Harassment & Discrimination (Involving Students) Policy

Revised: September 30, 2015
Effective date: September 30, 2015

To be posted openly

Related policies:
- Sexual Misconduct Policy
- Policy on Amorous Relationships (“Non-Fraternization”)
- Student Code of Conduct
- Student Disciplinary Procedure
- Student-Athlete Code of Conduct
- Harassment & Discrimination Policy
- Harassment & Discrimination (Involving Students) Policy
- Workplace Violence Policy

Positions responsible for coordinating compliance: Title IX Coordinator, Dean of Students, Director of Human Resources, Provost

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, domestic violence victim status, 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** 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.

**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/educational 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 an instructor asking a student for sex, and offering a better grade in return (if consensual, this would also violate the Policy on Amorous Relationships, which can be found at policies.niagara.edu).

**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.

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.

**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.

**Discrimination based on Domestic Violence Victim Status** is different treatment based on the status and needs of a person who is a victim of domestic violence.

**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.

**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, social networking, 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 students 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.

However, given the power dynamics at play in most student-to-employee or faculty relationships, or even the dynamics of student-to-student relationships, a student who does not wish to confront the offender may notify the Dean of Students, Residence Life staff, or the Title IX Coordinator, to address the matter either formally or informally.

All reports of alleged harassment in violation of this policy will be investigated by appropriate University representatives as dictated by the specific circumstances.

Reports of gender discrimination will be governed by applicable Title IX regulations, in addition to applicable university procedures. This includes the immediate provision of accommodations related to academic, residential, and other university programs, so reporting individuals may continue their educational experience without disruption during the pendency of a complaint. Please contact the Dean of Students to arrange accommodations.

All other types of discrimination will be governed by applicable Title VII regulations and the New York Human Rights Law, in addition to applicable university procedures. This may include the immediate provision of accommodations related to academic, residential, and other university programs, so reporting individuals may continue their educational experience without disruption during the pendency of a complaint. Please contact the Dean of Students to arrange accommodations.

Investigations will be conducted in as private a 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.

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 then-governing Collective Bargaining Agreement.

If the accused is a student, additional procedure and any sanctions will be handled in accordance with prevailing Title IX and Title VII guidelines, the New York State Human Rights Law, the student Code of Conduct, and the Student Administrative Conduct & Conduct Council procedures. Sanctions may include (but are not limited to) educational projects, suspension, and dismissal from the University.