Discrimination and Sexual Harassment
ARTICLE VI LEGAL

Policy 6.2 Discrimination and Sexual Harassment
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

[Footnote:] 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.

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.

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.

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 academic or 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, sexual harassment and retaliation 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.

(Board of Trustees Minutes, 2012, 11-26, 5, A)