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INTRODUCTION: Described is the policy against sexual and other forms of harassment, discrimination and retaliation

SCOPE: All persons who work for or on behalf of the university without regard to job status or title (including but not limited to, all faculty members, non-faculty employees and contract employees), and students.

POLICY:

The University affirms its commitment to equal opportunity and non-discrimination and recognizes its responsibility to provide for all employees an environment that is free of discrimination and harassment based on sex, sexual orientation, race, color, creed, national origin, age, marital status, Vietnam Era or disabled veteran status, disability, predisposing genetic characteristic, or other category protected by law.

The University also does not tolerate any actual or attempted reprisals or retaliation against any employee or student who raises a sincere and valid concern regarding harassment or discrimination. All such discrimination, harassment, and/or retaliation are, therefore, strictly prohibited. Anyone engaging in the above mentioned conduct is subject to disciplinary action up to and including discharge or termination of any other status.

PROHIBITED CONDUCT and DEFINITIONS:

Below, please find definitions of prohibited conduct:

Discrimination is to treat a person differently based on traits other than individual merit.

Harassment

Harassment has many definitions under the law, but essentially is action that demeans, alienates, or debases another, even if it is not specifically directed to them. Since harassment creates an atmosphere where people are treated differently, it is a form of discrimination.

Discrimination based on Sex is treating people differently based on gender stereotypes and assumptions about abilities, traits, or the performance of individuals of that gender.

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Sexual harassment is a form of discrimination based on sex. There are two categories of sexual harassment:

- 1) The creation of a hostile or abusive work environment. This type of discrimination is created by a work environment that exhibits discriminatory intimidation, ridicule, and insult so severe or pervasive that it alters the conditions of education/employment, or creates an abusive atmosphere. An example of this would be an office where pornography was hung on the walls.

- 2) "Quid Pro Quo" harassment. This type of discrimination occurs when a superior conditions the granting of job benefits upon the receipt of sexual favors from a subordinate, or punishes that subordinate for refusing to comply with the request(s). An example of this would be a Supervisor asking a subordinate for sex, and offering a promotion in return.


It is important to note that both males and females are protected under this policy, and that it is possible for people to harass those of the same gender.

Pregnancy harassment is different treatment on the basis of pregnancy, childbirth, or related medical conditions. It is another form of sex discrimination.

Discrimination based on Sexual Orientation means different treatment based on heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

It is important to note that actions consistent with our Catholic Mission, taken by the University and its employees to promote the religious principles by and for which the University is maintained, is not barred by this prohibition.

Discrimination based on Race or Color is different treatment based on either a person's racial group or perceived racial group, their race-linked characteristics (e.g., hair texture, color, facial features), or even their marriage to or association with someone of a particular race or color. Also prohibited are actions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups.

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These prohibitions apply regardless of whether the discrimination is directed at Whites, Blacks, Asians, Latinos, Arabs, Native Americans, Native Hawaiians and Pacific Islanders, multi-racial individuals, or persons of any other race, color, or ethnicity.

Discrimination based on Creed, is different treatment of individuals because of their religious practices. The Equal Employment Opportunity Commission, the federal agency that evaluates claims of discrimination, defines "religious practices" to include "moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views."

However, the University, as an educational institution operated in connection with a religious organization and a Catholic Mission, may limit employment to or give preference to Catholics in certain positions where it such is relevant, and may take such action as is calculated by the University to promote the religious principles for which it is established or maintained, in order to effectuate its religious mission.

Discrimination based on National Origin means treating someone differently because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background. National origin discrimination also means treating someone less favorably at work because of marriage or other association with someone of a particular nationality. "National origin" includes "ancestry."

Also prohibited is offensive conduct, such as ethnic slurs, that creates a hostile work environment based on national origin.

Discrimination based on Age. The Age Discrimination in Employment Act protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Discrimination against a person because of his/her age is prohibited.

However, a job notice or advertisement may specify an age limit where age is shown to be a "bona fide occupational qualification" (BFOQ) reasonably necessary to the normal operation of the business.

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Discrimination based on Marital Status is different treatment based on whether an individual is or is not married, legally separated, divorced, or widowed.


Discrimination based on Vietnam Veteran or disabled Veteran status is different treatment if an individual is a Vietnam Veteran, or has disabled Veteran status.

Discrimination based on Military Status means different treatment depending on a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.

Discrimination based on Disability is different treatment on the basis of a real or perceived disability, discounting accommodations as required by law. An individual with a disability is a person who: Has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Discrimination based on Predisposing Genetic Characteristic is different treatment based on family and personal genetics. "Predisposing genetic characteristic" shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.

Retaliation is adverse action for reporting or cooperating in the investigation of unlawful conduct. Niagara University prohibits Retaliation against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as well as wage differences between men and women performing substantially equal work, also prohibit retaliation against individuals who oppose unlawful discrimination or participate in an employment discrimination proceeding.

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Examples of protected opposition to discrimination include:

- Complaining to anyone about alleged discrimination against oneself or others;
- Threatening to file a charge of discrimination;
- Picketing in opposition to discrimination; or,
- Refusing to obey an order reasonably believed to be discriminatory.

Examples of activities that are NOT protected opposition include:

- Actions that interfere with job performance so as to render the employee ineffective; or
- Unlawful activities such as acts or threats of violence.

Occurrence of Discrimination and Harassment: Please know that harassment and discrimination can occur over the phone, by e-mail, via internet use, in person, and behind closed doors. Persistent, unwanted sexual advances, racially charged "jokes" and e-mails, and the viewing of pornography in the office are just a few examples of how a hostile work environment can be created and unlawful harassment can occur. If you are in doubt regarding the above definitions or conduct you have witnessed, please refer to the reporting procedures that follow.

REPORTING, INVESTIGATING AND HANDLING OF DISCRIMINATION, HARASSMENT AND RETALIATION

The University encourages individuals who believe they are being discriminated against or harassed, or who have witnessed discrimination or harassment, to clearly and promptly notify the offender that his/her behavior is unwelcome. If, for any reason, an individual does not wish to confront the offender directly or if such confrontation does not successfully end the harassment, the individual should notify their immediate manager/supervisor, chair, dean or one of the Complaint Officers below:

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For matters involving employee to employee, employee to student, student to employee

Director of Recreational & Intramural Sports
(716) 286-8055

Director of Human Resources
(716) 286-8690

For matters involving student to student:

Dean of Student Affairs
(716) 286-8566

Director of University Housing
(716) 286-8100

Any employee or student who believes that he/she has been subjected to or has witnessed discrimination, harassment and/or retaliation of any kind shall report all such incidents of such conduct to one of the University's Complaint Officers. All reports of alleged harassment in violation of this policy will be investigated by appropriate University representatives as dictated by the specific circumstances. Investigations will be conducted in as confidential manner as possible. Any individual making a complaint, as well as the accused, will be advised of the results of the investigation and of the University response.

Any person who violates this harassment policy will be subject to disciplinary action and/or penalty as is deemed warranted by the University. If the accused is an administrative, professional, hourly or faculty staff member, such action may include discipline or discharge in accordance with the employee guide/related policies or Statutes of the University/provisions of the Collective Bargaining Agreement, Article XII, removal for cause. If the accused is a student, any sanctions will be handled in accordance with the Student Handbook, which may include dismissal from the University.

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Employees are hereby placed on notice that if an employee engages in acts which the University determines to be acts of harassment or unlawful discrimination, such acts are outside of the course and scope of the employee's employment. Such conduct may result in the employee having to obtain his/her own legal counsel, and may result in a money judgment against the employee personally, or the filing of criminal charges.

The University prohibits any retaliatory behavior directed against reporting employees and/or witnesses. Any such retaliation may result in discipline up to and including discharge. Reporting employees or witnesses experiencing retaliation from anyone should report it to a Complaint Officer immediately.

Any individual found by the University to have made a charge of harassment under this policy that is intentionally dishonest or malicious will be subject to disciplinary action under appropriate University policy.


A copy of this policy shall be posted in appropriate places and be made available to all.

AWARENESS:

The University will conduct workshops and provide training materials to build awareness of this Policy and the procedures for reporting prohibited actions. Human Resources staff and the General Counsel will be available for consultation regarding interpretation of the policy.

Any person who believes he or she is being harassed in violation of the University policy or who witnesses what he or she believes is harassment in violation of University policy has an obligation to report such harassment either to his or her department chairperson, dean, immediate manager, the Director of Human Resources (286-8690), or the Director of Recreational and Intramural Sports (286-8055).

Any student who believes he/she is being harassed by another student in violation of this policy has an obligation to report such harassment to the Dean of Student Affairs or designee, at 286-8566 or the Director of University Housing at 286-8100, and may refer

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to the Student Handbook for more details. Any student who believes he/she is being harassed by a University employee should contact one of the harassment officers. Complaints will be handled in a timely manner.

The director of Business Services will be notified by the University harassment officers of any violation of this policy by a contract employee.

INVESTIGATION PROCEDURE

RESPONSIBILITY

ACTION

Complainant, i.e., faculty member or non-faculty Ee

Will submit the allegation(s) to a department chair, dean or immediate manager, Director of Human Resources, or, as appropriate.

Compliance

When a complaint is first received by a supervisor or individual other than a Complaint Officer, that person shall relay the complaint to a complaint officer immediately but no later than seven (7) working days. In the event that one complaint officer is the offender, the reporting employee shall report his/her complaint to the University General Counsel.

Investigation Determined by the Complaint Officer(s)

INFORMAL/FORMAL INVESTIGATIONS

All such reports will remain confidential to the extent possible during the investigatory process. Any employee who believes he/she is being harassed may report a complaint through informal or formal complaint procedures as set forth below:

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Informal Procedure: If the reporting employee so requests, the Compliant Officer will talk to the alleged harasser on the employee’s behalf or arrange for a meeting or mediation between the reporting employee and the alleged harasser, with the assistance of the Compliant Officer. Individuals reporting sexual or other harassment should be aware; however, that the Complaint Officer may decide in specific circumstances that it is necessary to take action to address the harassment beyond an informal discussion. The best course of action in any case will depend on many factors and, therefore, this informal procedure is and has been developed to remain, flexible. Moreover, the informal procedure is not a required first step for the reporting individual.

Formal Procedure: In the event that the reporting employee does not wish to pursue the informal procedure, or in the event that the informal procedure does not produce a result satisfactory to the reporting employee, the Complaint Officer will initiate a formal procedure by interviewing the reporting employee, any witnesses with knowledge of the complaint or persons who may have related information and the alleged harasser.

Role of the Complaint Officer

Upon receipt of a complaint, the Complaint Officer will conduct an immediate investigation of the charges. The investigator shall record and document all information received in the investigation of complaints. During the investigation, the Complaint Officer may take any action necessary to protect the complainant or other employees. This action may include but is not limited to, removal or transfer of an



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employee. However, if a Complaint Officer has knowledge of or has reason to know of any alleged harassment, the University is obligated, even in the absence of a complaint, to investigate such conduct promptly and thoroughly. Based upon the results of the investigation, immediate and corrective action will be taken, up to and including termination of the offender's employment in accordance with legal guidelines.