



## THE COLLEGE OF NEW JERSEY

### POLICY PROHIBITING DISCRIMINATION IN THE WORKPLACE/EDUCATIONAL ENVIRONMENT

#### **I. POLICY**

##### **a. Protected Categories**

The College of New Jersey is committed to providing its current and prospective employees and students with a workplace/educational environment free from prohibited discrimination or harassment. Under this Policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

To achieve the goal of maintaining a work/educational environment free from discrimination or harassment, the College strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the College reserves the right to take either disciplinary action, if appropriate, or other corrective action, to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

##### **b. Applicability**

Prohibited discrimination/harassment undermines the integrity of the academic environment and employment relationship, compromises equal employment opportunity, debilitates morale and interferes with the opportunity for all persons to fully participate in the academic, work and living environment of the College. This Policy Prohibiting Discrimination in the Workplace/Educational Environment (this “Policy”) applies to all employees, including student employees with respect to conduct that arises out of their employment status, and applicants for employment at the College. Other individuals and entities contracted by the College to perform services must also conform to the standards in this Policy. This Policy is based upon the State Policy Prohibiting Discrimination in the Workplace (N.J.A.C. 4a:7-3.1) that applies to all employees. However, this Policy explicitly applies to discrimination/harassment by employees against students and hostile environments in the educational environment. Discrimination/harassment alleged to have been committed by students against students is covered separately by the policies and procedures set forth in the Student Handbook.

The College of New Jersey will not tolerate discrimination or harassment by anyone in the workplace/educational environment including supervisors, co-workers, or persons doing

business with the College. This Policy applies to conduct which occurs in the workplace/educational environment, which encompasses the College campus and properties owned or controlled by the College, but also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the College, such as any field location, any off-site business-related social function, or any facility where The College of New Jersey business is being conducted and discussed.

This Policy also applies to third party harassment. Third party harassment is unwelcome behavior involving any of the protected categories referred to in (a) above that is not directed at an individual but exists in the workplace/educational environment and interferes with an individual's ability to do his or her job as an employee or a student. Third party harassment based upon any of the aforementioned protected categories is prohibited by this Policy.

## **II. PROHIBITED CONDUCT**

### **a. Defined**

It is a violation of this Policy to engage in any employment/educational practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in I(a) above. This Policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions and career development, as well as to all educational practices such as instruction, grading, advising, selection, recommendations, honors, awards and discipline.

It is also a violation of this Policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in I(a) above, which have the effect of harassing an employee or student or creating a hostile work/educational environment. A violation of this Policy can occur even if there was no intent on the part of an individual to harass or demean another.

### **Examples of Behaviors That May Constitute Prohibited Workplace Discrimination or Harassment Include, But Are Not Limited To:**

- Discriminating against an individual because of being in one or more of the protected categories referred to in I(a) above;
- Treating an individual differently because of the individual's race, color, national origin or other protected category, or because an individual has the physical, cultural or linguistic characteristics of a racial, religious, or other protected category;
- Treating an individual differently because of marriage to, civil union to, domestic partnership with, or association with persons of a racial, religious or other protected category; or due to the individual's membership in or association with an organization identified with the interests of a certain racial, religious or other protected category; or because an individual's name, domestic partner's name, or spouse's name is associated with a racial, religious or other protected category;

- Calling an individual by an unwanted nickname that refers to one or more of the above protected categories, or telling jokes pertaining to one or more protected categories;
- Using derogatory references with regard to any of the protected categories in any communication;
- Engaging in threatening, intimidating, or hostile acts toward another individual, in the workplace/educational setting because that individual belongs to, or is associated with, any of the protected categories;
- Displaying or distributing material (including electronic communications) in the workplace/educational environment that contains derogatory or demeaning language or images pertaining to any of the protected categories; or
- Suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments, or status, salary, academic standing, grades, receipt of financial aid and/or letters of recommendation, etc.

b. Sexual Harassment

It is a violation of this Policy to engage in sexual (or gender-based) harassment of any kind, including hostile work/educational environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this Policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a College activity;
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting that individual's academic standing, employment status or participation in a College activity; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work conditions, educational experience or participation in a College activity by creating an intimidating, hostile, or offensive environment.

Examples of prohibited behaviors that may constitute sexual harassment and are therefore a violation of this Policy include, but are not limited to:

- Generalized gender-based remarks and comments;
- Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement;
- Verbal, written, or electronically sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, text messages, invitations, gestures or inappropriate comments about a person's clothing;

- Visual contact, such as leering or staring at another's body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver;
- Explicit or implicit suggestions of sex by a faculty/staff member in return for a favorable action such as hiring, compensation, promotion, retention, or grades, recommendations, etc.;
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse consequence with respect to any employment practice such as performance evaluations or promotional opportunity or any academic practice, such as grading or recommendations; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

### **III. EMPLOYEE AND COMPLAINANT RESPONSIBILITIES**

Faculty/staff should make every effort to maintain an environment that is free from any form of prohibited discrimination/harassment. Any employee or student who believes that she or he has been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/harassment is encouraged to promptly report the incident(s) to the EEO/AA Office. Employees may also report such incidents to the Office of Human Resources or to any supervisor designated by the employee's department head to receive workplace discrimination complaints. Students may also report such incidents to a Dean or the Provost of the College.

All employees are expected to cooperate with investigations undertaken pursuant to VI below. Failure to cooperate in an investigation may result in administrative and/or disciplinary action, up to and including termination of employment.

### **IV. SUPERVISOR RESPONSIBILITIES**

Supervisors shall make every effort to maintain a work/educational environment that is free from any form of prohibited discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the EEO/AA Office. A supervisor's failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For the purposes of this section and in the State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace (Model Procedures), a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader).

### **V. DISSEMINATION**

The College shall annually distribute a copy of this Policy, or a summarized notice of it, to all of its employees, including student, part-time and seasonal employees. This Policy, or summarized notice of it, shall also be posted in conspicuous locations throughout the buildings and grounds of the College (that is, on bulletin boards or on the College's intranet site). The College shall distribute this Policy to vendors/contractors with whom the College has a direct relationship.

## **VI. COMPLAINT PROCESS**

The College EEO/AA Office shall promulgate procedures that describe the process for: Complaint Reporting, Investigation, Complaint Resolution, Appeals, and Filing with External Agencies.

## **VII. PROHIBITION AGAINST RETALIATION**

Retaliation against any employee or student who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of unlawful discrimination/harassment, or opposes a discriminatory practice is prohibited by this Policy. No employee or student bringing a complaint, providing information for an investigation, or testifying in any proceeding under this Policy shall be subjected to adverse employment or educational consequences based upon such involvement or be the subject of retaliation.

Following are examples of prohibited actions taken against an employee because the employee has engaged in activity protected by this subsection:

- Termination of an employee;
- Failure to promote an employee;
- Altering an employee's work assignment for reasons other than legitimate business reasons;
- Imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons; or
- Ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees).

Following are examples of prohibited actions taken against a student because the student has engaged in activity protected by this subsection:

- Providing a grade lower than would otherwise have been assigned;
- Withholding a positive recommendation, honor, or award;
- Providing a negative evaluation; or
- Ostracizing a student (for example, excluding a student in classroom discussion).

## **VIII. FALSE ACCUSATIONS AND INFORMATION**

An employee or student who knowingly makes a false accusation of prohibited discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, may be subjected to administrative and/or disciplinary action, up to and including termination of employment or expulsion. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

## **IX. CONFIDENTIALITY**

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. All persons interviewed, including witnesses, shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in administrative and/or disciplinary action, up to and including termination of employment or expulsion.

## **X. ADMINISTRATIVE AND/OR DISCIPLINARY ACTION**

Any employee found to have violated any portion or portions of this Policy may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to: referral for training, referral for counseling, written or verbal reprimand, suspension, reassignment, demotion, or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

## **XI. TRAINING**

The College of New Jersey will provide students and employees with information regarding the prevention of prohibited discrimination/harassment and the procedure to be followed in filing complaints. The College of New Jersey will provide all new employees with training on this Policy and the related Procedures within a reasonable period of time after each new employee's appointment date. Refresher training shall be provided to all employees, including supervisors, within a reasonable period of time. The College of New Jersey will also provide supervisors with training on a regular basis regarding their obligations and duties under this Policy and the related Procedures.

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See N.J.A.C. 4A:7-3.1