end the investigation, will consider whether evidence has been found that may lead to the conclusion that the University has an obligation to take action to correct unlawful discriminatory behavior. If there is such evidence, the investigation will continue.

In either event, the AA/CDO will notify the respondent(s) in writing that the complainant(s) has withdrawn the complaint and whether it has been determined by appropriate University officials to continue the investigation for corrective action purposes.

- d. In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.
- e. Timeframe: While some complaints of discrimination may require extensive investigation, whenever possible, the investigation of most complaints should be completed within 60 days of the receipt of the complaint. In cases where the investigation is not completed within 60 days, a *Delay Notification Letter* (Attachment D) should be sent to the parties and the reason for the delay should be noted in the file.

## 8. **Action Following Investigation of Discrimination Complaints**

- a. Promptly following the completion of the investigation, the AA/CDO shall report his or her findings to the President, and in the event that the accused is a student, to the Chief Student Affairs Officer.
- b. Following such report, the President shall review the complaint investigation report and authorize such action as he or she deems necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. The President's review of the report and authorization that action be taken shall be documented in writing, which may be issued electronically. This

can include commencing action to discipline the accused under applicable University Bylaws or collective bargaining agreements. Disciplinary action may include, but is not limited to, termination of employment and/or dismissal from the University, demotion, reassignment, suspension, reprimand, training or granting a benefit wrongfully withheld.

- c. The complainant(s) and respondent(s) to an investigation should be apprised in writing of the outcome and action taken as a result of the complaint.
- d. For each investigation, the President will sign a form that will go into the investigation file, stating: "I have reviewed the report of the investigation of the discrimination complaint filed by [complainant] on [date] and authorize the Affirmative Action Officer/Compliance and Diversity Officer/Sexual Harassment Coordinator to take appropriate action based on the findings in the report." The action authorized by the President shall be final.
- e. If the President is the accused, the Vice Chancellor of Faculty and Staff Relations shall appoint an investigator who shall report his/her findings to the Chancellor. The Chancellor shall determine what action shall be taken. The Chancellor's decision shall be final.

#### **9. Immediate Preventive Action**

The President may, in extreme cases, take whatever action is appropriate to protect the college community.

#### **10. False and Malicious Accusations**

Members of the University community who make false and malicious complaints of discrimination, as opposed to complaints, which, even if erroneous, are made in good faith, shall be subject to disciplinary action.

#### **11. Records and Reports**

- a. The AA/CDO shall keep the President informed regarding complaints of discrimination and shall provide the information necessary to prepare the annual non-discrimination report referenced above in § II 2(a).
- b. Records regarding complaints of discrimination shall be maintained in a secure location.

#### **12. Applicability of Procedures**

- a. These Procedures are applicable to all of the units and colleges of the University. The Hunter College Campus Schools may make modifications to these procedures, subject to approval by the University, as appropriate to address the special needs of their elementary and high school students.

- b. These Procedures are intended to provide guidance to the Presidents for implementing the University policy of non-discrimination; these procedures do not create any rights or privileges on the part of any others.

The University reserves the right to alter, change, add to, or delete any of these procedures at any time without notice.

## **IV. Policy Against Sexual Harassment**

### **Policy Statement**

It is the policy of The City University of New York to promote a cooperative work and academic environment in which there exists mutual respect for all University students, faculty, and staff. Harassment of employees or students based upon sex is inconsistent with this objective and contrary to the University's non-discrimination policy. Sexual harassment is illegal under Federal, State, and City laws, and will not be tolerated within the University.

The University, through its colleges, will disseminate this policy and take other steps to educate the University community about sexual harassment. The University will establish procedures to ensure that investigations of allegations of sexual harassment are conducted in a manner that is prompt, fair, thorough, and as confidential as possible under the circumstances, and that appropriate corrective and/or disciplinary action is taken as warranted by the circumstances when sexual harassment is determined to have occurred. Members of the University community who believe they have been aggrieved under this policy are strongly encouraged to report the allegations of sexual harassment as promptly as possible. Delay in making a complaint of sexual harassment may make it more difficult for the college to investigate the allegations.

### **A. Prohibited Conduct**

It is a violation of University policy for any member of the University community to engage in sexual harassment or to retaliate against any member of the University community for raising an allegation of sexual harassment, for filing a complaint alleging sexual harassment, or for participating in any proceeding to determine if sexual harassment has occurred.

### **B. Definition of Sexual Harassment**

For purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other oral or written communications or physical conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;
2. submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual; or

3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic environment.

Sexual harassment can occur between individuals of different sexes or of the same sex. Although sexual harassment most often exploits a relationship between individuals of unequal power (such as between a faculty member and student, supervisor and employee, or tenured and untenured faculty members), it may also occur between individuals of equal power (such as between fellow students or co-workers), or in some circumstances even where it appears that the harasser has less power than the individual harassed (for example, a student sexually harassing a faculty member). A lack of intent to harass may be relevant to, but will not be determinative of, whether sexual harassment has occurred.

### **C. Examples of Sexual Harassment**

Sexual harassment may take different forms. Using a person's response to a request for sexual favors as a basis for an academic or employment decision is one form of sexual harassment. Examples of this type of sexual harassment include, but are not limited to, the following:

- requesting or demanding sexual favors in exchange for employment or academic opportunities (such as hiring, promotions, grades, or recommendations);
- submitting unfair or inaccurate job or academic evaluations or grades, or denying training, promotion, or access to any other employment or academic opportunity, because sexual advances have been rejected.

Other types of unwelcome conduct of a sexual nature can also constitute sexual harassment, if sufficiently severe or pervasive that the target does find, and a reasonable person would find, that an intimidating, hostile or abusive work or academic environment has been created. Examples of this kind of sexual harassment include, but are not limited to, the following:

- sexual comments, teasing, or jokes;
- sexual slurs, demeaning epithets, derogatory statements, or other verbal abuse;
- graphic or sexually suggestive comments about an individual's attire or body;
- inquiries or discussions about sexual activities;
- pressure to accept social invitations, to meet privately, to date, or to have sexual relations;
- sexually suggestive letters or other written materials;

- sexual touching, brushing up against another in a sexual manner, graphic or sexually suggestive gestures, cornering, pinching, grabbing, kissing, or fondling;
- coerced sexual intercourse or sexual assault.

#### **D. Consensual Relationships**

Amorous, dating, or sexual relationships that might be appropriate in other circumstances have inherent dangers when they occur between a faculty member, supervisor, or other member of the University community and any person for whom he or she has a professional responsibility. These dangers can include: that a student or employee may feel coerced into an unwanted relationship because he or she fears that refusal to enter into the relationship will adversely affect his or her education or employment; that conflicts of interest may arise when a faculty member, supervisor, or other member of the University community is required to evaluate the work or make personnel or academic decisions with respect to an individual with whom he or she is having a romantic relationship; that students or employees may perceive that a fellow student or co-worker who is involved in a romantic relationship will receive an unfair advantage; and that if the relationship ends in a way that is not amicable, either or both of the parties may wish to take action to injure the other party.

Faculty members, supervisors, and other members of the University community who have professional responsibility for other individuals, accordingly, should be aware that any romantic or sexual involvement with a student or employee for whom they have such a responsibility may raise questions as to the mutuality of the relationship and may lead to charges of sexual harassment. For the reasons stated above, such relationships are strongly discouraged.

For purposes of this section, an individual has "professional responsibility" for another individual at the University if he or she performs functions including, but not limited to, teaching, counseling, grading, advising, evaluating, hiring, supervising, or making decisions or recommendations that confer benefits such as promotions, financial aid awards or other remuneration, or that may impact upon other academic or employment opportunities.

#### **E. Academic Freedom**

This policy shall not be interpreted so as to constitute interference with academic freedom.

#### **F. False and Malicious Accusations**

Members of the University community who make false and malicious complaints of sexual harassment, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

#### **G. Procedures**

The University has developed procedures to implement this policy. The President of each constituent college of the University, the Senior Vice Chancellor at the Central Office, and

the Dean of the Law School shall have ultimate responsibility for overseeing compliance with this policy at his or her respective unit of the University. In addition, each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility shall be required to report any complaint of sexual harassment to the individual or individuals designated in the procedures. All members of the University community are required to cooperate in any investigation of a sexual harassment complaint.

## **H. Enforcement**

There is a range of corrective actions and penalties available to the University for violations of this policy. Students, faculty, or staff who are found, following applicable disciplinary proceedings, to have violated this Policy are subject to various penalties, including termination of employment and/or student expulsion from the University.

Effective October 1, 1995

Board Approved: November 29, 2004 (No. 6 A)

Revised by OHRM July 2008 per agreement with Equal Employment Practices Commission

## **V. Procedures for Implementation of The City University's Policy Against Sexual Harassment**

The following are procedures for implementation of the Policy Against Sexual Harassment at The City University of New York (hereinafter the "Policy"):

### **1. Sexual Harassment Defined**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other oral or written communications or physical conduct of a sexual nature when: 1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing; 2. submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual; or 3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic environment.

### **2. Responsibilities of Officers and Individuals**

#### **a. Responsibilities of the Presidents**

The President of each constituent college of The City University of New York, the Senior Vice Chancellor at the Central Office, and the Dean of the Law School (hereinafter "Presidents") are responsible for overseeing compliance with the implementation of the Policy. Each President shall:

- Appoint a Sexual Harassment Coordinator and Deputy Coordinator(s) to be available to employees who wish to make complaints of sexual



harassment. More than one Deputy Coordinator may be appointed at the discretion of the President. Presidents should take into account gender and ethnic balance as they appoint individuals. Further, one of the Coordinators should be a faculty member. The responsibilities of the Sexual Harassment Coordinator and Deputy Coordinator(s) are set forth in subsection b. below.

- Appoint a Sexual Harassment Awareness and Intake Committee to be responsible for educating the college community about sexual harassment through printed materials, workshops, and the like. The responsibilities of the Sexual Harassment Awareness and Intake Committee are set forth in subsection c. below.
- Ensure that the Coordinator, Deputy Coordinator(s) and Awareness and Intake Committee members are fully trained and equipped to carry out their responsibilities.
- Disseminate the Policy Against Sexual Harassment, including the names, titles, telephone numbers, and office locations of the Sexual Harassment Coordinator, Deputy Coordinator(s) and Sexual Harassment Awareness and Intake Committee members, annually to all employees. It is recommended that such information be included in all orientation, and all handbooks and newsletters; and on the college website.
- Submit as part of the annual report on non-discrimination, a summary of the sexual harassment educational activities undertaken at the college, as well as a summary of the number of complaints filed and the general outcomes thereof.

**b. Responsibilities of the Sexual Harassment Coordinator and Sexual Harassment Deputy Coordinator(s)**

- It is the responsibility of the President to appoint the college AA/CDO as either the Sexual Harassment Coordinator or a Sexual Harassment Deputy Coordinator. Further, a faculty member should be appointed as one of the Coordinators.
- The Sexual Harassment Coordinator is responsible, as the President's designee, for reviewing all complaints of sexual harassment from any member of the college community, and for making efforts to resolve those complaints informally, if possible. When informal resolution is not possible, the Sexual Harassment Coordinator shall investigate the complaint. The Sexual Harassment Coordinator shall report to the President (and the Chief Student Affairs Officer, if the accused/complainant is a student) the results of the investigation. A Deputy Coordinator may also assume responsibility for the informal resolution or investigation of complaints, as assigned by the Sexual Harassment Coordinator. The Coordinators have an obligation to maintain confidentiality to the fullest extent possible.

- Submit annually as part of the report on non-discrimination, a summary of the sexual harassment educational activities undertaken at the college, as well as a summary of the number of complaints filed and the general outcomes thereof.

**c. Responsibilities of the Sexual Harassment Awareness and Intake Committee**

- The Sexual Harassment Awareness and Intake Committee is responsible for educating employees about sexual harassment and its potential consequences to the University community, and for overseeing sexual harassment training.
- It is recommended that the Sexual Harassment Awareness and Intake Committee consist of six to eight persons, all of whom shall be appointed by and serve at the pleasure of the President. Further, it is strongly recommended that the Committee reflect the diversity of the college, and be composed of at least two faculty members, as well as administrators, staff, and students.
- All members of the Sexual Harassment Awareness and Intake Committee shall be available to receive complaints of sexual harassment from any member of the college community, to explain the University complaint procedures, and to refer individuals and/or the complaint to the Sexual Harassment Coordinator.
- All members of the Sexual Harassment Awareness and Intake Committee have an obligation to maintain confidentiality to the fullest extent possible.

**d. Responsibilities of Supervisors**

- Each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility (hereinafter "supervisor") is responsible within his or her area of jurisdiction for the implementation of the Policy. Supervisors must report to the Sexual Harassment Coordinator, or in his or her absence a Deputy Coordinator, any complaint of sexual harassment or any incident of sexual harassment that he or she becomes aware of or reasonably believes to exist. Having reported such complaint or incident, the supervisor should keep it confidential and not disclose it further, except as necessary during the complaint process.
- Each supervisor shall arrange for the posting, in his or her area, of the University Policy Against Sexual Harassment and the names, titles, telephone numbers, and office locations of the college Sexual Harassment Coordinator, Deputy Coordinators and Awareness and Intake Committee members. Other materials provided to a supervisor by the Sexual Harassment Awareness and Intake Committee should also be posted.

**e. Responsibilities of the University Community-At-Large**

Members of the University community who become aware of allegations of sexual harassment should encourage the aggrieved individual to report the alleged sexual harassment to the Sexual Harassment Coordinator, a Deputy Coordinator or any member of the Awareness and Intake Committee.

**3. Confidentiality**

The privacy of individuals who bring complaints of sexual harassment, who are accused of sexual harassment, or who are otherwise involved in the complaint process should be respected, and information obtained in connection with the filing, investigation, or resolution of complaints should be handled as confidentially as possible. It is not possible, however, to guarantee absolute confidentiality and no such promises should be made by the Sexual Harassment Coordinator, a Deputy Coordinator, Awareness and Intake Committee member or other University employees who may be involved in the complaint process.

**4. Making a Complaint of Sexual Harassment**

Any member of the University community may report allegations of sexual harassment to the Sexual Harassment Coordinator, a Deputy Coordinator or any member of the Awareness and Intake Committee. Employees who are covered by collective bargaining agreements may elect to use both their contractual grievance procedures, within the time limits provided in those agreements, to report allegations of sexual harassment; and to report such allegations directly to the Sexual Harassment Coordinator, a Deputy Coordinator or a member of the Sexual Harassment Awareness and Intake Committee. Members of the University community who believe they been aggrieved under the Policy are strongly encouraged to report the allegations of sexual harassment as promptly as possible. Delay in making a complaint may make it more difficult for the college to investigate the allegations.

**5. Informal Resolution of Sexual Harassment Complaints**

a. After receiving a complaint of sexual harassment, the Sexual Harassment Coordinator shall, in appropriate cases, make efforts to resolve the complaint informally, *i.e.*, by an arrangement that is acceptable to the complainant, the accused, and the college. Examples of informal resolutions include, but are not limited to:

- arranging for a workshop on sexual harassment to be conducted for the unit, division, or department in which the sexual harassment is alleged to have occurred;
- having a supervisor, Sexual Harassment Coordinator or Deputy Coordinator speak to the accused regarding the allegations of sexual harassment and counsel the accused as to appropriate behavior;
- arranging for a meeting between the complainant and the accused, with a third party present, to discuss and resolve the allegations;

- having the accused write a letter of apology.

Whenever possible, an informal resolution should be acknowledged in writing and signed by the complainant. The accused should also be asked to sign such an acknowledgement.

- b. If no informal resolution of a complaint is achieved, the Sexual Harassment Coordinator shall conduct a formal investigation of the complaint. It is recognized, however, that complaints may be resolved by mutual agreement of the complainant, the accused, and the college at any time in the process.

## **6. Investigations of Sexual Harassment Complaints**

While the investigation of sexual harassment complaints may vary depending upon the nature of each case, it is recommended that an investigation include the following, to the extent feasible:

- a. The Sexual Harassment Coordinator should interview the complainant, preferably with a Deputy Coordinator present. The complainant may bring the person to whom he or she originally brought the complaint to the interview. The complainant should be informed that an investigation is being commenced, that interviews of the accused and possibly other people shall be conducted, and that the President shall determine what action, if any, to take after the investigation is completed.
- b. The Sexual Harassment Coordinator should interview the accused, preferably with a Deputy Coordinator present. The accused should be advised that a complaint of sexual harassment has been received, that an investigation has begun, which may include interviews with third parties, and that the President will determine what action, if any, to take after the investigation is completed. The accused should be advised of the nature of the allegations against him or her and be given an opportunity to respond. In addition, the accused should be advised that any sexual harassment or other retaliation against the complainant or others is prohibited. If such behavior is engaged in, the accused shall be subject to severe discipline, up to and including termination of employment or, if the accused is a student, permanent dismissal from the University. An accused employee who is covered by a collective bargaining agreement may consult with a union representative and have a union representative present during the interview.
- c. In addition to interviews with the complainant, the accused, and those persons named by them, it should be determined whether there are others who may have relevant information regarding the events in question and whether there is documentary evidence that may be relevant to the complaint. Persons interviewed should be advised that information related to the complaint should be kept

confidential and not disclosed further, except as necessary during the complaint process.

- d. In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.
- e. While some complaints of sexual harassment may require extensive investigation, whenever possible, the investigation of most complaints should be completed within 60 days of the receipt of the complaint.

**7. Action Following Investigation of Sexual Harassment Complaints**

- a. Promptly following the completion of the investigation, the Sexual Harassment Coordinator shall report his or her findings to the President, and in the event that the accused is a student, to the Chief Student Affairs Officer.
- b. Following such report, the President shall review the complaint investigation report and authorize such action as he or she deems necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. The President's review of the report and authorization that action be taken shall be documented in writing, which may be issued electronically. In addition to initiating disciplinary proceedings, corrective action may include, but is not limited to, transferring a student to another class section, transferring an employee, or granting a benefit wrongfully withheld. The action authorized by the President shall be final.
- c. For each investigation, the President will sign a form that will go into the investigation file, stating: "I have reviewed the report of the investigation of the discrimination complaint filed by [complainant] on [date] and authorize the Affirmative Action Officer/Compliance and Diversity Officer/Sexual Harassment Coordinator to take appropriate action based on the findings in the report."
- d. The complainant and the accused should be apprised in writing of action taken as a result of the complaint.

**8. Immediate Preventive Action**

The President may, in extreme cases, take whatever action is appropriate to protect the college community.

**9. False Complaints**

In the event that the Sexual Harassment Coordinator concludes that a complainant made a complaint of sexual harassment with knowledge that the allegations were false, the Sexual Harassment Coordinator shall state this conclusion in his or her report. The failure to substantiate a sexual harassment complaint, however, is not in and of itself sufficient to demonstrate that a complaint was false.

**10. Records and Reports**

- a. The Sexual Harassment Coordinator shall keep the President informed regarding complaints of sexual harassment and shall provide the information necessary to prepare the annual report referenced in § II, 2, a, (last bullet).
- b. Records regarding complaints of sexual harassment shall be maintained in a secure location.

**11. Applicability of Procedures**

- a. These Procedures are applicable to all of the units and colleges of the University. The Hunter College Campus Schools may make modifications to these procedures, subject to approval by the University, as appropriate to address the special needs of their elementary and high school students.
- b. These Procedures are intended to provide guidance to the Presidents for implementing the University policy against sexual harassment; these procedures do not create any rights or privileges on the part of any others.

Effective October 1, 1995

Revised by OHRM July 2008 per agreement with Equal Employment Practices Commission

**ATTACHMENT A**

**The City University of New York  
Charge of Discrimination Form**

This form is to be used to file a complaint of discrimination based on race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender identity, marital status, legally registered domestic partnership status, disability, predisposing genetic characteristics, alienage, citizenship, military or veteran status, status as a victim of domestic violence, or any other grounds or characteristic protected by law.

Campus \_\_\_\_\_

Received by \_\_\_\_\_ Date \_\_\_\_\_

**PART A (PLEASE PRINT OR TYPE)**

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Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Email address \_\_\_\_\_ Mobile No. \_\_\_\_\_

Status (Faculty, Staff, Graduate Student, Undergraduate Student) \_\_\_\_\_

Campus Address (Bldg, dept, etc) \_\_\_\_\_

Home Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**PART B**

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1. ALLEGED DISCRIMINATION IS BASED ON (please check all that apply):

- Race or color       National or Ethnic Origin       Religion       Age
- Sex       Document Abuse
- Sexual Orientation       Gender Identity       Marital or Partnership Status       Disability
- Predisposing Genetic Characteristics       Alienage or Citizenship Status       Retaliation
- Military or Veteran Status       Status as Victim of Domestic Violence, Sex Offenses, or Stalking
- Ancestry       Sexual Harassment

2. Alleged discrimination took place on or about: Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

Is alleged discrimination continuing?       Yes       No

3. Accused Name(s) \_\_\_\_\_

Title (if known) \_\_\_\_\_

**PART C**

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1. Please check the appropriate box:

Have you previously filed a complaint?       Yes       No

If yes, when? (Date) \_\_\_\_\_

With whom? \_\_\_\_\_

2. Have you filed this charge with a federal, state or local government agency/court?       Yes       No

If yes, with which agency/court? \_\_\_\_\_ When? \_\_\_\_\_

3. Describe briefly the incident; what occurred? (Attach extra sheets if necessary).

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4. I affirm that the above allegation is true to the best of my knowledge, information and belief.

Signature: \_\_\_\_\_ Date \_\_\_\_\_



## List of Resources

## ATTACHMENT B

### **New York City Commission on Human Rights**

40 Rector Street  
New York, NY 10006  
(212) 306-7500  
(212) 306-7686 (TDD)

### **New York State Division of Human Rights**

#### **Headquarters**

One Fordham Plaza, 4<sup>th</sup> Floor  
Bronx, NY 10458  
(718) 741-8400  
(718) 741-8304 (TDD)

### **New York State Division of Human Rights**

#### **Brooklyn Office**

55 Hanson Place, 3<sup>rd</sup> Floor, Room 304  
Brooklyn, NY 11217  
(718) 722-2856

### **New York State Division of Human Rights**

#### **Manhattan Offices**

20 Exchange Place, 2<sup>nd</sup> Floor  
New York, NY 10005  
(212) 480-2522  
(718) 741-8304 (TDD)

### **Adam Clayton Powell State Office Building**

163 W. 125<sup>th</sup> Street, 4<sup>th</sup> Floor  
New York, NY 10027  
(212) 961-8650

### **U.S. Department of Justice**

Civil Rights Division  
Disability Rights Section  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
(202) 514-0301  
(202) 514-0383 (TTY)

### **U.S. Department of Justice**

Civil Rights Division  
Office of Special Counsel for Immigration-Related Unfair Employment Practices  
950 Pennsylvania Avenue, N.W. (NYA)  
Washington, D.C. 20530  
Employer Hotline (1-800-255-8155)  
Worker Hotline (1-800-255-7688)

**U.S. Department of Education**  
**Office of Civil Rights, Region II**  
75 Park Place, 14<sup>th</sup> Floor  
New York, NY 10007

**U.S. Equal Employment Opportunity Commission**  
**New York District Office**  
33 Whitehall Street  
New York, NY 10004  
(212) 336-3620 or 1-800-669-4000  
(212) 336-3622 or 1-800-669-6820 (TTY)

**ATTACHMENT C**

|             |       |            |
|-------------|-------|------------|
| _____       | VS    | _____      |
| COMPLAINANT |       | RESPONDENT |
| CASE NO.    | _____ |            |
| DATE FILED  | _____ |            |

**Delay Notification Letter**

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

TO:

Dear Mr./Ms. \_\_\_\_\_:

Please be advised that the investigation of the discrimination case in which you are involved is still ongoing, but has not yet been completed. We are working to complete the investigation soon, at which time we will report our findings to the President in accordance with the University's procedures.

If you have any questions, please contact \_\_\_\_\_, Affirmative Action/Diversity Officer, at (\_\_\_\_) \_\_\_\_\_.

Sincerely,

(Affirmative Action Officer Title),  
(Department)

**ATTACHMENT D**

THE CITY UNIVERSITY OF NEW YORK

ACTIONS TAKEN IN RESPONSE TO  
DISCRIMINATION/HARASSMENT COMPLAINT

Name of complainant \_\_\_\_\_ Date \_\_\_\_\_

The following actions were taken in response to the above complaint [include dates actions, if any, were taken]:

\_\_\_\_\_ No action

\_\_\_\_\_ Interim corrective actions. Specify.

\_\_\_\_\_ Training. Explain.

\_\_\_\_\_ Counseling letter

\_\_\_\_\_ Non-reappointment

\_\_\_\_\_ Refer to Labor Designee for disciplinary proceedings

\_\_\_\_\_ Other actions. Specify.

\_\_\_\_\_  
AA/CDO or SH Coordinator

I have reviewed the report of the investigation of the discrimination complaint filed by the complainant on [date] \_\_\_\_\_ and authorize the Affirmative Action Officer/Compliance and Diversity Officer/Sexual Harassment Coordinator to take appropriate action based on the findings in the report.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
President