

**THE CITY UNIVERSITY OF NEW YORK POLICIES AND PROCEDURES ON
EQUAL OPPORTUNITY, NON-DISCRIMINATION, AND
AGAINST SEXUAL HARASSMENT**

[Policies on Equal Opportunity and Non-Discrimination, and Against Sexual Harassment](#)

[Procedures for Reporting Discrimination, Harassment and/or Retaliation](#)

[Charge of Discrimination Form](#)

I. Policy on Equal Opportunity and Non-Discrimination

The City University of New York (“University or “CUNY”), located in a historically diverse municipality, is committed to a policy of equal employment and equal access in its educational programs and activities. Diversity, inclusion, and an environment free from discrimination are central to the mission of the University.

It is the policy 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, gender identity, marital status, partnership status, disability, genetic information, alienage, citizenship, military or veteran status, pregnancy, or status as a victim of domestic violence/stalking/sex offenses, or any other legally prohibited basis in accordance with federal, state and city laws.¹

It is also the University’s Policy to provide reasonable accommodations when appropriate to individuals with disabilities, individuals observing religious practices, or employees who are victims of domestic violence/stalking/sex offenses.

This Policy also prohibits retaliation for reporting or opposing discrimination, or cooperating with an investigation of a discrimination complaint.

Prohibited Conduct Defined

Discrimination is treating an individual differently or less favorably because of his or her protected characteristics—such as race, color, religion, gender, national origin, or any of the other bases prohibited by this Policy.

Harassment is unwelcome conduct based on a protected characteristic that 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. Such conduct can be verbal, written, visual, or physical.

Retaliation is adverse treatment of an individual because he or she made a discrimination complaint, opposed discrimination, or cooperated with an investigation of a discrimination complaint.

¹ As a public university system, CUNY adheres to federal, state and city laws and regulations regarding non-discrimination and affirmative action. Should any federal, state or city law or regulation be adopted that prohibits discrimination based on grounds or characteristics not

included in this Policy, discrimination on those additional bases will also be prohibited by this Policy.

II. Policy Against Sexual Harassment

Sexual harassment, a form of sex discrimination, is illegal under federal, state, and city laws, and will not be tolerated within the University. Members of the University community who believe they have been sexually harassed are strongly encouraged to report the allegations as promptly as possible. Delay in making a complaint of sexual harassment may make it more difficult to investigate the allegations.

Sexual Harassment Defined

Sexual harassment consists of unwelcome sexual advances or requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;
- submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual; or
- 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 (such as a student sexually harassing a faculty member).

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, favorable 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 finds, 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 of a sexual nature;
- graphic or sexually suggestive comments about an individual's attire or body;
- graphic or sexually suggestive gestures;
- inquiries or discussions about sexual activities;
- pressure to accept social invitations, to meet privately, to date, or to have sexual relations;
- sexual touching, brushing up against another in a sexual manner, cornering, pinching, grabbing, kissing, or fondling;
- coerced sexual intercourse or sexual assault.

Consensual, Intimate Relationships

1. Relationships between faculty or employees and students.

Amorous, dating or sexual activity or relationships (“intimate relationships”), even when apparently consensual, are inappropriate when they occur between a faculty member or employee and any student for whom he or she has a professional responsibility. Those relationships are inappropriate because of the unequal power dynamic between students and faculty members and between students and employees who advise or evaluate them, such as athletic coaches or workplace supervisors. Such relationships necessarily involve issues of student vulnerability and have the potential for coercion. In addition, conflicts of interest or perceived conflicts of interest may arise when a faculty member or employee is required to evaluate the work or make personnel or academic decisions with respect to a student with whom he or she is having an intimate relationship. Finally, if the relationship ends in a way that is not amicable, the relationship may lead to charges of and possible liability for sexual harassment.

Therefore, faculty members and other employees are prohibited from engaging in intimate relationships with students for whom they have a professional responsibility, including undergraduates, graduate and professional students and postdoctoral fellows.

For purposes of this section, professional responsibility for a student means responsibility over academic matters, including teaching, counseling, grading, advising for a formal project such as

a thesis or research, evaluating, hiring, supervising, coaching, making decisions or recommendations that confer benefits such as admissions, registration, financial aid, other awards, remuneration, or fellowships, or performing any other function that might affect teaching, research, or other academic opportunities.

2. Relationships between supervisors and employees

Many of the concerns about intimate relationships between faculty members or employees and students also apply to relationships between supervisors and employees they supervise. Those relationships therefore are strongly discouraged. Supervisors shall disclose any such relationships to their supervisors in order to avoid or mitigate conflicts of interest in connection with the supervision and evaluation of the employees with whom they have a consensual relationship. Mitigation may involve the transfer of either the supervisor or employee, reassigning the responsibility to evaluate the employee to a different supervisor, or other appropriate action.

For purposes of this section, supervising an employee means supervising in an employment setting, including hiring, evaluating, assigning work, or making decisions or recommendations that confer benefits such as promotions, raises or other remuneration, or performing any other function that might affect employment opportunities.

Retaliation

This Policy prohibits retaliation for reporting or opposing sexual harassment, or cooperating with an investigation of a sexual harassment complaint.

III. Discrimination, Sexual Harassment and Retaliation Complaints

The City University of New York is committed to addressing discrimination and sexual harassment complaints promptly, consistently and fairly. There shall be procedures for making and investigating such complaints, which shall be applicable at each unit of the University.

IV. Academic Freedom

These policies shall not be interpreted so as to constitute interference with academic freedom.

V. Responsibility for Compliance

The President of each college of the University, the CUNY Executive Vice Chancellor and Chief Operating Officer, and the Deans of the Law School and Graduate School of Journalism will have ultimate responsibility for overseeing compliance with these policies at their respective units of the University. In addition, each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility must promptly consult with the Chief Diversity Officer if they become aware of conduct that may violate this policy. All members of the University community are required to cooperate in any investigation of a

discrimination, sexual harassment, or retaliation complaint.

Policies adopted by CUNY Board of Trustees on November 26, 2012. These Policies supersede CUNY's prior non-discrimination and sexual harassment policies and became effective upon adoption.

**PROCEDURES IMPLEMENTING THE CITY UNIVERSITY OF
NEW YORK'S POLICIES ON EQUAL OPPORTUNITY,
NON-DISCRIMINATION AND AGAINST SEXUAL HARASSMENT²**

1. Reporting Discrimination, Harassment and/or Retaliation

The University is committed to addressing discrimination, including harassment, and retaliation complaints promptly, consistently and objectively.

Members of the University community may promptly report any allegations of discrimination, including sexual harassment, or retaliation as specified below:

- Applicants, employees, and students with discrimination complaints should raise their concerns with the Chief Diversity Officer³ at their location.
- Applicants, employees, and students with sexual harassment complaints should raise their concerns with the Sexual Harassment Coordinator or Deputy Coordinator at their location.
- Students with complaints of sexual assault, stalking, domestic and intimate violence should follow the *Policy and Procedures Concerning Sexual Assault, Stalking and Domestic and Intimate Partner Violence Against Students*.

² These Procedures govern any complaint of discrimination, sexual harassment, and/or retaliation whether addressed by the Chief Diversity Officer, Title IX Coordinator, Sexual Harassment Coordinator or Deputy Coordinator, or 504/ADA Coordinator. Additionally, 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.

These Procedures are intended to provide guidance for implementing the University Policies on Equal Opportunity, Non-discrimination, and Against Sexual Harassment. 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.

³ Depending on the campus or location, the Chief Diversity Officer often serves the additional roles of 504/ADA Coordinator, addressing disability reasonable accommodation concerns, Title IX Coordinator, addressing sex discrimination allegations of students, and Sexual Harassment Coordinator or Deputy Coordinator.

- There are separate procedures under which applicants, employees, and students may appeal a decision concerning reasonable accommodations for a disability, which are set forth in CUNY's *Procedures on Reasonable Accommodation*.

2. Preliminary Review of Employee, Student, or Visitor Concerns

Individuals who believe they have experienced discrimination, harassment, and/or retaliation should promptly contact the Chief Diversity Officer at their location to discuss the issues, with or without filing a complaint. Following the discussion, the Chief Diversity Officer will inform the complainant of the options available. These include seeking informal resolution of the issues the complainant has encountered or asking that a full investigation be conducted. Based on the facts of the complaint, the Chief Diversity Officer may also advise the complainant that his or her situation is more suitable for resolution by another entity within the University.

3. Filing a Complaint

Following the discussion with the Chief Diversity Officer, individuals who wish to pursue a complaint of discrimination, harassment, and/or retaliation should be provided with a copy of the complaint form. Complaints should be in writing whenever possible, including in cases where the complainant is seeking an informal resolution.

4. Informal Resolution

Individuals who believe they have been discriminated or retaliated against may choose to resolve their complaints informally. Informal resolution is a process whereby parties can participate in a search for fair and workable solutions. The parties may agree upon a variety of resolutions, including, but not limited to, modification of a work assignment, training for a department, or an apology. The Chief Diversity Officer will determine if informal resolution is appropriate in light of the nature of the complaint. Informal resolution requires the consent of both the complainant and the accused and suspends the complaint process for up to thirty (30) working days, which can be extended, at the discretion of the Chief Diversity Officer, upon consent of both parties.

Resolutions should be agreed upon, signed by, and provided to both parties. Once both parties reach an informal agreement, it is final. Because informal resolution is voluntary, sanctions may be imposed against the parties only for a breach of the executed voluntary agreement.

The Chief Diversity Officer 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 Chief Diversity Officer may commence a full investigation.

If no informal resolution of a complaint is achieved, the complainant may request that the Chief Diversity Officer conduct a full investigation of the complaint.

5. Investigation

A full investigation of a complaint may commence when it is warranted after a review of the complaint, or after informal resolution has failed.

It is recommended that the intake and investigation include the following, to the extent feasible:

- a. Interviewing the complainant. The complainant should be informed that an investigation is being commenced, that interviews of the accused and possibly other people will be conducted, and that the President⁴ will determine what action, if any, to take after the investigation is completed.
- b. Interviewing the accused. The accused should be advised that a complaint of discrimination has been received and should be provided a copy of the complaint unless circumstances warrant otherwise. Additionally, the accused should be advised 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. An accused employee who is covered by a collective bargaining agreement may consult with, and have, a union representative present during the interview.

The accused must be informed 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 these policies and federal, state, and city laws. The accused should be informed that if retaliatory behavior is engaged in, he/she may be subject to disciplinary charges, which, if sustained, may result in penalties up to and including termination of employment, or permanent dismissal from the University if the accused is a student.

- c. Interviewing witnesses. The Chief Diversity Officer should determine 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 to maintain confidentiality over discussions had during the investigative interview.

6. Withdrawing a Complaint

A complaint of discrimination may be withdrawn at any time during the informal resolution or investigation process. Only the complainant may withdraw a complaint. Requests for withdrawals must be submitted in writing to the Chief Diversity Officer. The University reserves the right to continue with an investigation if it is warranted. In a case where the University decides to continue with an investigation, it will inform the complainant.

⁴ References to the President in these Procedures refer to the Executive Vice Chancellor and Chief Operating Officer and the Deans of the Law School and Graduate School of Journalism wherever those units are involved, rather than a college.

In either event, the accused will be notified in writing that the complainant has withdrawn the complaint and whether University officials determined that continuation of the investigation is warranted for corrective purposes.

7. Timeframe

While some complaints may require extensive investigation, whenever possible, the investigation of complaints should be completed within sixty days of the receipt of the complaint. If there is an undue delay in completing the investigation, the Chief Diversity Officer should send the parties the Delay Notification Letter.

8. Action Following Investigation of a Complaint

- a. Promptly following the completion of the investigation, the Chief Diversity Officer will report his or her findings to the President, and in the event that the accused or complainant is a student, also to the Chief Student Affairs Officer.
- b. Following such report, the President will review the complaint investigation report and, when warranted by the facts, 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. This can include commencing action to discipline the accused under applicable University Bylaws, policies or collective bargaining agreements.
- c. The complainant and accused 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 what, if any, action will be taken pursuant to the investigation.
- e. If the President is the accused, the Vice Chancellor of Human Resources Management will appoint an investigator who will report his/her findings to the Chancellor or his/her designee, who will determine what action will be taken and whose decision will be final.

9. Immediate Preventive Action

The President may 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, will be subject to disciplinary action.

11. Anonymous Complaints

In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.

12. Responsibilities

a. Responsibilities of the President:

1. Appoint a Chief Diversity Officer, a Sexual Harassment Coordinator and at least one Deputy Coordinator, a Sexual Harassment Awareness and Intake Committee,⁵ a 504/ADA Compliance Coordinator, and a Title IX Coordinator. The Chief Diversity Officer may be appointed to serve in multiple roles, such as Sexual Harassment Coordinator or Title IX Coordinator.
2. Ensure that the individuals appointed to handle allegations of discrimination, including sexual harassment and retaliation, are fully trained and equipped to carry out their responsibilities.
3. Ensure that supervisors receive training on these Policies.
4. Annually disseminate these Policies to the entire college community and include the names, titles and contact information of all appropriate resources at its location. Such information should be widely disseminated, including placement on the college website.

b. Responsibilities of Supervisors

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, harassment and retaliation, and must take each and every complaint seriously. Supervisors must promptly consult with the Chief Diversity Officer if they become aware of conduct that may violate these Policies.

c. Responsibilities of the University Community-at-Large

1. Members of the University community who become aware of allegations of discrimination, including sexual harassment or retaliation should encourage the aggrieved individual to report the alleged behavior.

⁵ It is recommended that a Sexual Harassment Awareness and Intake Committee consist of a minimum of five (5) persons, all of whom will 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 faculty members, staff, and students.

2. All employees and students are required to cooperate in any investigation.

d. Responsibilities of the Chief Diversity Officer

As the President's designee, the Chief Diversity Officer is responsible for providing consultation, informal complaint resolution, and investigation of all internal complaints of discrimination, harassment, and/or retaliation.

e. Responsibilities of the Sexual Harassment Coordinator, Deputy Coordinator and Sexual Harassment Awareness and Intake Committee ("S H A I C")

1. As the President's designee, the Sexual Harassment Coordinator is responsible 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 will investigate the complaint in accordance with these complaint procedures. The Sexual Harassment Coordinator will 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.
2. SHAIC is responsible for educating employees about sexual harassment and its potential consequences to the University community, and for overseeing the sexual harassment training.
3. SHAIC members may explain the University complaint procedures and receive complaints and report them to the Sexual Harassment Coordinator or Deputy Coordinator, but not conduct any investigation. SHAIC members have an obligation to maintain confidentiality to the fullest extent possible.

13. Some Relevant Laws Concerning Non-discrimination and Equal Opportunity

The CUNY community should be aware of the following laws relating to non-discrimination and equal opportunity:

Section 1324b of the Immigration and Nationality Act 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, as amended, prohibits discrimination in employment by all institutions with federal contracts and requires affirmative action to ensure equal employment opportunities.

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in employment (including hiring, upgrading, salaries, fringe benefits, training, and other terms, conditions, and privileges of employment) on the basis of race, color, religion, national origin, or sex.

Title VI of the Civil Rights Act of 1964 prohibits discrimination or the denial of benefits because of race, color, or national origin in any program or activity receiving federal financial assistance.

Equal Pay Act of 1963, as amended, prohibits discrimination in compensation on the basis of sex.

Title IX of the Education Amendments of 1972 prohibits discrimination or the denial of benefits based on sex in any educational program or activity receiving federal financial assistance.

Age Discrimination in Employment Act, as amended, prohibits discrimination against individuals who are age 40 or older.

Section 504 of the Rehabilitation Act of 1973 defines and forbids acts of discrimination against qualified individuals with disabilities 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 individuals with disabilities.

Vietnam Era Veterans' Readjustment Act of 1972, as amended, requires government contractors to take affirmative action to employ and advance in employment disabled and other protected veterans.

Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, prohibits employment discrimination based on military status.

Americans with Disabilities Act of 1990, as amended, prohibits discrimination on the basis of disability.

Genetic Information Nondiscrimination Act of 2008 prohibits employment discrimination based on genetic information.

New York City Human Rights Law prohibits discrimination based on age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage or citizenship status, arrest or conviction record, or status of an individual as a victim of domestic violence, sex offenses or stalking.

New York City Workplace Religious Freedom Act clarifies the employer's obligation to provide religious accommodation.

New York State Human Rights Law prohibits discrimination based on race, creed, color, national origin, sexual orientation, military status, sex, age, marital status, domestic violence victim status, disability, predisposing genetic characteristics or prior arrest or conviction record.

These Procedures became effective on November 27, 2012 and supersede prior procedures.

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, gender identity, marital status, partnership status, disability, genetic information, alienage, citizenship, military or veteran status, pregnancy, or status as a victim of domestic violence/stalking/sex offenses, or for retaliation, or any other legally prohibited basis in accordance with federal, state and city laws.

Campus_____

Received by_____Date_____

PART A (PLEASE PRINT OR TYPE)

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

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

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

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

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. Briefly summarize the events, facts or other bases for your complaint. (Attach extra sheets if necessary).

4. Please identify any witnesses or other individuals with information regarding about your allegations.

5. Please identify any documents or evidence that would support your allegations.

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

Signature:_____Date_____