



SEXUAL HARASSMENT POLICY

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Policy: SEXUAL HARASSMENT POLICY

Purpose: It is the policy of Nassau Community College to establish an environment in which the dignity and worth of all members of the institutional community are respected. In keeping with this principle, the sexual harassment of students or employees is considered unacceptable conduct and will not be tolerated. This includes workplace and peer to peer harassment.

Scope: Sexual harassment is a serious violation of campus policy, and can result in disciplinary action. Sexual harassment subverts the mission of the College and undermines the educational process. It creates an atmosphere which is not conducive to learning or productivity.

Applicability: It is the policy of Nassau Community College that all forms of sexual harassment, whether it involves students or employees as complainants or respondents, should be corrected early and firmly in the interest of maintaining a barrier-free working and learning environment.

Responsibility:

POLICY ON PROTECTION OF ACADEMIC FREEDOM

A faculty member's selection of materials shall not be a basis for sexual harassment complaint hereunder.

DEFINITIONS OF SEXUAL HARASSMENT

Employees: Faculty, Staff, and Administration

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

1. submission to, or toleration of, such conduct is made (either explicitly or implicitly) a term or condition of employment; or
2. submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making employment decisions affecting the individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive environment for work.

Students

Sexual harassment of students is a violation of Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education. Such harassment can include, but not necessarily

be limited to, harassment by employees or by students (commonly referred to as peer to peer harassment). Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where grades or educational progress are made contingent upon submission to such conduct, or where the conduct has the purpose or effect of interfering with the individual's academic performance, or of creating an intimidating, hostile, or offensive educational environment.

Supervisors and faculty members must recognize that their positions necessarily embody unequal power relationships with their subordinates and students respectively. Because of the inherent power difference in these relationships, the potential exists for the less powerful to perceive a coercive element in suggestions of activities outside those appropriate to the professional relationship. It is the responsibility of supervisors and faculty members to behave so that their words or actions cannot reasonably be perceived as coercive. All members of the college community are urged to be conscientious in evaluating their own behavior in light of this policy. Sexual harassment can include, but is not limited to, such actions as:

1. sex-oriented humor or abuse that includes derogatory or dehumanizing gender reference;
2. physical contacts such as patting, pinching, or frequently and intentionally brushing against another's body;
3. subtle or overt pressure for sexual activity.

CONSENSUAL RELATIONSHIPS

Consenting romantic and sexual relationships between faculty and student or between supervisor and employee, while not expressly forbidden, are generally deemed **unwise**. Romantic relationships that might be appropriate in other circumstances may be inappropriate when they occur between a faculty member of Nassau Community College and a student or employee with whom that person has a professional relationship (e.g., professor-student, supervisor-employee). Students depend upon professors for grades, recommendations, job referrals and opportunities for teaching and research.

Employees rely upon their supervisors for promotions, raises, upward mobility, job assignments, overtime, access to equipment, etc.

Because of the differences in power between professors and students and between supervisors and employees, a professor or supervisor cannot be certain that the relationship is truly welcome or consensual. With an academic or employment career at stake, a student or employee may find it difficult and threatening to refuse a request from his/her professor or supervisor, no matter how casual the request. Such relationships may also be inappropriate because they may create a negative or uncomfortable working or learning environment for others who perceive preferential treatment.

The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and future employment, etc., greatly diminish the student's actual freedom of choice should favors be included among the professor's other, legitimate, demands. Therefore, faculty, employees and administrators **are cautioned** against the possible costs of even an apparently consenting relationship.

A faculty member who enters into a consensual relationship with a student, or a supervisor who enter into a consensual relationship with an employee where, in both instances, a professional

power differential exists, is cautioned that if a charge of sexual harassment is subsequently lodged, it will be **exceedingly difficult** to prove immunity on the grounds of mutual consent.

FUNCTIONS & DUTIES OF AFFIRMATIVE ACTION OFFICER AND DESIGNATED INVESTIGATIVE OFFICER

The College President shall appoint a member of the administration to serve with the Affirmative Action Officer (AAO) as investigative officers for the purposes of pursuing informal and formal resolution of complaints. Such person shall be called a Designated Investigative Officer (DIO). This appointee shall be trained for purposes of this policy.

For the purpose of implementing the Sexual Harassment Policy, the functions and duties of the Affirmative Action Officer are, but not limited to:

1. educating college personnel regarding their responsibilities and rights under this policy and under federal regulations;
2. working with the Academic Senate Affirmative Action Committee to educate and inform the college community about sexual harassment policies and issues;
3. hearing complaints brought by students or employees of the college;
4. ensuring that complainants are informed of their options under this policy;
5. mediating between the parties;
6. facilitating the filing of complaints;
7. conducting an investigation subsequent to the filing;
8. maintaining time logs and reporting thereon in the Annual Report (see no. 11);
9. reporting the findings to the President of the College;
10. collecting statistics on sexual harassment incidents;
11. preparing an annual report for the college community, that shall include statistics, educational initiatives, overall monitoring efforts, and other activities. The report will be made available to the President's Cabinet, Academic Senate Executive Committee, the Academic Senate Affirmative Action Committee (which can reprint the report) and all other interested parties. This report will maintain the confidentiality of all parties.

The functions and duties of the Designated Investigative Officer shall be limited to:

1. hearing complaints brought by students or employees of the college;
2. ensuring that complainants are informed of their options under this policy;
3. mediating between the parties;
4. facilitating the filing of complaints;
5. conducting an investigation subsequent to the filing;
6. maintaining time logs and reporting thereon to the Affirmative Action Officer;
7. reporting the findings to the President of the College.

INFORMATION & COUNSELING REGARDING SEXUAL HARASSMENT

The Office of the Affirmative Action Officer (AAO) is charged with distributing copies of this policy and disseminating information regarding sexual harassment to all current and future employees and students. These materials shall also be available through the Office of the Chair of Student Personnel Services, the Women's Center, the Office of Student Activities, from Designated Counselors, and in the College Library.

DESIGNATED COUNSELORS: APPOINTMENT & FUNCTIONS

The Student Personnel Services department chairperson, along with the advice and consent of the department P & B Committee, shall submit a list of Student Personnel Services faculty with counseling credentials to the AAO. Other faculty who wish to serve in this capacity and who

have the required counseling credentials for the Student Personnel Services department may, with the advice and consent of the Student Personnel Services department P & B Committee, also be considered. The President of the College, in consultation with the AAO, shall appoint faculty as needed from this list to serve as designated counselors. The college shall provide sexual harassment training for the selected designated counselors.

The designated counselors:

1. shall provide education and counseling support, as appropriate, to members of the college community seeking information and/or help with sexual harassment issues;
2. may act as a facilitator on behalf of the complainant;
3. shall inform complainants of their options under this sexual harassment policy;
4. shall offer supportive counseling;
5. shall assist complainants throughout their decision-making process and in the resolution of the complainants' concerns;
6. shall accompany complainants to meetings arranged by the AAO or DIO if so requested by the complainants. She/he may lend support, but not act as legal counsel.

REPORTING RESPONSIBILITIES

Designated Counselors, Department Chairs, NCC administrators, the Designated Investigative Officer (DIO) and CSEA supervisors in charge of a unit **must** report all allegations, reports, incidents, etc. of sexual harassment that come to their attention to the Affirmative Action Officer (AAO). Reporting conversations with students about sexual harassment in which the student wishes confidentiality, or does not wish to pursue a complaint, must be done no later than 45 working days from the date when the student should receive a grade. In all other instances, including those involving employees, reporting must be done within 45 working days from the date of the initial allegation. All reporting College officials may report the incident sooner than 45 working days. In making the decision as to when to report within the 45 working days, consideration should be given to the wishes of the student or employee. **Absolute confidentiality cannot be provided to a complainant under any circumstances.**

The Designated Counselors, Department Chairs, NCC administration, the DIO and CSEA supervisors are not obligated to elicit names. If names are known, the employee will consider the complainant's wishes as to whether or not to include them in the report. The report can be oral or in writing, at the option of the employee. The Affirmative Action Officer is not obligated to confirm in writing to the reporting person that he/she has proffered the information. The College strongly suggests that all reports be made in writing and it is strongly suggested that the reporting person make the complaint in writing.

When hearing an allegation, report, incident, etc. of sexual harassment from a student or employee, all faculty members and CSEA supervisors are obligated to inform the student or employee that Nassau Community College has a policy on handling sexual harassment complaints, and to direct the student or employee to the list of the Designated Counselors, DIO and AAO for further discussion and filing of complaints.

It is understood that the Designated Counselors and the Designated Investigative Officer shall follow the policies as outlined in this section.

THIRD PARTY COMPLAINTS

If there is no complainant, the supervisor or department chairperson who reasonably believes that sexual harassment may have occurred must report it to the Affirmative Action Officer or the Designated Investigative Officer.

RESOLUTION OF COMPLAINTS

The College urges that every effort be made to utilize Stage 1 or Stage 2 before proceeding to a formal complaint of harassment. However, the reporting individual has the option of proceeding directly to Stage 2 or Stage 3. Sexual harassment grievance complaints must be filed within 45 working days following the alleged act(s) or in the case of a student, in a classroom situation, no later than 45 working days after a final grade is received.

INFORMAL RESOLUTION OF COMPLAINTS

Every effort shall be made to resolve problems on an informal basis. The emphasis at the informal stage will be on the resolution of the issue(s) underlying the complaint in a way which is acceptable to both the complainant and the respondent.

SITUATION REPORTS

A situation report is a document that describes a set of circumstances reported by a student or employee to the Affirmative Action Office involving allegations of sexual harassment. A situation report will be prepared in those instances when the complainant does not want to file a complaint. The written report(s) will be maintained in the Affirmative Action Officer's office. Situation reports cannot initiate, in and by themselves, any formal college disciplinary action. However, in the event a formal complaint is filed, report(s) may become part of subsequent reports or case(s) against a respondent. The Affirmative Action Officer will use his/her judgment as to whether or not to notify Department Chair of a situation report. The Affirmative Action Officer will notify the person(s) in question at the appropriate time as determined by the Affirmative Action Officer's judgment.

STAGE 1

Any student or employee of Nassau Community College who suspects that she/he has encountered sexual harassment as defined in the Nassau Community College Sexual Harassment Policy Statement is encouraged to report the incident(s) to a Designated Counselor. Every effort shall be made to ensure confidentiality throughout STAGE 1. At this stage, the student or employee may decide, among other options, to resolve the situation individually, to request that the Designated Counselor speak to the faculty member/ College employee on her/his behalf, and/or to request that the Designated Counselor accompany her/him to meeting(s) with the Department Chairperson/Supervisor for the purpose of resolution. If the Designated Counselor accompanies the student or employee to a meeting with the Department Chairperson/Supervisor, then the Designated Counselor shall notify the Affirmative Action Officer of such meeting(s) and of the outcome. When appropriate, the Department Chair/Supervisor will contact and meet with the faculty member/college employee to discuss the situation. In addition, the Chairperson/Supervisor may either send a memo reporting the outcome to the Affirmative Action Officer, or send a memo reporting the outcome to the faculty member/employee's personnel file with notification to the Affirmative Action Officer.

For resolution of Stage 1 complaints by the Department Chairs, Designated Counselors, Affirmative Action Officer, or Designated Investigative Officer, in which the complainant may participate and in which the respondent does participate, the result of the first incident will be maintained in the Affirmative Action Officer's office. The reports of subsequent incidents involving the identical respondent may make reference to information from the results of the first incident provided the subsequent incident occurs no more than six years following the first incident, and will be sent to the Personnel File along with the results of a first incident.

STAGE 2

The complainant may speak with the AAO and/or the DIO. Before any attempt at the facilitation/mediation may begin, however, the complainant must select either the AAO or DIO to pursue the complainant to its conclusion. If so requested by the complainant, the AAO/DIO shall attempt to facilitate/mediate a resolution of the alleged incident through meetings with all parties. The complainant and respondent need not meet together unless both parties agree. All parties will be given full opportunity to respond to the allegations. Every effort shall be made to ensure confidentiality. The complainant and the respondent may each be accompanied by up to two observers.

The AAO/DIO shall notify the Department Chairperson/ Supervisor about the mediation process. For informal resolution of Stage 2 complaints by the Department Chairs, Designated Counselors, Affirmative Action Officer, or Designated Investigative Officer, in which the complaint may participate and in which the respondent does participate, the result of the first incident will be kept in the Affirmative Action Officer's office. The results of subsequent incidents involving the same employee may make reference to information from the results of the first incident provided the subsequent incident occurs no more than six years following the first incident, and will be sent to the Personnel File along with the results of a first incident.

FORMAL FILING AND INVESTIGATION OF ALLEGATIONS

STAGE 3

Complaints hereunder shall be filed on a form provided by the AAO/DIO.

Sexual harassment grievance complaints must be filed within 45 working days following the alleged act(s) or in the case of a student in a classroom situation, 45 working days after a final grade is received.

If the complainant wishes to file a signed complaint during the stipulated time period, the AAO/Designated Investigative Officer (DIO) will assist in this process. In the event a complaint is filed, the respondent, and the respondent's departmental chairperson or supervisor, if applicable, shall be notified in writing that a complaint has been lodged and that an investigation will be conducted. The complainant shall be notified, either verbally or in writing, that such action has taken place. At all stages of the investigation, both the complainant and the respondent may be accompanied by up to two observers. The AAO/DIO will then initiate an investigation to establish whether there is reasonable basis for believing that the alleged violation of this policy has occurred. The investigation will include interviewing the complainant and the respondent. Other persons affiliated with the college at present or in the past who are believed to have pertinent factual knowledge may also be interviewed. All parties will be given full opportunity to respond to the allegations. Every effort shall be made to ensure confidentiality. All fact-finding investigations shall be consistent with Equal Employment Opportunity Commission guidelines involving allegations of Sexual Harassment.

The AAO/DIO shall promptly initiate the investigation; no later than ten (10) working days following the filing. The AAO/DIO shall, after 15 days and 30 days, give a status report of the complaint to date to both the complainant and the respondent. Within a reasonable time (not to exceed 45 working days) from the initiation of the investigation, the AAO/DIO will report his/her findings to the President, which may include: a) finding the allegations are not warranted; b) recommendation of a negotiated settlement; or c) recommendation for institution

of the appropriate formal college procedure. The result of formal Sexual Harassment complaints must always be sent to the Personnel File.

Additionally, the AAO/DIO shall communicate in writing to both the complainant and the respondent either that the allegation(s) is/are not warranted or that the complaint is being referred to the College President for action. In the event the respondent or the complainant is dissatisfied with the recommendations of the AAO/DIO that result in resolution of the allegation, the complainant or respondent may appeal the findings to the College president. The Affirmative Action Officer/Designated Investigative Officer will maintain a time log of formal complaints to indicate compliance with the time limitations specified in this policy. The time logs will become part of the Affirmative Action Officer's Annual Report. Any party in the complaint can approach the College President and/or the Academic Senate's Affirmative Action Committee Chairperson if time requirements of the policy are not being met.

PRESIDENTIAL ACTION

Within fifteen (15) working days after receipt of the AAO's/DIO's findings, the President shall communicate to the complainant, the respondent, AAO/DIO, and Department Chairperson/Supervisor whether or not, based on the AAO's/DIO's findings, there is probable cause to initiate the appropriate collective bargaining agreement disciplinary proceeding, or whether or not the findings warrant a determination that sexual harassment has occurred. The President shall communicate, to all parties, the action steps to be taken, including disciplinary action if warranted. Such action shall be consistent with federal laws, and New York State rules, regulations, and laws governing rights to privacy. Presidential decisions and actions always must be sent to the Personnel File.

OPTIONS FOLLOWING PRESIDENTIAL ACTION

In the event that one of the parties does not accept the President's decision, the following options for recourse are available:

1. In the case of a student, a complaint can be filed with an appropriate federal and/or County, state agency(ies), such as Equal Employment Opportunity Commission, New York State Human Rights Commission, United States Civil Rights Commission, Nassau County's Commission on Human Rights.
2. In the case of a college employee, a grievance can be filed in accordance with the appropriate Collective Bargaining Agreement.

FEDERAL, STATE OR LOCAL FINDINGS

This document does not preclude the right to file with the federal, state or local governing bodies. Please refer to the Equal Employment Opportunity and Affirmative Action at Nassau Community College Handbook or contact the Affirmative Action Officer for further information.

FRIVOLOUS OR MALICIOUS CHARGES

Because of the nature of the problem, complaints of sexual harassment cannot always be substantiated. Lack of corroborating evidence should not discourage complainants from seeking relief through the identified procedures. This policy shall not be used to bring frivolous or malicious charges against students or employees. Disciplinary action under the Student Code of Conduct or the appropriate personnel policies concerning personal misconduct may be taken against any person bringing a charge of sexual harassment in bad faith.

Retention of Documents

The Affirmative Action Officer has the right to hold records whether or not there is resolution of the incident. Affirmative Action Office records will be maintained and kept for six years after the last entry, in accordance with the requirements of the State Archives and Records Administration.

Retaliation Prohibited

This policy seeks to encourage students, staff and faculty to express freely, responsibly and in an orderly way their opinions and feelings about any problem or complaint of sexual harassment. Any act of reprisal, interference, restraint, penalty, discrimination, coercion or harassment - overtly **or** covertly - by a college employee or agent against a student or an employee for responsibly using this policy and its procedures interfere with free expression and openness. Accordingly, such acts violate this policy and require appropriate and prompt disciplinary action.

Inquiries/Requests:

Affirmative Action and Diversity Office
Nassau Community College
1 Education Drive
Garden City, NY 11530

Related Documents: Nassau Community College is committed to all provisions of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and other human rights and equal opportunity laws. These laws include prohibitions of discrimination in employment and educational programs and services on the basis of sex. Recent guidelines of Title VII of the Civil Rights Act focus upon sexual harassment as an unlawful practice. "Sexual harassment, like harassment on the basis of color, race, religion, or national origin, has long been recognized by the Equal Employment Opportunity Commission as a violation of Section 703 of Title VII of the Civil Rights Act as amended"(Federal Register, April 11, 1980). Recent interpretations of Title IX of the Education Amendments similarly delineate sexual harassment as discriminatory and unlawful.

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