



## **Non Discrimination/Non Harassment Policy Statement and Procedures for Reporting Incidents of Harassment, Discrimination and Sexual Violence.**

The State University of New York at New Paltz (the College) values diversity of thought, expression, and experience and is committed to providing an employment and educational environment that models equity, inclusion and respectful exchange of ideas. The College recognizes that the creation or application of standards that adversely impact the equity of educational or employment opportunities, rights or benefits is detrimental to its vision. Therefore, in compliance with federal and state laws, harassment and discrimination based on race, color, national origin, sex, religion, age, disability, gender, pregnancy, gender identity, sexual orientation, predisposing genetic characteristics, marital status, veteran status, military status, domestic violence victim status, or ex-offender status is prohibited. Remaining an employer of choice as well as a dynamic learning environment is the responsibility of every member of the campus community. We must engage in behavior and decisions that comply with both the letter and spirit of the law.

The College's policy is in accordance with federal and state laws and regulations prohibiting discrimination and harassment. These laws include the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964 as Amended by the Equal Employment Opportunity Act of 1972, and the New York State Human Rights Law. These laws prohibit discrimination and harassment, including sexual harassment and sexual violence.

Inquiries regarding the application of Title IX and other laws, regulations and policies prohibiting discrimination may be directed to Tanhena Pacheco Dunn, HAB 602A or 257-3172. Inquiries may also be directed to the United States Department of Education's Office for Civil Rights, 32 Old Slip 26th Floor, New York, NY 10005-2500; Tel. (646) 428-3800; Email [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov).

The reporting and complaint procedure for the review of allegations of unlawful harassment, discrimination and sexual violence provides a mechanism through which New Paltz may identify, respond to and prevent conduct of this kind. The College recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial complaint process will benefit student, faculty, staff and administration, permitting equitable investigation and resolution of concerns that are brought forth.

### **Applicability**

This policy:

- Applies to all persons without regard to race, color, national origin, sex, religion, age, disability, gender, pregnancy, gender identity, sexual orientation, predisposing genetic characteristics, marital status, veteran status, military status and domestic violence victim status.
- Applies to all members of the College community, including students, faculty, staff, volunteers, vendors, visitors, and guests.
- Applies to all employment and educational practices and actions.

- Applies to all job classifications and titles in the College and to all types of appointments under College jurisdiction, whether full time, part time, or volunteers.
- Governs all College policies, practices, and actions including but not limited to recruitment, hire, rate of pay or other compensation, advancement, upgrading, promotion, demotion, renewal, non-renewal, termination, transfer, layoff, leave, training, grading, housing, and employee and student benefits of whatever nature.
- Applies to all College organizational units.
- Expects that each contractor, supplier, unions, public agency, or cooperative agent will support this policy by complying with applicable state and federal equal employment opportunity laws and regulations.

### **Retaliation**

Anyone who participates in this process has the right to do so without fear of or actual retaliation. It will be made clear to all parties and witnesses that retaliation against any participant in this discrimination complaint process will result in appropriate sanctions or disciplinary action as covered by College policies or applicable collective bargaining agreements. These sanctions will be invoked for retaliation regardless of the merits of the original complaint. All allegations are assumed to be made in good faith, however, allegations proven to be made falsely and with malicious intent are violations of this policy, and will be treated as a serious matter. Any person who believes they have been subjected to retaliatory actions should report this to the Affirmative Action Officer (AAO)/Title IX Coordinator.

### **Timeframe for Reporting**

Timely reporting is encouraged as the College must take steps to end, prevent the re-occurrence of, or otherwise address the behavior that violates policy or law. Delays in reporting a complaint can limit the type or effectiveness of our response. More broadly, delays in reporting can prevent the College from understanding if a pattern of risk or behavior is developing.

Ordinarily, complaints should be filed within one year after the last act of alleged discrimination or harassment occurred. In instances involving a student complaint against a faculty member charging discrimination that occurred in the context of a subordinate-supervisor academic relationship (e.g., teaching, advising, thesis or dissertation supervision, coaching, clinical medical supervision), the time period may be extended until one year after the student is no longer under the faculty member's academic or clinical supervision or three years from the date the most recent alleged discrimination occurred, whichever is earlier. Failure to file a complaint within the relevant limitation period does not eliminate access to this process but can, as mentioned above, limit the type or effectiveness of our response and may lead to dismissal of the complaint.

### **Confidentiality**

We understand how difficult it can be to come forward with a concern or claim. We encourage candid and honest participation in our process so that we can identify the correct course of action. The College will make every effort to keep the confidentiality of any person(s) reporting a claim or participating in the process. However, we cannot guarantee unqualified confidentiality as we must also balance the safety of other members in our community. If we determine that there is the threat of imminent harm to an individual or to the community, information may need to be shared and then only with appropriate individuals. Complainants will be advised if information pertaining to a claim is shared with individuals outside of the College's investigative process.

The AAO will instruct the parties and all others participating that the complaint investigation procedure is best able to achieve an equitable process when confidentiality is not breached. Once

breached, it can make it difficult for the AAO to successfully conclude the investigation process. In addition, all parties to this process will be held to the non-retaliation policy.

### **Filing an complaint with an external agency**

The internal reporting process does not preclude an individual from filing a complaint with the appropriate State or Federal agency or external law enforcement, and the complainant may file such a complaint at any time during the process. However, after filing with one of these outside enforcement agencies, or upon the initiation of litigation, the complaint shall be referred to the Office of General Counsel for review and defense or, if deemed appropriate by Counsel, involvement in mediation, conciliation or settlement with the external agency or such other actions as may be in the interests of the College, including termination of the internal procedure. Information on external agencies can be provided by the AAO (Link to list on website).

### **Responsibility**

#### **Anyone who receives a report or complaint of harassment, discrimination or sexual violence should contact the AAO/ Title IX Coordinator.**

President, provost, executive vice president, vice presidents, deans, directors, department heads, managers, and supervisors

- Must contact the AAO/Title IX Coordinator to report sexual harassment, discrimination or sexual violence that they observe or learn about.
- Provide information to individuals in their units regarding the procedure described in this policy.
- Refer persons with inquiries or complaints to this policy and the Office for Compliance and Campus Climate.
- Prevent discrimination and harassment whenever possible; initiate a referral for disciplinary and/or corrective action when appropriate.

Supervisors, instructors, and others with authority to make decisions on behalf of the College

- Ensure that these decisions are made based upon legitimate, non-discriminatory reasons and in accordance with applicable laws, College policies and procedures.
- Must contact the AAO/Title IX Coordinator to report sexual harassment, discrimination or sexual violence that they observe or learn about.

Executive Director for Compliance and Campus Climate (AAO/Title IX Coordinator)

- Responsible for overall administration of this policy.
- Investigates or coordinates investigations pertaining to allegations of discrimination and harassment and sexual violence.
- Coordinates appropriate training and support for employees, supervisors and those designated to assist in compliance of this policy.

Designees of the Office for Compliance and Campus Climate

- Disseminate information and provide education regarding this policy.
- Must contact the AAO/Title IX Coordinator to report sexual harassment, discrimination or sexual violence that they observe or learn about.
- Act as a resource for faculty, staff, and students on issues of harassment, discrimination or sexual violence.
- Provide information regarding questions or concerns about harassment, discrimination or sexual violence.
- Direct individuals to the Office for Compliance and Campus Climate for a more in-depth assessment of situations or concerns brought to their attention.

Faculty, staff, and students

- Understand and refrain from behavior that violates this policy or otherwise creates a hostile environment for others. Remember that it is not the intent of the individual's behavior rather the perception of the individual that the behavior is hostile or discriminatory that gives rise to a claim under this policy.
- Talk to the person involved if you feel you can do so safely. You might explain why you were offended by what occurred. Sometimes a clearing of the air is all that is necessary.
- Keep a record of what occurred. Include direct quotes, witnesses, and patterns to the harassing behavior. Save any relevant cards, letters, or e-mail messages sent, however harmless they may seem.
- Do not ignore the situation. Take action. Seek out the assistance of your supervisor, professor, advisor and/or report directly to the Affirmative AAO/Title IX Coordinator.

### **Jurisdiction of the Affirmative Action Officer (AAO)/ Title IX Coordinator**

The policy is administered by the Executive Director for Compliance and Campus Climate /AAO/Title IX Coordinator. This position reports directly to the President of the College and is the designee for the administration of these procedures. These procedures have been approved by the State University of New York, Office of General Counsel. This policy intends to provide an equitable process, balancing the rights of those bringing complaints of discrimination, harassment and retaliation (the "Complainant"), those against whom such claims are brought (the "Respondent") and the interest of the College to maintain a safe and productive learning and working environment.

Complaints of harassment, discrimination or sexual violence can be made to the Dean of Students, Human Resources or directly to the AAO/Title IX Coordinator. Complainants often feel more comfortable reporting these concerns to an administrator, manager or supervisor. Reports made to a College administrator, manager, or supervisor concerning an act of discrimination or harassment shall be immediately referred to the AAO/Title IX Coordinator. The AAO/Title IX Coordinator will also receive initial inquiries, reports, and requests for consultation and will coordinate appropriate and timely responses.

If, at any time during the course of resolving or investigating a complaint of discrimination, the AAO/Title IX Coordinator determines that a complaint is not within the jurisdiction of the office, the complaint and complainant shall be referred to the appropriate office and the matter shall be considered concluded for the purposes of the Affirmative Action Office. In addition, based on information received, the AAO/Title IX Coordinator may exercise her/his discretion and initiate an investigation on behalf of the College community, with or without the cooperation or involvement of a complainant/victim.

Employee corrective and disciplinary procedures and the student disciplinary processes will continue to operate as before.

### **Consultation & Review**

Any member of the New Paltz college community may speak confidentially with the AAO/Title IX Coordinator regarding potential claims of discrimination, harassment or sexual violence. This consultation may include gathering of information, including the nature of the issue or concern, names and contact information of the parties, as well as other relevant facts. The AAO/Title IX Coordinator may offer some guidance as to steps that can be taken in response to the complaint. Individuals seeking this consultation can elect no further action, except as explained below, or can seek informal resolution.

## **Informal Resolution**

Where appropriate every effort will be made to provide informal resolution, however the formal investigation can be initiated by the complainant at any time. The request for informal resolution and any proposed resolution will be communicated to the complainant and the respondent. If the resolution is acceptable to both the complainant and the respondent, then the matter will be closed.

It is important to note that due process considerations may limit the ability to investigate or resolve anonymous complaints or complaints in which the individual wishes to discuss the matter but not proceed with any further action. Once again, based on information received, the Affirmative Action Officer/Title IX Coordinator may exercise her/his discretion and initiate a complaint on behalf of the College community.

The complainant will be advised of the steps in the formal investigatory and complaint process.

Additional information on reporting and addressing complaints of sexual violence is provided in Appendix B.

## **Formal Complaints and the Investigatory Process**

The College's formal investigation procedures are not designed to replicate an external judicial process. The investigatory process is guided by the need to balance the remedy of unlawful discrimination and harassment with principles of equity, due process, and confidentiality. Accordingly, parties wishing to move beyond the consultation or informal resolution or who chose to engage only a formal complaint process are advised of the following:

- Complainants and Respondents are expected to meet with the Affirmative Action Officer as requested and needed.
- The parties shall not employ audio or video taping devices.
- Both the complainant and the respondent are entitled to due process, including knowledge of the specific allegation(s) against him or her and an opportunity to respond.
  - The complainant will be asked to provide information regarding the offending incident(s) or behavior(s) and the alleged actor(s).
  - Both parties will have an equal opportunity to provide evidence and information on witnesses and others who may aid in the investigation or who may also be aggrieved by the offending incident or behavior.
  - Complainants, respondents and third party witnesses are protected against retaliation for filing complaints of discrimination and/or participating in an investigation. If a party feels that any negative action has been taken as a result of filing a complaint or participating in a complaint investigation, this allegation will be investigated separately.
- The standard applied to this process is a preponderance of the evidence and no presumption of wrongdoing will be made. Preponderance of the evidence is defined as that amount of evidence which demonstrates that it is more likely than not that the conduct occurred.
- In conducting a complaint investigation, relevant laws, policies and procedures, documentation, and information obtained from the complainant(s), respondent(s), and witnesses will be considered.
- Complainants, respondents, and witnesses will be advised of internal and external support resources, including immediate measures during the College's investigation, which may include but are not limited to:
  - Notifying the parties of options to avoid contact with each other, including transferring academic or living situations as appropriate, without disproportionately burdening one party.
  - Providing an escort for a party to move safely around campus.

- Offering and providing services to students, including counseling, medical services, and academic services such as counseling.
- Educating both parties about the prohibition against retaliation from each other and third parties.
- Legal counsel retained by a Complainant, Respondent or witness may not participate or be present at any meeting convened in connection with a consultation or internal complaint.
- Complainants, respondent, or witnesses are expected to communicate directly with the AAO or designee. Any party to the investigation may choose to be accompanied by another person for moral support. However, these individuals may not participate in the process and must maintain confidentiality so as to not impede or interfere with the investigator's ability to obtain necessary information.
- The timeframe for concluding the complaint process will depend upon the complexity of the investigation, timing of the reporting, availability of witnesses, etc. However, this should not exceed sixty days absent good cause or mutual agreement by the parties. This timeframe can be extended, in the event that equity of process and/or due process is best served by the additional time. The need for an extension of time will be communicated in writing to the parties.
- The complainant will be advised of the option to file a complaint with appropriate external Federal/State investigative agencies at any time.
- The complainant and respondent will both receive notice of the outcome of the investigation.

The following are potential outcomes of a formal complaint investigation. This is not an exhaustive list of outcomes as each matter is unique and is reviewed in the context of applicable laws and policies and within the standard of preponderance of the evidence presented.

- The matter is able to be resolved by the parties and there are no other issues requiring AAO /Title IX Coordinator involvement (this option is not appropriate for sexual violence complaints, as provided by OCR guidelines).
- The complainant elects to withdraw the complaint and/or requests that there be no further investigation, and there are no other factors which require continuation of the investigation.
- There is insufficient evidence to support a finding of a violation of the Colleges' policies against discrimination and/or harassment.
- There is sufficient evidence for the AAO/Title IX Coordinator to recommend appropriate action, including referral of the matter through the applicable campus disciplinary mechanism(s).
  - For Employees not in a Collective Bargaining Unit – In consultation with the Human Resources Office and the Office of University Counsel, the AAO/Title IX Coordinator may make recommendations to the President as to the specific charge(s) and corrective or disciplinary action.
  - For Students – The Dean of Students, in consultation with the AAO/Title IX Coordinator will determine the specific charge(s) and apply corrective or disciplinary actions as outlined in the student handbook.
  - If the President is the Respondent, the AAO/Title IX Coordinator will provide information on the investigation and the Chancellor or designee shall issue a written statement indicating what action the Chancellor proposes to take. In this instance, the Chancellor's decision shall be final.

## APPENDIX A

### Definitions

#### **Acts and Behaviors which may violate College policies or applicable law.**

Isolated instances, e.g., a sexual comment or joke, ordinarily will not constitute sexual harassment unless the circumstances are egregious. Sexual violence is seen as an egregious form of harassment. Such sexual behavior does not constitute harassment if it is welcomed (i.e., voluntary and consensual). It is important to note that conduct in the workplace or educational setting may fall short of the legal standard for sexual harassment or discrimination but may still be addressed, at the discretion of the College, as uncivil, unprofessional and/or inappropriate.

Sexual Harassment in the Employment Setting is defined as:

Unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs:

- Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment (quid pro quo).
- Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant.
- Such conduct is intended to interfere, or results in interference, with an employee's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual Harassment in the Educational Setting is defined as:

Unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the educational institution's program.

Harassment on the Basis of Protected Characteristic(s) other than Sex/Gender:

Harassment based on race, color, age, religion, or national origin, disability, sexual orientation or other protected characteristics may be 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 student's parents, family members, or ancestors) or other protected characteristics that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational institution's programs or activities, or terms, conditions or status of employment.

### **Sexual Violence**

This policy's prohibition against sex discrimination includes sexual harassment and sexual violence. The United States Department of Education's Office for Civil Rights defines sexual violence as "physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent," including rape, sexual battery, and sexual coercion.

If you are a victim of sexual violence you may file a complaint under the College's Non-Discrimination and Non-Harassment policy, in addition to the individual's option to file a complaint with law enforcement. Please note that in cases of rape or sexual assault, you will be advised that the timing of medical attention is very important to preserving your future legal rights with external law enforcement agencies. There are certain immediate steps the College can take to help you feel safer and we will work with you to provide and coordinate the right options for your circumstances. Immediate measures may include but are not limited to:

- Notifying the parties of options to avoid contact with each other, including transferring academic or living situations as appropriate, without disproportionately burdening one party.
- Providing an escort for a party to move safely around campus.
- Offering and providing services to students, including counseling, medical services, and academic services such as counseling.
- Educating both parties about the prohibition against retaliation from each other and third parties.

You may change your mind about participating in this process at any time. The College will take prompt and reasonable action to address the immediate claim and prevent the future reoccurrence of sexual harassment and sexual violence, regardless of whether you choose to engage law enforcement or the complaint process.

Internal and external support resources will be provided to you and are also available on [http://www.newpaltz.edu/titleix/sexual\\_assault.pdf](http://www.newpaltz.edu/titleix/sexual_assault.pdf).

The College will comply with law enforcement request for cooperation. Such cooperation may require that the College temporarily suspend fact-finding efforts of the investigatory process, so as to allow law enforcement to gather evidence. The College will resume the investigation as soon as law enforcement provides notification that their evidence gathering is completed and that the College's process will not jeopardize law enforcement efforts. The College can offer immediate measures, which may include but are not limited to:

- Notifying the parties of options to avoid contact with each other, including transferring academic or living situations as appropriate, without disproportionately burdening one party.
- Providing an escort for a party to move safely around campus.
- Offering and providing services to students, including counseling, medical services, and academic services such as counseling.
- Educating both parties about the prohibition against retaliation from each other and third parties.

Many companies and organizations support the same ideals of this policy and may have their own mechanism for addressing complaints made against them. In the event that a member of the College community is the victim of sexual violence by a member(s) of an affiliate of the College (e.g., vendor or contractor), the College will take reasonable steps to ensure that the complaint is reported to the affiliate and that the College provides any appropriate support services that are within its ability. Please note that the College's AAO would have no jurisdiction over the processes or outcomes of an external organization. In this instance, complainants may wish to explore reporting the matter to external law enforcement.



APPENDIX C  
External Agencies and Resources

State Headquarters NYS Division of Human Rights One Fordham Plaza 4th Floor Bronx, New York 10458	Tel: (718) 741-8400 Fax: (718) 741-3214	Long Island NYS Division of Human Rights State Office Building Veterans Memorial Building Hauppauge, New York 11787	Tel: (631) 952-6434 Fax: (631) 952-6436
Albany NYS Division of Human Rights Empire State Plaza Agency Building #2, 18th Floor Albany, New York 12220	Tel: (518) 474-2705 Fax: (518) 473-3422	Peekskill NYS Division of Human Rights 8 John Walsh Boulevard Suite 204 Peekskill, New York 10566	Tel: (914) 788-8050 Fax: (914) 788-8059
Binghamton NYS Division of Human Rights 44 Hawley Street Room 603 Binghamton, New York 13901	Tel: (607) 721-8467 Fax: (607) 721-8470	Rochester NYS Division of Human Rights One Monroe Square 259 Monroe Avenue 3 rd Floor Rochester, New York 14607	Tel: (585) 238-8250 Fax: (585) 238-8259
Brooklyn NYS Division of Human Rights 55 Hanson Place Room 304 Brooklyn, New York 11217	Tel: (718) 722-2856 Fax: (718) 722-2869	Office of Sexual Harassment NYS of Human Rights Office of Sexual Harassment 55 Hanson Place Suite 347 Brooklyn, New York 11217	Tel: (315) 428-4633 Fax: (315) 428-4638
Buffalo NYS Division of Human Rights Walter J. Mahoney State Office Bldg 65 Court Street, Suite 506 Buffalo, New York 14202	Tel: (716) 847-7632 Fax: (716) 847-7625	NYS Department of Labor State Campus Building 12, Room 500 Albany, New York 12240-0003	Tel: (518) 457-2741 Fax: (518) 457-6908
Manhattan NYS Division of Human Rights 20 Exchange Place, 2nd Floor New York, New York 10005		EEOC National Headquarters 1801 L. Street, N.W. Washington, D.C. 20507	Tel: (202) 663-4900 Fax: (202) 663-4912
Manhattan NYS Division of Human Rights 20 Exchange Place, 2nd Floor New York, New York 10005	Tel: (212) 480-2522 Fax: (212) 480-0143	OCR National Headquarters U. S. Department of Education Office of Civil Rights Customer Service Team Mary E. Switzer Building 330 C. Street, S.W. Washington, D. C. 20202	Tel: (800) 421-3481 Fax: (202) 205-9862
NYS Division of Human Rights Adam Clayton Powell State Office Bldg 163 West 123rd Street, 4th Floor New York, New York 10027	Tel: (212) 961-8650 Fax: (212) 961-4126	United States Department of Education's Office for Civil Rights, 32 Old Slip 26th Floor, New York, NY 10005-2500 Email <a href="mailto:OCR.NewYork@ed.gov">OCR.NewYork@ed.gov</a> .	Tel. (646) 428-3800
Long Island NYS Division of Human Rights 175 Fulton Avenue Hempstead, New York 11550	Tel: (516) 538-1360 Fax: (516) 483-6589		