

UNIVERSITY OF NEW ENGLAND

DISCRIMINATION AND HARASSMENT POLICY

2011-2012 Academic Year

I. Policy

A. University Policy on Harassment

Consistent with state and federal law, the University of New England does not, under any circumstances, tolerate or condone discrimination, including but not limited to the physical or mental harassment of its employees or students on the basis of race, color, sex, disability, religion, age, ancestry, national origin, or sexual orientation. In keeping with efforts to promote and maintain an environment in which the dignity and worth of all people is respected, the University of New England considers discrimination against students and employees unacceptable and cause for disciplinary action, up to and including dismissal from the University.

The University of New England is fully committed to procedures that will protect the rights and dignity of all concerned parties, in both the prevention and investigation of allegations of discrimination and harassment.

B. Definitions

- 1) Sexual harassment may involve the behavior of a person of either sex that affects a person of the opposite or same sex, and is defined as unwelcome sexual advances, requests for sexual favors, sexual coercion, or other verbal or physical conduct of a sexual nature, or any sexual violence when:
 - a) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or academic status; or
 - b) Submission to or rejection of such conduct is used as the basis for decisions affecting that individual's academic standing or employment; or
 - c) Such conduct has the purpose or effect of interfering with an individual's educational experience or work performance, or creates an intimidating, hostile, or offensive employment, educational, or living environment.
 - d) Such conduct of using pressure or force to have sexual contact with someone who has already refused.
 - e) Such conduct involving any form of sexual violence such as but not limited to rape, sexual assault, sexual battery, and sexual coercion.
- 2) Harassment on the basis of race, color, mentally or physically disabling conditions, religion, age, sex, citizenship, ancestry, national origin, or sexual orientation occurs when the conduct of a person or persons has the purpose or effect of interfering with an individual's educational experience or work performance, or creates an intimidating, hostile, or offensive employment, educational, or living environment.
- 3) Discrimination means to make an illegal distinction in treatment of or to adversely affect one's status as an employee or student based upon race, color, sex, marital status, veteran status, citizenship, disability, religion, age, ancestry, national origin, or sexual orientation.

II. Procedures

A. Informal Resolution

The VPSA and the Title IX Coordinator for the University have considerable training and expertise in discussing concerns about discrimination and harassment, and can serve as resources for people seeking to informally resolve concerns. They can help to identify alternative ways of resolving the problem, and may also help the complainant to draft a formal statement of grievance.

B. Formal Complaint

A formal complaint should be filed with the Title IX Coordinator. This role is filled at the University by the Associate Vice President of Human Resources.

The Title IX Coordinator or designated complaint officer shall immediately begin an investigation. The purpose of the investigation is to determine whether a violation of this policy has occurred. The complaint officer has an obligation to conduct

a thorough and objective investigation in a timely fashion, assuring appropriate confidentiality and assuring that the accused has a full opportunity to respond to allegations.

At the conclusion of the investigation involving complaints against an employee, the active complaint officer will, in consultation with the other complaint officer, submit a written report of findings and recommendations to the appropriate Senior Administrator. That Senior Administrator shall act on the report and take corrective action as appropriate. The Senior Administrator shall consult with the President before any decision on action is made. Upon completion of the proceedings, the parties will be promptly informed of the results of the investigation and the outcome of the proceedings to the extent permitted by law. In complaints against a student, the judicial procedures as outlined in Article IV of the Student Conduct Code will apply.

C. Appeals Process

The right to appeal the Senior Administrator's decision is available to the complainant or the respondent, as follows:

- 1) Students may appeal through the established appeals process described in the Student Handbook;
- 2) Employees may appeal by use of the grievance procedure described in the Faculty or Personnel Handbooks, as appropriate.

III. Confidentiality

A. Protection of Complainant

Except when necessary to comply with the University's obligations under state and federal law, investigations of complaints will be initiated only with the complainant's consent. The complainant will be informed of steps taken during the investigation. All reasonable action will be taken to assure that the complainant, and those speaking on behalf of the complainant or supporting the complainant in other ways, will suffer no retaliation as the result of their activities with regard to the process.

B. Protection of the Accused

The accused will be informed of the investigation in a timely manner and will be given an opportunity to respond.

A complainant found to have been intentionally dishonest or malicious in making the allegations may be subject to disciplinary action.

C. Protecting Both Parties

To the extent possible, the proceedings will be conducted in a manner to protect the confidentiality of both parties.

D. Maine Human Rights Act

There is a legal complaint procedure available under the Maine Human Rights Act. A complaint must be filed with the Maine Human Rights Commission within six months after the event giving rise to the complaint. The Maine Human Rights Commission may be contacted at the following address and telephone number:

Maine Human Rights Commission
State House Station 51
Augusta, ME 04333
(207) 624-6050

IV. CLINICAL, FIELD PLACEMENT OR THIRD PARTY STUDY ABROAD SITES

A. Definition

The University of New England will not tolerate or condone harassment (as defined above) of or by its students or employees in Clinical Field Placement sites, or in any location affiliated with the University academic program of a student.

Harassment of any student or employee of the University of New England shall not be tolerated from any field or clinical instructor, employee, UNE student, recipient of services, or representative of the clinical/field affiliated site. Nor, will the University of New England tolerate any harassment by a University of New England student or employee involving an employee, UNE student, or recipient of services at an affiliated site.

B. Procedures

When a student or employee believes he/she has been the object of harassment in the clinical or field setting, the student or employee should notify the clinical/field supervisor and University's Title IX Coordinator. The student or employee may pursue an Informal Resolution or file a Formal Complaint (see Part II, Procedures, above). In the case of a Formal Complaint, the University has no authority to compel participation by individuals not students at or employees of the University, but the complaint officer will seek the cooperation of those individuals as part of the investigation. The complaint officer, in consultation with the student or employee, will notify the clinical site or field setting of the complaint so that action may be taken under that site's or setting's harassment policy, and may defer the University's investigation, in consultation with the complaining student or employee, pending the results of the clinical site or field setting investigation.

When a complaint is received regarding the behavior of a University of New England student or employee, the person receiving the complaint will notify the clinical/field supervisor and the Title IX Coordinator. The University will conduct its own investigation independent of any investigation conducted by the clinical site or field setting. In conducting the investigation, the complaint officer will seek to speak directly with the complainant, but where circumstances warrant may rely upon information received in writing or from supervisory personnel at the clinical site or field setting.

V. SANCTION/RESOLUTION STATEMENT

- A. Any student or employee found responsible of sexual exploitation or sexual harassment will receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary infractions.*
- B. In some instances, the affiliated site and the complaint officers will determine that the involved student or employee should be placed in an alternate affiliated site or removed from any affiliated site.

* The complaint officers reserve the right to broaden or lessen any range of sanctions or recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the complaint officers nor any appeals body or judicial officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

In all cases of harassment or discrimination, the decision involving a student/employee in a clinical or field placement site is considered an academic, personnel, or disciplinary decision. If the student disagrees with the decision with sufficient reason (as defined in appeals procedures), the student may use the Academic or Disciplinary Appeals Policy and Process as described in the Student Handbook. An employee may use grievance procedures as described in the Personnel Handbook.