

 <p>The <b>College at Brockport</b></p> <p><b>Category:</b> Human Resources</p> <p><b>Responsible Office:</b> <b>Affirmative Action</b></p>	<p><b>Policy Title:</b> Harassment and Discrimination Policy and Complaint Procedure</p>
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**Policy:**

The College at Brockport is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, The College at Brockport expects that all decisions and relationships among employees will be free of unlawful bias, prejudice and harassment.

The College at Brockport is committed to compliance with all provisions of state and federal human rights and equal opportunity laws which prohibit discrimination in employment, educational programs and services on the basis of race, color, religion, sex, sexual orientation, age, disability, marital status, national origin, or any other characteristic protected by law.

***The College at Brockport will not tolerate discrimination or harassment of any type, from any source. It is the responsibility of all College administrators, supervisors, employees, and students to create and maintain a workplace and academic environment free from discrimination and harassment.***

We believe that most members of our campus community do not wish to offend or create offensive working or academic environments. In fact, most interactions are courteous, mutually respectful, comfortable, appropriate, pleasant, and non-coercive.

It is the policy of The College at Brockport to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, age, disability, marital status, national origin, or any other characteristic protected by law.

Any and all forms of such discrimination or harassment which involve or affect The College at Brockport (“the College”) or which occur on Brockport’s campus or its satellites (currently the REOC and MetroCenter), off-site facilities, or in any off-campus location that could be considered an extension of the workplace, i.e., official travel (collectively referred to as “the campus”) are prohibited by this policy.

**Individuals Covered**

This policy applies to all applicants, employees, visitors, third party vendors, consultants, and all persons involved in the operation of the college.

### **Retaliation is Prohibited**

Retaliation against an individual for reporting harassment or discrimination, or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

### **The College's Response**

The College will actively work to prevent and eliminate discrimination and harassment on campus. The College will respond promptly, positively, and aggressively to deal with discrimination and harassment. This response may include, for example, training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding a promotion or pay increase, reassignment, temporary suspension without pay, or termination, as the College believes appropriate under the circumstances. Law enforcement agencies will be notified when appropriate. The College's response may also include removal of third party vendors from campus or termination of contracts with such vendors.

Supervisors play a critical role in prevention and correction. Supervisors must respond to inappropriate and/or offensive behaviors that they observe or otherwise become aware of -- even if an employee does not file a complaint. All formal or informal complaints of harassment or discrimination should be reported to the Affirmative Action Officer or the Director of Human Resources. The obligation applies even if:

- ◆ The employee asks that the complaint be kept confidential
- ◆ The employee does not use the words "harassment" or "discrimination"
- ◆ The complaint appears to lack merit

### **Employee Misconduct**

Discrimination and harassment have been and are considered a serious form of employee misconduct.

### **False Allegations**

False and malicious complaints of harassment, discrimination, or retaliation as opposed to complaints, which even if erroneous, are made in good faith, shall be the subject of appropriate disciplinary action.

### **Definition of Harassment**

#### **Sexual Harassment**

Unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal and physical contact of a sexual nature is expressly forbidden by this policy when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, or basis for admission to, performance in, evaluation in, or completion of an educational program.
2. Submission to or rejection of such conduct by an individual is used explicitly or implicitly as the basis for employment or evaluative decision affecting such individual.

3. Such conduct is sufficiently severe, persistent, and/or pervasive so as to substantially and unreasonably interfere with the individual's work or academic environment or performance, or unreasonably creates an intimidating, threatening, or abusive working or learning environment.

Although the majority of incidents of sexual harassment involve a man harassing a woman, the law and this policy also prohibits women harassing men, women harassing women, and men harassing men.

### **Other Forms of Unlawful Harassment**

Also expressly prohibited by this policy is unwelcome conduct concerning a person's race, color, religion, sex, sexual orientation, age, disability, marital status, national origin, or any other characteristic protected by law that is sufficiently severe, persistent, and/or pervasive so as to substantially and unreasonably interfere with the individual's work or academic environment or performance, or unreasonably creates an intimidating, threatening, or abusive working or learning environment.

Normal, courteous, mutually respectful, comfortable, appropriate, pleasant, non-coercive interactions between employees and students, employees and employees, and students and students that are acceptable to both parties are not considered to be unlawful harassment. "Harassment" does not include any speech or expressive activity, including without limitation, speech conducted in class, on campus, or in extracurricular activities, which is protected by the United States Constitution and the Constitution of the State of New York. However, unlawful harassing behavior, as described herein and/or as defined by federal and New York State law, shall not be immunized from disciplinary or other action simply because it is accompanied by protected speech.

### **Examples of Unlawful Harassment**

- Unwelcome, repeated demands or requests for dates
- Physical contacts such as patting, pinching, or repeated brushing against another's body
- Subtle or overt pressure for sexual activity
- Sabotaging or destroying the work of the harassed employee or student as part of the harassment or in retaliation for reporting harassment
- Granting job or academic favors to those who participate in sexual activity or the direct or implied threats that an individual will fail a class or lose his/her job absent sexual activity
- Physically attacking or threatening to attack a person because of that person's race or national origin
- Racist or anti-gay graffiti on campus grounds
- Repeatedly targeting a student with racist epithets so as to interfere with his or her education
- Vandalism or destroying a person's property because of that person's sexual orientation

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### **Procedure:**

#### **Reporting an Incident of Harassment, Discrimination or Retaliation**

##### ***Informal Procedure***

If for any reason an individual does not wish to address the offender directly, or if such action does not successfully end the offensive conduct, the individual should notify his/her

immediate supervisor, the Director of Human Resources, the Affirmative Action Officer, who may, if the individual so requests, talk to the alleged offender on the individual's behalf.

The College encourages individuals who believe they are subjected to harassing or discriminatory conduct to promptly advise the offender that his or her behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. The College recognizes, however, that an individual may prefer to pursue the matter through informal or formal complaint procedures.

An individual reporting harassment, discrimination or retaliation should be aware that the College might decide it is necessary to take action to address such conduct beyond an informal discussion. This decision will be discussed with the individual. The best course of action in any case will depend on many factors and, therefore, the informal procedure will remain flexible. Confidentiality cannot be guaranteed.

The informal procedure is not a required first step for the reporting individual.

### ***Formal Procedure***

As noted above, individuals who believe they have been the victims of conduct prohibited by this policy statement or believe they have witnessed such conduct should discuss their concerns with the Director of Human Resources, the Affirmative Action Officer, or their supervisor.

The College encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

Any reported allegations of harassment, discrimination, or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

### **Employee Guidelines**

- ◆ Each employee of the College should report all incidents of discrimination and harassment. If an employee, student, or visitor believes he/she or others are in immediate danger, University Police should be contacted immediately (x2222).
- ◆ All supervisory personnel (administrators, deans, directors, department chairs, supervisors, and resident directors) are responsible for:
  - ✓ Properly responding to discrimination and harassment complaints
  - ✓ Promptly reporting all such complaints to the Affirmative Action Officer or the Director of Human Resources
  - ✓ Obtaining education and training in the area of discrimination and harassment prevention
  - ✓ Discouraging discrimination and harassment in their responsibility areas

- ✓ Ensuring compliance with this policy in their responsibility areas
- ◆ Each employee of the College who believes he/she is being discriminated against or harassed should consider taking one or more of the following actions:
  - ✓ Say No! Say it firmly, without smiling or apologizing. Do not ignore the situation.
  - ✓ Keep a record of what occurred. Include direct quotes, witnesses, and patterns to the harassing behavior. Save any relevant cards, letters, or e-mail messages sent however harmless they may seem.
  - ✓ Talk to the person involved if you feel you can. You might explain why you were offended by what occurred. Sometimes a clearing of the air is all that is necessary.
  - ✓ Write a letter to the person, especially if you feel that direct confrontation might not work or is not possible. If the person does not stop his/her actions, you have a copy of your letter for further use. The letter should include:
    - ◆ Statements of the situation as you see it
    - ◆ A description of your feelings and damage you think has been done
    - ◆ A short statement of what you would like to happen next
  - ✓ Take action. Discuss the situation with your supervisor, the Director of Human Resources, or the Affirmative Action Officer. You can talk to any of these people as your first step or after you have tried to resolve the issue yourself. Anyone you speak to will maintain your confidence to the extent possible.

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**Forms:**

The SUNY Discrimination Complaint Procedure and Forms can be found at <http://www.brockport.edu/aao/Discrim%20Complaint%20Procedure.pdf>

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**Reference(s):**

The SUNY Discrimination Complaint Procedure:

<http://www.brockport.edu/aao/Discrim%20Complaint%20Procedure.pdf>

EEOC: <http://www.eeoc.gov>

NYS Division of Human Rights: <http://www.dhr.state.ny.us>