

SEXUAL AND DISCRIMINATORY HARASSMENT

TITLE IX NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY OFFICIAL POLICY STATEMENTS

The University of New England (“the University”) is committed to maintaining a fair and respectful environment for living, work and study. To that end, and in accordance with federal and state law, and University policy, the University prohibits any member of the faculty, staff, administration, Trustees, student body, vendors, volunteers or visitors to campus, whether they be guests, patrons, independent contractors, or clients, from harassing and/or discriminating against any other member of the University community because of that person’s race, sex (including sexual harassment), sexual orientation, gender identity and expression, ethnicity or national origin, religion, age, creed, color genetic information, physical or mental disability, HIV status, or status as a disabled veteran or veteran of the Vietnam era. Incidents of harassment and discrimination will be met with appropriate disciplinary action, up to and including dismissal from the University.

This policy is enforced by Federal Law under Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. It is also enforced under Maine law through the Maine Human Rights Act at 5 M.R.S.A. section 4551 et. Seq. Inquiries regarding compliance with these statutes may be directed to the Executive Director of Human Resources, 11 Hills Beach Road, Biddeford, ME 04005, 207-602-2339 or to the Director, Office of Civil Rights, Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921, (617) 289-0111 or the Maine Human Rights Commission, 51 State House Station, Augusta, ME 04333-0051, (207) 624-6290.

NON-DISCRIMINATION AND EQUAL OPPORTUNITY

Consistent with federal and state law and University policy, the University of New England restates its commitment to the concepts of equal opportunity.

Neither employment nor study, nor institutional services, programs, and activities should be hindered by such prohibited bias factors as race, sex, sexual orientation, gender identity and expression, ethnicity or national origin, religion, age, creed, color genetic information, physical or mental disability, HIV status, or status as a disabled veteran or veteran of the Vietnam era. Prohibited bias factors will not be permitted to have an adverse influence upon decisions regarding students, employees, applicants for admission, applicants for employment, contractors, volunteers or participants in and/or users of institutional programs, services, and activities. The University of New England will continue in its efforts to maintain an institutional environment free of such bias and restates its policy prohibiting the interference of such bias factors in institutional processes.

Every member of this university community is expected to uphold this policy as a matter of mutual respect and fundamental fairness in human relations. Every student of this institution has a responsibility to conduct himself/herself in accordance with this policy as a condition of enrollment. Further, every University employee has an obligation to observe UNE policies in implementation of federal and state law as a term of employment.

Merit and productivity, free from prohibited bias, will continue to guide decisions relating to employment and enrollment. No person will be penalized for good faith utilization of channels available for resolving concerns dealing with prohibited bias.

Within any limits imposed by concurrent jurisdiction of the University of New England and other agencies of the state of Maine, no internal procedure or process for resolution of such concerns will be used for the purpose of abridging the access of any member of this institutional community to the courts or to compliance agencies.

DEFINITIONS

Sexual Misconduct/Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, "sexual misconduct and sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature, when:

- Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in a course, program or activity;
- Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
- Such conduct has the purpose or effect:
 - of interfering with the individual's work or educational performance;
 - of creating an intimidating, hostile, or offensive working and/or learning environment; or
 - of interfering with or limiting one's ability to participate in or benefit from an educational program or activity.

Examples of sexual misconduct and sexual harassment may include, but are not limited to the following:

- Physical assault, and/or physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the use of drugs or alcohol, or due to an intellectual or other disability. This includes rape, sexual assault, sexual battery and sexual coercion.
- Direct or implied threats that submission to sexual advances will be a condition of employment, work status, compensation, promotion, grades, or letters of recommendation.
- Sexual advances, physical or implied, or direct propositions of a sexual nature. This activity may include inappropriate/unnecessary touching or rubbing against another, sexually suggestive or degrading jokes or comments, remarks of a sexual nature about one's clothing and/or body, preferential treatment in exchange for sexual activity, and the inappropriate display of sexually explicit pictures, text, printed materials, or objects that do not serve an academic purpose.
- A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or that humiliates another.
- Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history that do not serve a medical or academic purpose.

Sexual misconduct or sexual harassment can occur regardless of the relationship, position or respective sex of the parties. Same sex harassment violates this policy as does harassment by a student of a faculty member or a subordinate employee of his/her supervisor.

DISCRIMINATORY HARASSMENT

At the University of New England, discriminatory harassment is defined as:

Unwelcome verbal or physical conduct based on race, sex, sexual orientation, gender identity and expression, ethnicity or national origin, religion, age, creed, color, genetic information, physical or mental disability, HIV status, or status as a disabled veteran or veteran of the Vietnam era, when:

- Such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance;
- Such conduct creates or has the intention of creating an intimidating, hostile, or offensive

- working and/or learning environment; or
- Such conduct unreasonably interferes with or limits one's ability to participate in or benefit from an educational program or activity.

TITLE IX COORDINATOR

The Executive Director of Human Resources serves as the University's Title IX Coordinator. The Title IX Coordinator is the individual designated by the President with responsibility for providing education and training about discrimination and harassment to the University community and for receiving and investigating reports and complaints of discrimination and harassment in accordance with this policy. The Title IX Coordinator can be reached at the Human Resources Office at (207) 602-2339 and 11 Hills Beach Road, Biddeford, ME 04005. The Title IX Coordinator is authorized to designate other appropriately trained individuals to investigate discrimination and harassment complaints and reports as deemed appropriate.

All complaints of discrimination and/or harassment under this policy should be made to the Title IX Coordinator, at the office number and address listed above. This includes complaints concerning administrators, supervisors, employees, staff, faculty, vendors, volunteers, students, athletes, and visitors.

SCOPE

APPLICABILITY

The University's Non-Discrimination and Anti-Harassment Policy applies to all faculty, Trustees, staff, administration, supervisors, employees, the student body, athletes, vendors, volunteers and visitors to campus. This includes guests, patrons, independent contractors, or clients of the University of New England. This Policy prohibits sexual harassment and discrimination in any University education program or activity, which means all academic, educational, extracurricular, athletic and other programs.

Off-campus programs and activities are covered by this policy and include, but are not limited to, study abroad programs, internships, student teaching, and applied learning, such as but not limited to, on-line course experiences. Faculty, staff, administration, supervisors, employees, volunteers and students who feel that they have experienced discrimination and/or harassment while participating in off-campus programs and activities should immediately report such incidents to the program director, Student Affairs, or the Title IX Officer. Non-University visitors, guests, patrons, independent contractors or clients who fail to address discrimination and/or harassment of which they know or should have known (by their personnel on premises under their control) of administrators, faculty, staff, supervisors, volunteers, students or employees may be subjected to whatever sanctions the relationship with the organization permits.

This policy is not meant to address differences in opinion regarding validity of employment determinations such as salary recommendations, promotion and tenure decisions, performance evaluations, hiring decisions, job classification decisions, transfers or reassignments, termination or layoff because of lack of work or elimination of a position, and normal supervisory counseling. Furthermore, this policy does not intend to address behaviors that do not constitute discriminatory harassment. Offensive workplace behavior that does not violate this policy should be addressed to the appropriate supervisor or office.

ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION

The University is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. However, these freedoms come with a responsibility that all members of the education community benefit from these freedoms without intimidation. In recognition and support of academic freedom for faculty in the pursuit of teaching, academic freedom and freedom of expression shall be strongly considered in investigating and reviewing complaints and reports of discrimination and/or harassment. However, raising issues of academic freedom and freedom of expression will not excuse behavior that constitutes a violation of the law or the University's Non-Discrimination and

Anti-Harassment Policy.

SUPERVISORY/AUTHORITY RELATIONSHIPS

No individual who is in a position of authority over another, either in the employment or educational context, has the authority to discriminate against or harass others by virtue of his or her role. The University does not in any way, expressly or impliedly; condone discrimination or harassment by any employee or person in a position of authority, an administrator, or a supervisor. Furthermore, a supervisor, administrator, or person in a position of authority who does not appropriately handle reports or incidents of discrimination and/or harassment, or who does not report incidents about which he/she becomes aware to the Title IX Coordinator may be subject to disciplinary action. All members of the University community including students, contract vendors, trustees, employees and others should report any discrimination and/or harassment that they experience and/or observe to the Title IX Coordinator. No UNE community member should assume that an official of the University of New England knows about a particular situation.

CONSENSUAL RELATIONSHIPS IN REGARD TO SEXUAL MISCONDUCT/SEXUAL HARASSMENT

When one party has a professional relationship toward the other, or stands in a position of authority over the other, even an apparently consensual sexual relationship may lead to sexual harassment or other breaches of professional obligations. For the personal protection of all members of the UNE community, the University strongly discourages all relationships where such a power differential exists. Consensual romantic or sexual relationships in which one party maintains a direct supervisory and/or evaluative role over the other party constitute a conflict of interest both intrinsic to the relationship and may be perceived by others as preferential. Therefore, the University requires that persons with direct supervisory and/or evaluative responsibilities who are involved in such romantic or sexual relationships act immediately to remove themselves from any decision making regarding the individual in the lesser power position including but not limited to grading, evaluating, supervising, or in any way influencing any of the terms or conditions of that individual's education and/or position of employment, and bring the existence of the relationship to the attention of their senior administrator in a timely fashion. The notification will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities or to shift the individual out of being supervised or evaluated by the person with whom the individual is in the consenting relationship. Failure to self-report such relationships can result in disciplinary action.