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

I. Policy on Equal Opportunity and Non-Discrimination Policy

Statement of Principles

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, 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 and/or gender identity, marital status, legally registered domestic partnership status, disability, predisposing genetic characteristics, 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.

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

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.

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.

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.

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.

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**THE CITY UNIVERSITY OF NEW YORK**
**POLICY AGAINST SEXUAL HARASSMENT**

**II. 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. 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 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**

**Defined**
For purposes of this policy, sexual harassment consists of unwelcome sexual advances or requests for sexual favors, or other oral or written communications 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 (such as, 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, 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;

- 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, Intimate Relationships

1. Relationships between faculty or employees and students.

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.

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, supervisors, and other members of the University 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 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 a student means responsibility over academic matters, including another individual at the University if he or she performs functions including, but not limited to, teaching, counseling, grading, advising for a formal project such as a thesis or research, evaluating, hiring, supervising, coaching, or making decisions or recommendations that confer benefits such as admissions, registration, financial aid, awards or other awards, remuneration, or fellowships, or performing any other function that might affect that may impact upon other academic or teaching, research, or other academic employment 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 and Sexual Harassment 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 complaints of discrimination and sexual harassment, which shall be applicable at each unit of the University.

E. Academic Freedom

These policies 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

V. Responsibility for Compliance

The University has developed procedures to implement this policy. The President of each constituent college of the University, the CUNY Executive Senior Vice Chancellor and Chief Operating Officer, at the Central Office, and the Deans of the Law School and Graduate School of Journalism shall have ultimate responsibility for overseeing compliance with these policies at his or her respective units 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. They 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 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.