



ST. JOHN'S  
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# Policy 704 - Policy against Discrimination and Harassment and Related Complaint Procedures

**Section:** Employee Relations

**Policy Number:** 704

**Responsible Office:** HR/Equal Opportunity and Compliance (</about/administrative-offices/human-resources/equal-opportunity-and-compliance>)

**Effective Date:** 07/11/95

**Revised:** 04/01/01; 06/14/05; 12/15/09; 04/04/13; 06/01/15

## Scope

All members of the University Community may use this procedure. For the purpose of this policy, the University Community includes, but is not limited to, all faculty, administrators, staff (including student workers), students, alumni, interns, members of the Board of Trustees, and members of University-sponsored advisory committees. Visitors to the University, vendors and service-providers also may be subject to this policy.

## Policy

Consistent with the University's mission as a Catholic, Vincentian, and metropolitan institution of higher education, the University abides by all applicable federal, state and local laws that prohibit discrimination (as defined below) in any educational or employment program, policy, or practice of St. John's University, New York. In accordance with these laws, the University also prohibits retaliation against anyone who has complained about discrimination or discrimination-related harassment, or otherwise exercised rights guaranteed by these laws. All University policies, practices, and procedures are administered in a manner that preserves its rights and identity as a Catholic and Vincentian institution of higher education. All members of the University Community have an obligation to cooperate in the application of this policy and the investigation of complaints of violations to this policy.

## Definitions of Prohibited Discrimination and Harassment

**Discrimination:** This includes employment and educational decisions made on the basis of race, religion, color, national or ethnic origin, age, sex (including sexual harassment and sexual violence), sexual orientation, marital status, citizenship status, disability, genetic information, status as a victim of domestic violence or status in the uniformed services of the United States (including veteran status).

**Discrimination-related Harassment:** Verbal or physical conduct that creates an unwelcoming and hostile environment for people because of their personal characteristics that are protected by law.

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**Sexual Harassment:** Sexual harassment is a form of discrimination and violates the law. It includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence when: 1) submission to such conduct is made either explicitly or implicitly a condition of an individual's employment or education; 2) submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; 3) conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance by creating an intimidating, hostile or offensive employment, education, or living environment; 4) such conduct has the purpose or effect, when judged from the perspective of a reasonable person in the position of the complaining individual, of creating an intimidating, hostile or offensive environment for working, learning, or enjoying other University opportunities, programs and activities. This definition of sexual harassment will be interpreted and applied consistently with current legal standards, as well as accepted standards of mature behavior, professional responsibilities, academic freedom and freedom of expression.

**Examples of Discrimination-related and Sexual Harassment:** Each member of the University community must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Subjecting employees or students to harassment by a visitor to campus or while off-campus in the course of conducting University business is also prohibited by this policy. Forms of discrimination-related and sexual harassment include, but are not limited to:

Form:

Description:

Verbal

Repeated sexual innuendoes, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds, phone calls

Visual/Non-Verbal

Derogatory posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; obscene gestures or exhibitionism; transmission of such offensive material through the mail or using any electronic communication medium (e.g. text messages, email, a social networking service or the Internet)

Physical

Unwanted physical contact, including touching, patting, pinching, hugging, brushing against another's body, or interference with an individual's normal physical movements, attempted sexual assault, sexual assault

**Examples of Discrimination using Terms and Conditions of Employment or Education:**

1) Making or threatening to make reprisals as a result of a negative response to harassment by making explicit or implied suggestions that submission to or rejection of sexual advances will affect decisions regarding an individual's terms or conditions of employment or education.

2) Making employment or educational decisions affecting an individual on the basis of personal characteristics that are protected by law.

Employment terms and conditions can include hiring, job classification, work assignments or status, salary or other compensation, promotion or transfer, discipline, discharge, layoff, leaves of absence, job training, benefits or other terms or conditions affecting one's employment.

Educational terms and conditions can include academic standing, grades, participation in programs or activities, athletic opportunities, receipt of financial aid, grants, leaves of absence or other terms or conditions affecting one's education.

## Non-Fraternization

Relationships between individuals in inherently unequal positions may undermine the real or perceived integrity of the supervision and evaluation process, as well as affect the trust inherent in the educational environment. It is the policy of St. John's University that respect for the individual in the University community requires that amorous or sexual relationships not be conducted by persons in unequal positions.

The University considers it inappropriate for any member of the faculty, administration, or staff to establish an intimate relationship with a student, subordinate, or colleague upon whose academic or work performance he or she will be required to make professional judgments. In the event that a romantic relationship predates a manager/subordinate reporting relationship or develops among employees who may have an actual or perceived unequal relationship in the organization, it is the obligation of both parties to disclose to the Office of Human Resources the nature of that relationship so that any potential or perceived conflicts of interest can be addressed and the reporting relationship changed to ensure that there is no direct or indirect oversight of work performance.

The University considers it a violation of this policy for any member of the faculty, administration, or staff to offer or request sexual favors, make sexual advances, or engage in sexual conduct, consensual or otherwise, with a person who is:

- Enrolled in a class taught by the faculty member or administrator
- Receiving academic advising or mentoring from the faculty member or administrator
- Working for the faculty member, administrator or staff
- Subject to any form of evaluation by the faculty member, administrator or staff.

Please note that the list above is not exhaustive and other situations of fraternization may also result in a violation of this policy. In all such circumstances, consent may not be considered a defense against a charge of sexual harassment in any proceeding conducted under this policy. The determination of what constitutes sexual harassment depends on the specific facts and the context within which the conduct occurs.

Teaching and research fellows, doctoral and graduate assistants, tutors, interns, and any other students who perform work-related functions for the University are also subject to this policy.

Additionally, any employee who becomes aware of a relationship that is or may be prohibited by this policy should report such relationship to the Human Resources Compliance Officer.

## Complaint Procedure

Any member of the University community who believes that he or she has experienced prohibited discrimination or discrimination-related harassment or sexual harassment in employment or in the context of academic pursuits should use the Complaint Procedure described below for the prompt and equitable resolution of complaints. Retaliation against anyone who makes a complaint or participates in the complaint process is prohibited. Those who wish to file a complaint may do so using either the Informal or the Formal Complaint Procedures. Similarly, any member of the University community who becomes aware of potentially discriminatory or harassing conduct directed at another member of the University community should report such conduct to any of the administrative officials listed below or to the HR Compliance Officer.

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**Definitions:**

Complainant— The person making the complaint.

Respondent—The person against whom a complaint is being made.

## A. Coverage and Reporting

1. All members of the University Community may use this procedure. For the purpose of this policy, the University Community includes, but is not limited to, all faculty, administrators, staff (including student workers), students, alumni, interns, members of the Board of Trustees, and members of University-sponsored advisory committees. Visitors to the University, vendors and service-providers also may be covered by this policy.
2. Any member of the University community who believes he or she has experienced prohibited discrimination, discrimination-related harassment or sexual harassment in employment or in the context of academic pursuits should promptly report the matter to

**Staff**

Immediate Supervisor, Department Head, Dean of the Respondent, Member of HR Services

**Faculty**

Department Chair or Dean of the School/College of the Respondent

**Students**

Immediate Supervisor, Department Chair, Supervisor or Dean of the Respondent, Dean of Student Life, HR Student Employment Supervisor

**Administrators**

Immediate Supervisor, Department Head, Member of HR Services

Individuals may also report a complaint directly to the Human Resources Compliance Officer. The HR Compliance Officer located in the University Center on the Queens campus, and may be reached at (718) 990-2660 or [EmployeeRelations@stjohns.edu](mailto:EmployeeRelations@stjohns.edu) (mailto:EmployeeRelations@stjohns.edu). The HR Compliance Officer also serves as the University's Title IX Coordinator (/student-life/title-ix)for gender equity matters.

Any faculty member who is accused of discrimination that could constitute a violation of this Policy will be advised that he/she may have a union representative accompany the faculty member to any interviews in connection with the subject matter of the complaint in accordance with the procedures outlined in the Collective Bargaining Agreement.

## B. Confidentiality and Non-Retaliation

Cases involving discrimination and/or discrimination-related harassment or sexual harassment are particularly sensitive and demand special attention to issues of confidentiality. Dissemination of information relating to the case should be limited to individuals who have a legitimate need to know or who have information. Every effort should be made to protect members of the University Community so that they may use the discrimination and harassment complaint procedures without fear of reprisal or retaliatory action. Retaliation against anyone who makes a complaint or participates in the complaint process or has engaged in any other protected activity is prohibited. Prohibited retaliation may include taking adverse action or treatment that leads to a negative impact on an individual's employment or educational experience.

## C. Informal Complaint Procedure

The informal procedure, which does not require a written complaint, is the most commonly used procedure to address complaints of discrimination, discrimination-related and sexual harassment. Though referred to as informal, this procedure and its outcome are official. During the initial phase of the informal complaint procedure, the Complainant may meet with the appropriate administrative officials designated in section A.2, above, or with the HR Compliance Officer directly in order to describe the complaint verbally. While a written outline of the complaint is not required at this stage, such a written outline or any other written materials related to the complaint will be reviewed if made available. The administrative official will forward the matter to the HR Compliance Officer to investigate the complaint. This investigation may include, but is not limited to, meetings with the Complainant, the Respondent, and any other appropriate campus administrators, faculty members, members of the non-academic staff and/or students who may have knowledge of the situation. An attempt to resolve the complaint with the Complainant and the Respondent will follow. Resolutions developed at the local level that involve disciplinary action against the Respondent must be reviewed by the HR Compliance Officer prior to implementation.

## D. Formal Complaint Procedure—Reporting

1. The formal complaint procedures may be used instead of the informal procedure for the processing of a complaint. A formal written complaint may be filed with the HR Compliance Officer of St. John's University.
2. Except as noted in G.1 of this document, in general a formal complaint should be filed by the Complainant within sixty (60) calendar days following the alleged discriminatory act(s) or the date on which the Complainant first knew of such alleged act(s).
3. The written complaint statement must include the following:
  - a. The Complainant's name, campus location, and status within the University Community, including title, department, and school or college, as appropriate.
  - b. The basis of the alleged act(s) of discrimination or harassment (hereinafter called the "alleged act"); that is, race, religion, color, national or ethnic origin, age, sex, sexual orientation, marital status, citizenship status, disability, genetic predisposition or carrier status, status in the uniformed services of the United States (including veteran status) or retaliation.
  - c. A brief description of the alleged act(s) and the Complainant's reason for concluding that it was discriminatory or harassing.
  - d. The name and position in the University Community held by the Respondent.
  - e. Copies of materials or names of witnesses, if any, which may be relevant to the investigation of the complaint.
  - f. A statement indicating whether or not the Complainant has initiated a court action or filed a charge of harassment or a complaint of discrimination concerning the alleged act(s) with a local, state, or federal agency.
  - g. The date(s) on which the alleged act(s) were committed.
  - h. The date on which the Complainant first knew of the alleged act(s).
  - i. A statement indicating the remedy sought by the Complainant.
  - j. The signature of the Complainant.
4. At any stage of these procedures, the HR Compliance Officer may designate an individual(s) to serve as a co-investigator or in the place and stead of the HR Compliance Officer.

## E. Formal Complaint Procedure—Processing

1. As soon as possible, but within fourteen (14) calendar days after receipt of the written complaint, the HR Compliance Officer of the University shall review the materials which comprise the written complaint, and may either commence investigation of the complaint personally, or appoint a designee or designees to investigate or co-investigate the complaint. Such an investigation may include initial meetings with the Complainant and with the Respondent, a discussion of the available procedures, and a discussion of possible avenues for resolution of the complaint.
2. The HR Compliance Officer shall, as soon as possible, but within sixty (60) calendar days after receipt of the written complaint, make every effort to resolve the complaint.

3. As soon as possible, but within a reasonable time after the end of the information processing described in Sec. E.1 & 2, the HR Compliance Officer shall notify the Complainant in writing of the outcome of the investigation. This final and binding resolution will be non-appealable.

## F. Remedial and Disciplinary Action

The HR Compliance Officer (and if appropriate, key supervisory personnel) will communicate as appropriate with the Complainant and the Respondent any resulting remedial action and/or discipline imposed. When the University finds that a violation of this policy has occurred, appropriate and timely disciplinary action will be taken, up to and including separation from the University. The University will follow applicable University procedures including those provided in the Collective Bargaining Agreement and University Statutes, in taking any disciplinary action.

## G. Further Provisions on Time Limits

1. The University may, at its discretion, extend any of the time limits imposed in this policy.
2. If the Complainant fails to respond within the time limits provided, upon written notice of such failure, the complaint may be deemed to have been withdrawn
3. In the event of a question of the timeliness of any complaint, complaint appeal or response, postmarks shall be determinative.

## Employment at Will

This complaint procedure is intended to provide for the prompt and equitable resolution of student and employee complaints alleging discrimination and harassment. It is not intended to create, and does not create, an employment contract or a guarantee of continued employment for any employee. Therefore, the University is free to discharge at-will employees at any time for any reason, just as an employee may resign at any time for any reason. Furthermore, the University may amend or rescind any of the provisions of this policy and the complaint procedure from time to time in its sole discretion.

*St. John's University, New York  
Human Resources Policy Manual*



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