



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

The State University of New York at New Paltz (the University) 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 University recognizes that conduct and/or 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, shared ancestry, ethnic characteristics, age, disability, gender, pregnancy, gender identity, gender expression, 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 University policy statement is in accordance with federal and state laws and regulations prohibiting discrimination and harassment as well as SUNY regulations. Some of the applicable 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 VI of the Civil Rights Act of 1964](#), [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 based on protected characteristics, as well as sexual harassment and sexual violence.

The procedures for reporting and reviewing allegations of unlawful harassment, discrimination, sexual harassment and sexual violence provide a mechanism through which the University may identify, respond to, and prevent conduct of this kind. The University recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial complaint process will benefit students, faculty, staff, and administration, permitting equitable investigation and addressing concerns that are brought forth. The [Bias Reporting Form](#) can be used to report conduct under this policy. You can learn more about SUNY New Paltz bias reporting [here](#). Information on SUNY New Paltz Title IX reporting can be found [here](#).

Inquiries regarding the application of this policy statement and procedures may be directed to Tanhena Pacheco Dunn (pachecot@newpaltz.edu) or Danielle Strauchler (strauchd@newpaltz.edu).

Applicability

This policy statement and procedures herein:

- Applies to all persons without regard to race, color, national origin, sex, religion, shared ancestry, ethnic characteristics, age, disability, gender, pregnancy, gender identity, gender expression, sexual orientation, predisposing genetic characteristics, marital status, veteran status, military status, and domestic violence victim status.
- Applies to all members of the campus 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 University and to all types of appointments under University jurisdiction, whether full-time, part-time, or volunteer.
- Governs all University 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 University organizational units.

Retaliation

Anyone who participates in the reporting 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 University 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 Chief Diversity Officer (CDO) or Title IX Coordinator (TIXC).

Timeframe for Reporting

Timely reporting is encouraged, as the University takes its responsibility seriously 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 impede the University's effort to understand if a pattern of risk or behavior is developing. Delays in reporting also delay the deployment of supportive measures and resources.

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.

Even when a formal report is not filed through Bias Reporting or Title IX procedures, the University has an obligation to understand and address behaviors or conduct that it is otherwise informed about and to apply the appropriate investigative procedures based on the facts available.

Discretion and 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 University will make every effort to maintain discretion for any person(s) reporting a claim or participating in the process. However, we cannot guarantee unqualified confidentiality as we must also balance due process and 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 University's investigative process. Medical and psychological practitioners may be statutorily defined/designated as confidential; reporting individuals should inquire if the person is designated as such.

All parties are advised that the investigation procedure is best able to achieve an equitable process when confidentiality is not breached. This avoids the potential of collusion or concerted actions which compromise equity and can impede timely action.

Responsibility

The President, provost, executive vice president, vice presidents, assistant vice presidents, associate vice presidents, deans, directors, department heads, managers, and supervisors as well as any person serving in these roles in an interim or acting capacity are responsible for:

- Complying with training and educational requirements that support this policy statement as determined by law, the Office of Employee Relations, SUNY, or the University.
- Understanding how to refer and/or report allegations brought to their attention.
- Contacting the CDO or Title IX Coordinator to report harassment, discrimination or sexual harassment or violence that they observe or learn about.
- Prevention of discrimination and harassment whenever possible; initiating a referral to HRDI (for employees) or Conduct and Community Standards (for students) for disciplinary and/or corrective action when appropriate.

Supervisors, instructors, and others with authority to make decisions in their capacities at the University:

- Ensure that these decisions are made based upon legitimate, non-discriminatory reasons and in accordance with applicable laws, University policies and procedures.

- Contact the CDO or Title IX Coordinator to report harassment, discrimination or sexual harassment or sexual violence that is observed or reported.

Faculty, staff, and students:

- Understand and refrain from behavior that violates this policy statement and relevant laws or otherwise creates a hostile environment for others. Remember that it is not the intent of the individual's behavior, but rather the perception of the individual that the behavior is hostile or discriminatory that potentially gives rise to a claim under this policy statement.
- 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, setting clear boundaries or clarity about the impact of the offensive behavior, can help stop the conduct.
- Keep a record of what occurred. Include direct quotes, witnesses, and patterns to the conduct or behavior. Save any relevant cards, letters, texts, social media or e-mail messages sent, however harmless they may seem. Note that anonymous social media activity may not be actionable unless there is a threat of harm. Such information will be provided to University Police for their assessment and guidance.
- Do not ignore the situation. Take action. Seek out the assistance of your supervisor, professor, or advisor, or report directly to the CDO or Title IX Coordinator. Contact or file a report with University Police if you feel your safety is at risk.

Jurisdiction of the University

The policy is administered by the Office of the Chief Diversity Officer (CDO). This policy statement and procedures intends to provide an equitable process, balancing the rights of those bringing complaints of discrimination, harassment and retaliation, the rights of those against whom such claims are brought, and the interest of the University to maintain a safe and productive learning and working environment free of harassment, discrimination, and violence.

Reports made to faculty and professional staff must be referred to the CDO or Title IX Coordinator (see Responsibility section). This will help ensure appropriate and timely responses and deployment of supportive measures or resources.

If it is determined that the facts of a report do not rise to the level of violation of policy or law or are outside the jurisdiction of the CDO or Title IX office, the complainant shall be referred to the appropriate office for review and follow-up.

Nothing in this policy will abridge or replace employee corrective and disciplinary procedures and/or the student disciplinary processes, except as superseded by law.

Consultation & Review

Any member of the New Paltz campus community may speak with the Chief Diversity Officer or Title IX Coordinator regarding potential claims of discrimination, harassment, or sexual violence. The University may offer some guidance as to resources available or steps that can be taken in response to the complaint if the individual does not elect to pursue a formal process.

Based on information received, the University may exercise its discretion and pursue a complaint on behalf of the University community.

Informal Resolution

Informal resolution may not be appropriate in all cases. The request for informal resolution does not preclude a complainant filing a report. If the parties to a matter mutually agree to the informal resolution process and the outcome is also agreed upon, then the matter will be closed. Note that information resolution is not available for reports covered by Title IX.

Formal Complaints and the Investigatory Process

The University's formal investigation procedures are not designed to replicate an external judicial process. The investigatory process is guided by the need to balance the responsibility to remedy 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 choose to engage only a formal complaint process are advised of the following:

- The complainant and respondent will be advised of the steps in the formal investigatory and complaint process.
- The [Bias Reporting Form](#) can be used to report conduct under this policy. Information on Title IX reporting can be found [here](#).
- Complainants and respondents are expected to meet with the campus official designated to conduct the investigative process.
- The parties shall not employ audio or video taping devices at such meetings.
- Both the complainant and the respondent are entitled to due process, including knowledge of the specific allegation(s) against them 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 the 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 investigative process, which may include but are not limited to:
 - Notifying the parties of options to avoid contact with each other, including transferring academic or living or workplace arrangements where possible and without disproportionately burdening one party.
 - Providing an escort for a party to move safely around campus if there is a risk determined by University Police.
 - Offering and providing services to students, including counseling, medical services, and academic services. [Employee Assistance Services](#) will be provided to employees.
 - Both parties will be educated on the prohibition against retaliation from each other and third parties.
- Complainants, respondents, or witnesses are expected to communicate directly with the University official designated to conduct the investigation. Any party to the investigation may choose to be accompanied by another person for moral support or may choose to be accompanied by legal counsel. However, these individuals may not engage in conduct which impedes or interferes with the investigator's ability to obtain necessary information or conduct which breaches confidentiality. Students may be asked to sign a FERPA form to authorize ANY third parties to attend investigation meetings.

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 business days, absent good cause or 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. Note that supportive measures and resources are continuously explored throughout the process.

- The matter is able to be resolved by the parties and there are no other issues requiring further formal University action. (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 by the University.
- There is insufficient evidence to support a finding of a violation of any of the policies against discrimination and/or harassment.

- There is sufficient evidence to recommend appropriate action by the University, including referral of the matter through the applicable campus disciplinary mechanism(s).
 - For employees not in a collective bargaining unit – In consultation with the Office of Human Resources, Diversity & Inclusion (HRDI) and the Office of University Counsel, there may be recommendations to the President as to the specific charge(s) and corrective or disciplinary action.
 - For employees represented by collective bargaining – Corrective or disciplinary action would follow collective bargaining parameters.
 - For students – The Office of Conduct and Community Standards, in consultation with appropriate offices, 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, CDO or Title IX Coordinator will provide information on the investigation to the Chancellor or designee who shall issue a written statement indicating what action the Chancellor proposes the campus take. In this instance, the Chancellor’s decision shall be final.

Anonymous reporting

It is important to note that due process considerations may limit the ability to investigate or resolve anonymous complaints. The University will make a good faith effort to investigate anonymous complaints to the degree that available information permits.

Experiences outside the jurisdiction of the University

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 University community is subject to behaviors/conduct which violate this policy by an affiliate of the University (e.g., vendor or contractor, non-campus work site), the University will provide guidance to the complainant for reporting to the affiliate and the University will provide any appropriate support services that are reasonably within its ability. The University would have no jurisdiction over the processes or outcomes of an external organization. Complainants may wish to explore reporting the matter to external agencies and/or law enforcement.

Filing a 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 SUNY 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 University, including termination of the internal procedure. Information on external agencies can be provided by the University as part of the process.

Inquiries or reports may be directed to:

- The United States Department of Education’s Office for Civil Rights (OCR), 32 Old Slip 26th Floor, New York, NY 10005-2500; Tel. (646) 428-3800; Email OCR.NewYork@ed.gov. Information on reporting can be found [here](#).
- The New York State Division of Human Rights (NYS DHR) central headquarters, located at One Fordham Plaza, 4th Floor, Bronx, NY 10458. You may call toll-free at **1-888-392-3644**. General inquiries or inquiries about language access may also be directed to info@dhr.ny.gov. Contact the Division via TDD/TTY at 718-741-8300. You can call the Division's Fair Housing toll-free hotline at **1-844-862-8703**. You may submit a complaint online at: <https://forms.ny.gov/s3/nysdhrcomplaint>.
- The [Equal Employment Opportunity Commission \(EEOC\)](#).