



## **DIVISION OF STUDENT AFFAIRS OFFICE OF THE DEAN OF STUDENTS SEXUAL HARASSMENT POLICY**

### **Section I: POLICY STATEMENT**

It is the policy of New Jersey City University that no member of the university community - students, faculty, administrators, or staff - may sexually harass any other member of the community. Sexual Harassment is a violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., Title IX of the Education Amendments of 1972, and Title VII of the Civil Rights Act of 1964 (as amended in 1991). Under certain circumstances, sexual harassment may constitute sexual assault or abuse. All members of the University community must be allowed to pursue their activities at New Jersey City University free from unsolicited and unwelcome sexual advances or conduct. New Jersey City University regards sexual harassment to be a violation of the standards of conduct required of all persons associated with the institution and recognizes that it is a violation of state and federal law. The University will fully comply with all civil laws prohibiting sexual harassment and all criminal laws concerning assault. Accordingly, the University prohibits any and all acts of sexual harassment during any University instruction or university-related activities by and of employees and students. Immediate and appropriate action will be taken against violators of this policy.

The Office of the Dean of Students and the Sexual Harassment Committee have a responsibility to ensure that the University's learning environment is free from sexual harassment. These units bear the primary responsibility for encouraging and maintaining a learning environment free from sexual harassment. The Office of the Dean of Students and the Sexual Harassment and Assault committee are free to act, and are expected to act, on this responsibility, whether or not they are in receipt of individual complaints. It is the obligation of these units to be familiar with this policy and, where appropriate and feasible, to participate in trainings, to ensure that they are able to fulfill these responsibilities.

### **Section II: PURPOSE**

The purposes of this policy are:

- A. to be educational, by increasing awareness of and sensitivity to the negative impact of sexual harassment;
- B. to prevent sexual harassment by indicating the seriousness with which New Jersey City University views and handles issues of sexual harassment;
- C. to provide fair procedures for handling complaints when they do occur.

### **Section III: DEFINITIONS**

Sexual harassment is defined as any sexually oriented behavior of a deliberate or negligent nature which adversely affects one's academic performance or work environment. It may involve conduct or comments that are unintentional as well as intentional. It may include the use of authority to emphasize the sexuality or sexual identity of an individual in a manner, which prevents the individual's access to the educational benefits and/or opportunities at NJCU. While most

harassment involves men harassing women, either men or women can be harassed by members of the same and/or opposite sex. This policy prohibits all forms of sexual harassment. Sexual Harassment is illegal. It includes, but is not limited to:

**Quid Pro Quo Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission or rejection of such conduct is made a condition of academic evaluation or the conferral of any benefit. It involves an implicit or explicit threat that if the student does not accede to the sexual demands of someone in authority he or she will suffer adverse consequences.

**Hostile Environment Harassment** – Unwelcome conduct that would have not occurred but for the student's gender, that is severe or pervasive enough to make a reasonable person of the same sex believe that the conditions of the student's education are altered and the academic environment is hostile or abusive. The complained-of conduct need not be sexual in nature to constitute hostile environment sexual harassment. Although quid pro quo harassment, by definition, requires that the harasser be someone in a position of authority over the student, hostile environment harassment can occur when anyone in the campus community, including a student, harasses another person. An individual's intent or lack of intent to harass is not relevant to the determination of whether harassment occurred.

**Consensual Relationships** – Consensual romantic and sexual relationships between student and faculty or staff are strongly discouraged. No person involved in a romantic or sexual relationship with a student shall have responsibility for evaluating the student's academic performance or for making decisions regarding the student's rights or benefits because of the inherent conflict or interest. Such relationships may become the basis for serious charges of sexual harassment. These relationships may also appear to others as exploitative even if the parties view their relationship as consensual.

### **Examples of Sexual Harassment**

The following examples are illustrative of conduct that, if proven, would be considered by the University to establish sexual harassment in either an employment or an academic setting:

- A. Pressure for a dating, romantic, or intimate relationship
- B. Unwelcome, unnecessary and/or inappropriate touching, such as patting, pinching, hugging, or brushing against an individual's body
- C. Pressure for or forced sexual activity
- D. Belittling remarks about a person's gender or sexual orientation
- E. Inappropriate sexual innuendoes or humor
- F. Offensive sexual graffiti, pictures, or posters (about another individual or posted in common areas with the intent to offend)
- G. E-mail and Internet use that violates this policy
- H. Unsolicited, unwelcome flirtations, advances, and/or propositions of a sexual nature
- I. Insults, jokes, or anecdotes that belittle or demean an individual or a group's sexuality or gender
- J. Unwelcome sexually-oriented and/or obscene gestures, verbal expressions, or comments of a sexual nature about an individual's body, clothing, or sexual experience
- K. Inappropriate displays of sexually suggestive objects or pictures
- L. Leering or ogling
- M. Uninvited letters, e-mails and telephone calls of a sexual nature

- N. Suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments, or status, salary, academic standing, grades, receipt of financial aid and/or letters of recommendation, etc.

#### **Section IV: CONFIDENTIALITY**

Complaints filed with the Office of the Dean of Students and/or the Speicher-Rubin Women's Center will be handled with sensitivity throughout the process. Confidentiality will be maintained to the extent possible.

- A. All persons involved in a case are expected to maintain confidentiality, particularly within the work, study, or living area in question.
- B. Terms of confidentiality, including the need to disclose information that restores a unit to effective functioning, may be agreed on during informal action or mediation between the complainant and respondent, or, in the case of the formal procedure, as determined by the Administrative Head of Unit.
- C. For educational purposes, the Sexual Harassment Committee may discuss specific cases and their resolutions without identifying information.
- D. Normally, documents created in the course of the procedures under this policy shall be treated as confidential and are retained by the Office of the Dean of Students in confidential files in accordance with that Office's policy on confidential records.
- E. The record of the complaint and final decision shall be retained in a file in the Office of the Dean of Students.
- D. Confidentiality may not apply to persons subject to extra-University judicial processes or where disclosure is required by law.

#### **Section V: RETALITATION**

Retaliation against an individual for reporting sexual harassment or for reporting sexual harassment or for participating in an investigation is prohibited by University policy and state and federal law. Retaliation is a serious violation which may subject the offenders to sanctions, regardless of whether or not the sexual harassment complaint has been substantiated.

#### **Section VI: GROUNDLESS OR MALICIOUS ALLEGATIONS**

It is a violation of these procedures for anyone to knowingly make false accusations of sexual harassment. Failure to prove a claim of sexual harassment, however, is not equivalent to making a false accusation. Sanctions may be imposed for making groundless or malicious accusations of sexual harassment.

#### **Section VII: INITIATING A COMPLAINT**

- A. Anyone may anonymously seek the advice and assistance of the Dean of Students and/or the an appointed designée, both hereafter referred to as advisor(s). The advisor(s) shall assist the individual in identifying concerns and considering options. The advisor(s) shall provide

individuals seeking advice with a copy of this policy and shall make them aware of the availability of counseling services, both on and off campus, as appropriate.

- B. Complaints of sexual harassment may be made by any member of the University community who has been directly affected by sexual harassment, or who has reasonable cause to believe that sexual harassment has taken place. A complaint may also be made on behalf of the University by the advisors against any member of the University community where there is reasonable cause to believe that sexual harassment exists. Individuals are encouraged to bring forward complaints as soon as possible after the incident(s) in order that the most thorough and fair consideration of the matter may occur. In general, it is recommended that complaints be initiated within one calendar year of the alleged incident. Early resolution of complaints can benefit the complainant, the respondent, and the University as a whole. Late reporting may impede a satisfactory resolution or hamper a proper investigation.
- C. Resolutions of complaints based upon sexual harassment within the university may be achieved by using an informal resolution or formal procedure. Both procedures begin with the notification of the Office of the Dean of Students and/or the Speicher Rubin Women's Center. The procedures used by both processes are different, but the intent for both is to stop the offending behavior, resolve the complaint, protect individuals' rights and reputations, and resolve the complaint in a manner that is timely and agreeable to all parties.

Alleged incidents of sexual harassment can be resolved by using any of the following procedures:

1. Informal resolution: the informal proceeding requires voluntary agreement of the parties and focuses on conciliation rather than culpability.
2. Formal hearing: a formal hearing is heard by the Sexual Harassment Committee in which the person making the complaint, hereafter referred to as the complainant(s), and the respondent have the opportunity to provide testimonies, present witnesses and admit evidence on behalf of their case. Sexual Harassment Committee members deliberate and render a decision, which is recommended to the Dean of Students

In order to use the formal procedure, the identity of the person making the complaint and the details of the complaint must be disclosed to the other party, hereafter called the respondent, and the advisors. Disclosure of the identity of the complainant may or may not be required under the informal procedure, depending on the nature of the action pursued.

- D. At any time, complainants may choose to withdraw from these complaint proceedings. Nevertheless, the University's legal commitment to provide an environment free from sexual harassment may obligate the University to proceed in the absence of a complaint from the person directly affected. In deciding whether to proceed in such cases, the University will take into account all relevant circumstances including, but not limited to, the availability of evidence, the accessibility of witnesses, the need for protection against retaliation on the part of witnesses and the need for due process on the part of respondents.
- E. In responding to complaints of sexual harassment, persons involved in the application of these procedures should consult with the Dean of Students.

## **Section VIII: INFORMAL RESOLUTION PROCEDURES**

The University offers a student an informal resolution process as an alternative to the formal complaint procedure. The Office of the Dean of Students will attempt to intervene in order to reach a satisfactory resolution between the individuals directly involved. The University, however, cannot pursue disciplinary action against a respondent in the informal process. The informal proceeding requires voluntary agreement of the parties and focuses on conciliation rather than culpability. Early reporting is essential to an effective resolution. If informal attempts to resolve the complaint are unsuccessful, or if the complainant or the Office of the Dean of Students believes an informal procedure is inappropriate, the formal complaint process can be utilized at any time. The filing of an informal complaint is not a prerequisite to a formal complaint.

- A. If a student wishes to try informal resolution of a complaint, she/he must file an Intent to File Internal Sexual Harassment Complaint For Students. Upon receipt of this notice of intent, an attempt will be made to resolve the complaint by conciliation leading to informal mutual agreement.
- B. In order to conciliate an informal complaint, the Office of the Dean of Students may meet with the parties and their respective advisers separately, together, or both. The purpose of the meetings is to clarify issues and resolve the complaint.
- C. If conciliation resolves the complaint, a conciliation agreement, stipulating the terms of the resolution, will be signed by the complainant and charged party. Each party will be given a copy of the signed agreement.
- D. If the conciliation process is not successful and the student wishes to proceed with a formal complaint, she/he must file a formal written complaint.

## **Section IX: FORMAL HEARING PROCEDURES**

If a complainant wishes to invoke a formal administrative action, a formal written complaint must be filed with the Office of the Dean of Students. Students are encouraged to report sexual harassment as soon as possible. Late reporting may impede a proper investigation. A formal complaint will be heard by the Sexual Harassment Committee.

- A. The formal written complaint must specify, in detail, the nature of the charge, dates of particular events, names of possible witnesses, respondent's name and any other relevant information. The complaint must be signed and dated.
- B. The Office of the Dean of Students shall acknowledge receipt of the formal written complaint and provide a copy of it to the respondent and the Chair of the Sexual Harassment Committee within seven working days. The respondent shall be given the opportunity to respond to the allegations in writing.
- C. The Office of the Dean of Students has 45 days from the time the formal complaint is filed in which to complete an investigation. If a longer period is necessary for a thorough investigation, the President may issue reasonable time extensions. Parties will be notified of any extensions.

- D. As part of the investigation, the Office of the Dean of Students will refer the case to the Sexual Harassment Committee who will meet with all parties. Throughout the investigation, the confidentiality of all participants will be maintained to the extent possible.
- E. Upon conclusion of the hearing, the chair will forward the committee's recommendations to the Office of the Dean of Students for disposition.
- F. The final decision of the Office of the Dean of Students includes remedial measures, such as a referral to the appropriate University administrative office for disciplinary action. The final decision will include general information regarding rights to appeals.
- G. Sanctions for students found to have violated these procedures range from a warning to expulsion and referral to the criminal justice system. Disciplinary action will comply with relevant law and regulations.

## **Section X: RIGHTS OF COMPLAINANT/RESPONDENT**

The complainant and the respondent are, entitled to support and assistance at all times during the Sexual Harassment resolution process. The Office of the Dean of Students is available and willing to provide assistance and support to complainants and respondents.

### **Rights of the Complaining Party**

In addition to the rights outlined in the Code of Conduct, any student who believes that he/she has been subjected to sexual harassment in violation of this Policy is urged to promptly pursue the matter and to file a complaint in accordance with the procedures described in this policy. The complaining party will not be reprimanded, retaliated against, and/or discriminated against in any way for initiating an inquiry or complaint in good faith.

### **Rights of the Alleged Subject**

In addition to the rights outlined in the Code of Conduct, a person against whom a complaint is lodged shall be presumed innocent of that charge unless and until there is a final administrative finding of responsibility or an admission to the charge by that person.

## **Section XI: ROLES AND RESPONSIBILITIES**

### **A. Advisor(s)**

The role of the Advisor(s) (designated by the Dean of Students) is to:

1. provide information on the Sexual Harassment Policy and procedures to members of the University community and Third Parties having connections to the University
2. provide information on the Sexual Harassment Policy and procedures to persons bringing forward a complaint

3. advise and assist the members of the Sexual Harassment Committee, Administrators and others seeking direction in the handling of complaints
4. assist persons wanting to initiate the informal resolution process or the formal hearing process and facilitate arrangements in connection with those procedures
5. in consultation with the Sexual Harassment Committee, develop and provide education to the University community on the prevention of sexual harassment
6. in consultation with the Sexual Harassment Committee, coordinate and ensure appropriate and regular training for the Sexual Harassment Committee others involved in the application of the sexual harassment procedures
7. maintain confidential records on all allegations of sexual harassment
8. serve as a resource to the Sexual Harassment Committee

#### B. Sexual Harassment Committee/Hearing Panel

The Sexual Harassment Committee will be composed of a pool of fifteen or more individuals (a combination of faculty, staff, and students), five of whom will hear each complaint. The Committee is trained to, and charged with the responsibility of, listening to the allegations and any responses, making a decision as to the validity of the charge, and making a recommended decision and sanction.

#### C. Selection Process

The pool from which the members will be selected shall consist of representatives from the following categories: students, support personnel (clerical/secretarial, technical/paraprofessional, skilled crafts and service/maintenance), managerial administrators, faculty, and non-teaching professionals. The five members for each hearing shall be selected by the Dean of Students, the majority of which will be from the categories to which the victim and the accused belong. The chair of each hearing will be chosen by and from the five members who are serving. Selected members will serve for two years and will be required to undergo special training prior to serving and each year of service in order to create a good understanding of sexual harassment/assault, campus investigation procedures, and counseling of victims.

### **Section XII: RETALIATION**

No person shall retaliate against another for bringing forward a complaint of sexual harassment or for providing information in respect of a complaint. The University considers retaliation or the threat of retaliation at any stage to be a serious offense because it prevents potential complainants, witnesses, and administrators from acting on their concerns. Any person should report threats, acts of retaliation and other safety concerns to the Dean of Students. Retaliation may include, but is not limited to, unfair evaluation; unfair work or academic assignments; having information withheld or made difficult to obtain in a timely matter; not being informed about important events such as meetings or changes in policies; name-calling or ridicule (public or private); oral or written threats or

bribes; or further harassment of any nature. Acts of retaliation may be subject to disciplinary action pursuant to section.

### **Section XIII: INTERIM MEASURES**

The University may, at any time during the processing of a complaint, take necessary steps to ensure the health, safety, and security of any member of the University community.

### **Section XIV: DISCIPLINARY SANCTIONS**

A conclusion that sexual harassment has occurred shall subject the offender to appropriate disciplinary action and may result in suspension, discharge, expulsion or dismissal. University disciplinary procedures and possible sanctions are described in the Student Code of Conduct. Sanctions imposed will be determined on the basis of the facts of each case and the extent of harm to the University's interests.

### **Section XV: EXTERNAL COMPLAINT PROCESS**

In addition to using the University's internal procedures, a student has the right to file a complaint with federal and state agencies that investigate discrimination charges. An external complaint must be filed directly with the agency. The agencies also should be consulted concerning time deadlines for filing.

For Title IX violations:  
Office for Civil Rights  
U.S. Department of Education  
New York Office  
75 Park Place, 14th Floor  
New York, New York 10007-2146  
(212) 637-6466

For violations of the New Jersey  
Law Against Discrimination:  
New Jersey Division of Civil Rights  
Essex County Regional Office  
31 Clinton Street  
Newark, New Jersey 07102  
(973) 648-2700

Other Resources: If needed, the following counseling services are available to students:

The Office of the Dean of Students – Business Development Incubator, Room 254, Ext. 3525  
The Health and Wellness Center – Vodra Hall, Ext. 3456  
Counseling & Psychological Services – 54 College Street, Ext. 3165  
Speicher-Rubin Women's Center – Grossnickle Hall, Room 423, Ext.3189