

# EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY

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## Appendix 1 – Hofstra University Harassment Policy

## **HOFSTRA UNIVERSITY—A COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITY**

Hofstra University is a private institution whose primary mission is to provide a quality education to its students in an environment that encourages, nurtures, and supports learning through the free and open exchange of ideas, for the betterment of humankind.

An integral part of Hofstra University’s mission is its commitment to extending equal opportunity to all qualified individuals without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, genetic information, marital or veteran status in employment and in the conduct and operation of Hofstra University’s educational programs and activities, including admissions, scholarship and loan programs and athletic and other school administered programs.

Furthermore, as part of its Diversity Mission, Hofstra University strives to provide a community: (a) of individuals from many diverse backgrounds and with differing interests and goals; (b) that reflects the diversity of the world outside Hofstra; and (c) that promotes intellectual inquiry, dialogue, and other activities pivotal to a democratic society.

Diversity at Hofstra University involves recognizing the value of difference and the inclusion of members of groups that experience discrimination or underrepresentation. This includes a prohibition against discrimination based on race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status or any other characteristic or status protected by state or federal laws or University policy.

Hofstra reaffirms this commitment to equal opportunity and diversity through this Equal Employment Opportunity and Affirmative Action Policy (“Policy”). Upon request, this Policy is available for review by any employee or applicant for employment by appointment during regular business hours. Please contact Denise Cunningham, Chief Human Resources Officer and Equal Rights and Opportunity Officer at 516-463-6859, or Cornell Craig, Chief Diversity and Inclusion Officer at 516-463-6898 for additional information.<sup>1</sup>

Equal opportunity and diversity have been and will continue to be integral University policies. This Equal Employment Opportunity and Affirmative Action Policy endeavors to reaffirm in a single document the principles underlying Hofstra’s policies relating to equality—such as the Equal Opportunity Statement, Diversity Mission and Harassment policy—and to recommit Hofstra University to the continued adherence to these principles.

## **PURPOSE OF EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY**

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<sup>1</sup> For the most current listing of these individuals and their contact information, please refer to Addendum to this “Policy.”

Hofstra University (“Hofstra” or the “University”) developed this Equal Employment Opportunity and Affirmative Action Policy to provide positive action and to assure that Equal Employment Opportunities are given to all people of color and women who are employed by or seek employment with Hofstra. Hofstra is committed to the support of this Policy and to the good-faith effort to achieve its objectives. This Policy has been developed according to Executive Order No. 11246.

The specific objectives of this Policy are to:

1. Identify underrepresentation of people of color, women and/or other underrepresented groups and their underutilization at all levels of employment.
2. Establish realistic policies and practices to achieve the goal of full utilization of women and people of color.
3. Take prompt good-faith efforts to meet the goal of full utilization.
4. Provide data collection, evaluation and reporting systems to evaluate the effectiveness of this Policy.

## **HOFSTRA’S EQUAL OPPORTUNITY STATEMENT**

Hofstra University continues its commitment to extending equal opportunity to all qualified individuals without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status in employment and in the conduct and operation of Hofstra University’s educational programs and activities, including admissions, scholarship and loan programs and athletic and other school administered programs. This statement of nondiscrimination is in compliance with Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act Amendments Act, the Age Discrimination Act and other applicable federal, state and local laws and regulations relating to nondiscrimination (“Equal Opportunity Laws”). The Equal Rights and Opportunity Officer is the University's official responsible for coordinating its adherence to Equal Opportunity Laws. Questions or concerns regarding any of these laws or other aspects of Hofstra’s Equal Opportunity Statement should be directed to Denise Cunningham, Chief Human Resources Officer and Equal Rights and Opportunity Officer at (516)463-6859 C/O Office of Human Resources, 205 Hofstra University, Hempstead, NY 11549. For more information on general student matters (not work-related), contact the Dean of Students or Services for Students with Disabilities Offices, as appropriate.

## **AFFIRMATIVE ACTION POLICY STATEMENT**

1. As part of Hofstra University’s Equal Employment Opportunity and Affirmative Action Policy, we shall:

- a. Recruit, hire, upgrade, train and promote in all job classifications, without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status in accordance with all applicable laws, directives and regulations of federal, state and local entities and University policy;
  - b. Base employment decisions on the principles of Hofstra’s Equal Opportunity Statement, and with the intent to further the University’s affirmative action commitment;
  - c. Ensure that all terms and conditions of employment such as compensation, benefits, layoff, return from layoff, University-sponsored training, educational tuition assistance, social and recreation programs, shall be administered without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status in accordance with all applicable laws, directives and regulations of federal, applicable state and local entities and University policy;
  - d. Ensure that promotion decisions will be made in accordance with this Policy by imposing only valid requirements for promotional opportunities; and
  - e. Take action to prevent harassment including sexual harassment in accordance with Hofstra University’s Harassment Policy.
2. Hofstra will vigorously pursue opportunities to recruit and develop job candidates who have the desire and potential for becoming qualified employees through this Policy.
  3. Management performance as related to this Policy will be evaluated, as is performance in relation to other University goals.

## **IMPLEMENTATION OF THE POLICY**

The Human Resources Department is responsible for the internal and external dissemination of all policies.

1. Internally, Hofstra will disseminate the stated University policies as follows:
  - a. Hofstra’s Equal Opportunity Statement and Equal Employment Opportunity and Affirmative Action Policy (“EO/AA Policies”) will be included the University’s “Policies” internet page on the Hofstra University portal, which serves as the University’s bulletin board.
  - b. The EO/AA Policies are available from the Human Resources Department and Office of General Counsel and are posted on the University’s website.
  - c. The EO/AA Policies will be communicated and discussed with all employees at meetings as needed. Individual employee’s responsibilities will be explained.

- d. On an ongoing basis, the EO/AA Policies will be discussed at employee orientations and applicable training sessions.
  - e. A diverse group people will be depicted in publications in which employees are featured.
  - f. The existence of this Policy will be communicated to all employees on an ongoing basis to enable employees to know and avail themselves of its benefits.
2. Externally, Hofstra will disseminate the EO/AA Policies as follows:
- a. All recruiting sources will continue to be informed, on an ongoing basis, both verbally and in writing of Hofstra’s EO/AA Policies. Hofstra also encourages recruiting sources to recruit and refer candidates who are women or people of color actively.
  - b. Organizations that represent commonly underrepresented groups, community and referral agencies will be notified verbally and in writing on an ongoing basis of Hofstra’s EO/AA Policies.
  - c. Prospective employees will be informed about the existence of Hofstra’s EO/AA Policies.
  - d. A diverse group of people will be represented when Hofstra employees are pictured in consumer or help-wanted advertising.
  - e. Recruitment advertisements and literature will bear the phrase: “An Equal Opportunity Employer.”

## **ADMINISTRATIVE RESPONSIBILITY**

The overall responsibility for implementation and administration of this Policy lies with (a) the Chief Human Resources Officer, with respect to all University staff and administrators; and (b) the Provost, with respect to all University faculty. These officials have the full support of the Office of the President.

Their duties include:

- 1. Develop and update related policy statements, affirmative action policies and internal and external communication techniques;
- 2. Maintain records and data supporting the University’s compliance with this Policy, including the Utilization Analysis discussed below;
- 3. Design and implement auditing and reporting systems that will:
  - a. Indicate the need for any remedial action;

- b. Determine the degree to which the goals and objectives of the Policy are being met; and
  - c. Measure the effectiveness of the Policy.
4. Engage in regular discussions with employees to assure that the Policy is understood and being followed;
  5. Remain informed and keep management informed of the latest developments in the equal employment area, including the requirements of law and designing updates and improvements to the Policy in response to such developments; and
  6. Serve as liaison between the University and organizations concerned with employment opportunities of people from groups that tend to be underrepresented.

The Office of General Counsel will serve as the liaison between the University and any enforcement agencies.

The duties of the Deans, Vice Presidents and department supervisors include:

1. Assist the Provost's Office and Human Resources department in the identification of areas and degrees of underrepresentation and underutilization and in the establishment of reasonable goals and objectives for University departments.
2. Ensure that all University employees are aware of, understand and adhere to the Policy.
3. Review the qualification of all University employees to ensure that full opportunities for transfers, promotions and other advancements are given to people of color and women.
4. Performing periodic audits to ensure that:
  - a. Equal Employment Opportunity posters are properly displayed.
  - b. All employees, especially people of color and women, are encouraged to participate in educational, recreational, social, training, administrative and part-time activities.
  - c. Facilities maintained by the University for the use and benefit of its employees are available to all employees equally and that single-sex facilities are comparable for both sexes.

## **UTILIZATION ANALYSIS**

Hofstra University submits to the Department of Education a report entitled the Integrated Postsecondary Education Data System ("IPEDS Report"). The IPEDS Report, which may be made available upon request, serves as the University's analysis of its workforce.

An affirmative action plan should include an analysis of areas within which the University may be lacking in the utilization of people of color and women. The analysis serves as a benchmarking guide regarding the University's goals and objectives relating to affirmative action. Hofstra's actual employment statistics are compared to applicable labor statistics for the relevant faculty or employment category ("Utilization Analysis"). Hofstra performs this Utilization Analysis separately for faculty and non-faculty.

By advertising in publications addressed to people of color and women and utilizing employment advertisements, the University will provide notice to potential applicants that Hofstra University is committed to equal employment opportunity and affirmative action. Hofstra maintains the capacity to review and monitor personnel activity such as applicant flow, hires, terminations, promotions and other personnel actions.

### **Establishment of Goals**

The following procedures will be followed in establishing the goals for the University:

1. Hofstra will set affirmative action goals, as determined by reviewing the anticipated employment activity, the Utilization Analysis and the availability of qualified candidates.
2. Goals will be reasonable, measurable and attainable.
3. Goals will not be quotas, which are rigid and inflexible. Goals will be targets reasonably attainable by means of applying good-faith efforts to make the Policy work.
4. Support data for the Utilization Analysis will be compiled and maintained as part of the Policy. Analyses of Hofstra's total employment process will be performed to determine whether and where impediments to equal employment opportunity exist, including analysis of personnel activity such as applicant flow, hires, terminations, promotions, and other personnel actions.
5. Placement goals will be established for each job group in which underutilization exists.

## **PERSONNEL PROCEDURES**

Notwithstanding anything herein and consistent with the commitment to equal opportunity and affirmative action goals, the President of Hofstra University has the right to authorize the hiring, promotion or advancement of all qualified candidates or personnel as applicable.

### **Recruitment**

Hofstra University will institute action programs to improve recruitment and increase the flow of people of color and female applicants, including:

1. Disseminate information on job opportunities to organizations representing people of color or women and employment development agencies when job opportunities occur;
2. Encourage all employees to refer qualified applicants;
3. Include the phrase “Equal Opportunity Employer” in all printed employment advertisements;
4. Place help wanted advertisements, when appropriate, in local news media of interest to women or people of color;
5. Where using search firms, obtain assurances from the recruitment firm of access to appropriately qualified women or people of color;
6. Where there exists a sufficient pool of qualified candidates internally, recruitment may be limited to internal candidates, consistent with Hofstra’s commitment to equal opportunity and affirmative action goals;
7. Participate in local job fairs;
8. Include people of color and female members of the workforce in any recruiting brochures presenting pictorial work situations;
9. Additionally, for faculty positions:
  - a. Consult available lists of recent Ph.D. recipients who are women or people of color for junior positions;
  - b. Consult with other universities about potential candidates who are women or people of color;
  - c. Place advertisements in public or professional publications and send notices to institutions, organizations and individuals who might have contact with appropriately qualified women and people of color;
  - d. When departmental personnel committees are constituted, every effort should be made to ensure inclusion of senior faculty from underrepresented groups;

### **Promotions and Other Advancements**

Hofstra University undertakes the following action programs to ensure that employees who are women or people of color have equal opportunity for all promotions and other advancement opportunities:



1. Post promotional opportunities;
2. Offer counseling to assist employees in identifying promotional and other advancement opportunities, training and educational programs to enhance promotions and opportunities for job rotation or transfer; and
3. Evaluate job requirements for promotion or other advancement.

### **Training and Tuition Remission Program**

Training at Hofstra University is open to all employees upon request. Hofstra's Tuition Remission Program provides financial assistance to eligible Hofstra University employees, their spouses or same sex domestic partners and their IRS dependent children. The applicant must meet University admission, registration and other posted requirements. See applicable collective bargaining agreement and the Tuition Remission policy, available online, for details. The Tuition Remission Program enables involvement in a broad range of educational opportunities.

### **Testing**

Hofstra University administers employment testing only for certain positions and the testing is directly related to the performance criteria for the position.

### **Unions**

The unions that currently represent employees at Hofstra University are:

- Hofstra Chapter, American Association of University Professors/AAUP
- Local 153, Office & Professional Employees International Union AFL-CIO
- Local 1102, Retail Wholesale & Department Store Union UFCW
- Local 282, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America
- Local 553, Public Safety, International Brotherhood of Teamsters.

The Office of General Counsel reviews the seniority practices and clauses in union contracts to ensure that such practices or clauses are nondiscriminatory and do not have a discriminatory effect. Nothing in this Policy abridges or is intended to abridge any protections afforded to employees under any applicable collective bargaining agreement.

### **Workforce Attitude**

Hofstra University fosters and encourages a favorable attitude towards the hiring and advancement of people of color and women. The University consistently demonstrates its positive commitment to equal employment and affirmative action.

## **COMPLIANCE WITH SEX DISCRIMINATION GUIDELINES**

1. Recruitment and Advertisement
  - a. Hofstra University recruits employees of both sexes, selecting candidates on the basis of their qualification for the particular job.
  - b. Advertisement in newspapers and other media do not express a sex preference for open positions.
2. Equal Opportunity Employment
  - a. Hofstra University's Equal Opportunity Statement—as well as Hofstra University's posting of updated “Equal Opportunity is the Law” posters—expressly indicate that Hofstra does not discriminate based on sex.
  - b. An employee of either sex has an equal opportunity to any available job that he or she is qualified to perform.
  - c. Hofstra University does not make any distinctions based upon sex in employment opportunities, wages, hours, benefits or other conditions.
  - d. Hofstra University does not discriminate against employees based on their marital status.
  - e. Hofstra University assures appropriate physical facilities to both sexes.
  - f. Hofstra University complies with the Family Medical Leave Act and disability anti-discrimination laws, including with respect to a woman's return to work following childbirth.
  - g. Seniority status is not based upon gender.
3. Wages
  - a. Hofstra University compensates its employees without regard to their status as women or people of color. Differences in compensation shall not be based in any way on sex or other protected status.
4. Affirmative Action
  - a. Hofstra University acts affirmatively to recruit women to apply for those positions where women may have been traditionally excluded.
  - b. Hofstra University is committed to including women as candidates in all programs that will provide women with opportunities to obtain management or tenured positions.
  - c. There are no distinctions based on sex for inclusion in any training program.

## **COMPLIANCE WITH RELIGION AND NATIONAL ORIGIN GUIDELINES**

It is the policy of Hofstra University to recruit, hire, train and promote for all positions without regard to religion or national origin of the applicant.

Hofstra University conducts recruitment and recruitment advertising in a way that does not imply a preference for people of specific religious backgrounds or national origins. Additionally, our EO/AA Policies will be communicated to sources that include organizations with representation of members of various religious and national origin backgrounds.

Hofstra University makes reasonable accommodations to the religious observances and practices of employees or prospective employees, unless doing so would result in undue hardship to Hofstra University. In determining whether undue hardship exists, factors such as cost to Hofstra University, business necessity and the impact on the rights of other employees are considered.

## **REAFFIRMATION OF UNIVERSITY'S EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY**

Hofstra University reaffirms its commitment to the spirit and intent of equal employment opportunity and affirmative action. It is the policy of Hofstra University to provide equal employment opportunity to all employees and applicants.

It is Hofstra University's policy to:

- a. Recruit, hire, upgrade, train and promote in all job classifications, without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status in accordance with all applicable laws, directives and regulations of federal, applicable state and local entities and University policy;
- b. Base employment decisions on the principles of Hofstra's Equal Opportunity Statement, and with the intent to further the University's affirmative action commitment;
- c. Ensure that all terms and conditions of employment such as compensation, benefits, layoff, return from layoff, University-sponsored training, educational tuition assistance, social and recreation programs, shall be administered without regard to race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status in accordance with all applicable laws, directives and regulations of federal, applicable state and local entities and University policy;
- d. Ensure that promotion decisions will be made in accordance with this Policy by imposing only valid requirements for promotional opportunities; and

- e. Take action to prevent harassment including sexual harassment in accordance with Hofstra University's Harassment Policy.

Each employee of Hofstra University has a responsibility to support these objectives and to ensure that this policy is fully implemented within our University. Ensuring a pleasant working environment free of discrimination is the responsibility of everyone at Hofstra University.

Hofstra University encourages any employee to raise questions s/he may have regarding equal opportunity and affirmative action.

The overall responsibility for implementation and administration of this Policy lies with (a) the Chief Human Resources Officer, with respect to all University staff and administrators; and (b) the Provost, with respect to all University faculty. These officials have the full support of the Office of the President. The ultimate responsibility for fulfilling the intent of the Policy lies with every employee of Hofstra University.

## **HOFSTRA UNIVERSITY HARASSMENT POLICY**

See Appendix 1.

## **DISABLED AND PROTECTED VETERANS POLICY STATEMENT**

Hofstra University will not discriminate against any employee or applicant for employment because he or she is an individual with a disability or a protected veteran under federal law ("Protected Veterans") (i.e., qualified special disabled veteran, Armed Forces service medal veteran, or other veteran who served during a war, or in a campaign or expedition for which a campaign badge has been authorized and received by veteran.)

Hofstra University will take affirmative action to employ and to advance in employment all qualified persons regardless of their status as individuals with disabilities or Protected Veterans. This policy shall apply to all employment actions, including recruitment process, hiring, upgrading, promotion, transfer, demotion, training, rate of pay, termination, layoff and other forms of compensation.

## **REASONABLE ACCOMMODATION POLICY STATEMENT**

Hofstra University, in conformance with all relevant federal, state and local nondiscrimination and affirmative action statutes, regulations and other administrative directives, including the Rehabilitation Act of 1973 as amended, the New York State Human Rights Law, the New York State Civil Rights Law, The Americans with Disabilities Act of 1990, as amended, and Hofstra University policy will provide reasonable accommodations to the known physical or mental limitations of qualified individuals with disabilities and qualified disabled veterans, unless such accommodation would impose an undue hardship on Hofstra University.

This policy shall apply to all employment actions, including recruitment process, hiring, upgrading, promotion, transfer, demotion, training, rate of pay, termination, layoff and other forms of compensation.

Employees should address all inquiries to Denise Cunningham, Chief Human Resources Officer. Students should address all inquiries to Student Access Services. Denise Cunningham, Hofstra University's Equal Rights and Opportunity Officer has been designated to oversee coordination of this policy.

## **THE POLICY IS NOT A CONTRACT**

This Policy does not constitute an express or implied contract between the University and its employees, job applicants, or other persons, nor does this Policy give rise to any cause of action. The University reserves the right to change or modify this Policy as it deems appropriate and without notice.

# APPENDIX 1

Faculty Policy Series #43

## HOFSTRA UNIVERSITY HARASSMENT POLICY

### I. Introduction

As an academic institution of higher learning, Hofstra University is dedicated to providing an environment conducive to intellectual and personal growth, with all members of the community encouraged to participate to the fullest extent of their abilities. For Hofstra, this means a firm institutional commitment to academic freedom as defined in Section II of the Faculty Statutes. It also involves a commitment to norms of professional and interpersonal respect ensuring that no individuals are subjected to harassment or discriminated against in any way on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national or ethnic origin, physical or mental disability, marital or veteran status or any other characteristic protected by state or federal laws. These protected traits are referred to as “protected characteristics or beliefs” elsewhere in this Policy.

Harassment based on any of these characteristics is a form of discrimination prohibited by law and by Hofstra University. Whenever a violation of this policy is brought to the University’s attention through appropriate channels or when the University otherwise becomes aware of a violation of this policy, prompt corrective action will be taken. All members of the Hofstra community are encouraged to contact the appropriate University offices if infringements of this policy come to their attention. Retaliation against anyone who files a complaint under this policy or participates in an investigation is prohibited.

### II. Harassment Policy Statement

#### A. Harassment Prohibited

Hofstra University abides by the principle that its students, faculty, staff and administrators have a right to be free from unlawful harassment within the University community. Harassment is the creation of a hostile or intimidating environment in which verbal or physical conduct based on one’s protected characteristics or beliefs, because of its severity and/or persistence, is likely to significantly interfere with an individual’s work or education, or enjoyment of other University opportunities or activities. Harassment also includes coercive or threatening behavior based on one’s protected characteristics or beliefs.

This policy covers the conduct of all University employees and students, as well as third parties such as vendors, contractors and visitors to campus. This applies to all areas of University programs and activities both on and off-campus, including overseas programs.

## B. Definition of Sexual Harassment

Generally, sexual harassment is conduct that exploits power or authority in order to elicit sexual submission, or inappropriate sexual conduct that creates an intimidating, hostile or abusive environment for working, learning, or enjoying other opportunities and activities. Sexual harassment can include a wide range of behaviors, from the actual coercing of sexual relations, to repeated or egregious sexual suggestions or comments, to the unwelcomed emphasizing of sexual identity. The definition of sexual harassment, discussed more fully below, will be interpreted and applied consistent with current legal standards, as well as accepted standards of mature behavior, professional responsibility, academic freedom, and freedom of expression.

Sexual harassment in any situation is reprehensible; it is particularly damaging when it exploits the educational dependence and trust between and among students, faculty, staff and administrators. When the authority and power inherent in certain relationships, whether overtly, implicitly, or through misinterpretation, is abused in this way, there is potentially great damage to all parties involved, and to the educational climate of the institution.

For the purposes of this policy, sexual harassment may be defined as unwelcome sexual advances, requests for sexual favors, and other nonverbal, expressive or physical conduct of a sexual nature, when

- submission to such conduct is explicitly or implicitly made a term or condition of employment or status in a course, program or activity; or
- submission to or rejection of such conduct is used as a basis for an academic or employment decision affecting the individual, or for a decision regarding an individual's status in a course, program or activity; or
- such conduct has the purpose or effect, when judged from the perspective of a reasonable person in the position of the complaining individual, of unreasonably interfering with an individual's academic or work performance, or creating an intimidating, hostile or offensive environment for working, learning, or enjoying other University opportunities, programs and activities.

Determining whether sexual conduct creates an intimidating, hostile, or offensive environment or substantially interferes with an individual's academic or work performance or enjoyment of other University opportunities depends on the specific facts and the context in which the conduct occurs. To constitute sexual harassment, the conduct must be severe or pervasive. Thus, a hostile environment may arise from a single incident if sufficiently egregious, for example, certain physical contact, or from repeated actions such as repeated sexual comments, suggestions or jokes. Further, if such conduct or remarks take place in the teaching context, to conclude that they create an abusive environment it must be shown that

they are not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

Sexual harassment can involve conduct toward an individual of the opposite sex or of the same sex. In addition, sexual harassment may occur between peers or between individuals in a hierarchical relationship.

Examples of conduct covered by this policy (subject to the above conditions) include, but are not limited to:

- unwanted flirtation, advances or propositions of a sexual nature;
- insults, humor, jokes, or anecdotes (not legitimately related to the subject matter of a course, if one is involved) that belittle or demean an individual's or a group's sexuality or sex;
- unwelcomed comments of a sexual nature about an individual's body or clothing;
- unwarranted displays of sexually suggestive objects or pictures;
- unwelcomed touching such as patting, pinching, hugging, or brushing against an individual's body;
- explicit or implied 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, participation in programs or activities, athletic opportunities, receipt of financial aid; grants, leaves of absence, letters of recommendation, or other similar matters;
- tangible action taken against an individual (e.g. a demotion, lower grade) for refusing to submit to sexual advances, or threatening to take such actions; and
- sexual assault. (For additional information about sexual assault involving students, see the Sexual Assault Policy contained in the Guide to Pride).

### C. Definition of Other Forms of Harassment

Unlawful harassment, other than sexual harassment, is conduct that denigrates or shows hostility or aversion to a person on the basis of a protected characteristic or belief when such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive environment for working, learning, or enjoying other University opportunities, programs and activities.



Protected characteristics or beliefs are listed in Section I of this policy.

Examples of other forms of harassment covered by this policy, include, but are not limited to:

- verbal abuse, ridicule, slurs, epithets, stereotyping, and offensive and unwelcome jokes and comments;
- threatening, intimidating, or hostile acts; and
- displaying or distributing offensive materials, writings, graffiti, or pictures that denigrate or show hostility or aversion towards an individual or group based on any of the protected characteristics or beliefs set forth in this policy.

### **III. Harassment Complaint Procedure**

Any member of the University community, including a student or employee, who believes that he or she has been subjected to harassment in violation of this policy may pursue redress through the appropriate complaint procedure. This complaint procedure is provided for the prompt and equitable resolution of complaints alleging harassment by members of the University community, including faculty members, staff members, administrators, and other persons. However, complaints of harassment against students arising out of their conduct as students shall be made to the Dean of Students Office and will be handled in accordance with the provisions set forth in the Student Judicial Code. Members of the University community may also choose to pursue one of the informal options discussed below.

#### **A. Confidentiality**

1. Generally, it is the policy of Hofstra University to protect the confidentiality of members of the University community who may be involved in harassment complaint procedures, insofar as that is reasonably practicable. Specifically, the identity of the complaining party, the identity of the accused offender (hereinafter referred to as the “responding party”), and information relating to the harassment complaint will be disseminated only to those individuals who have a legitimate need to know, or as reasonably necessary for the purpose of investigating or resolving the complaint.

Complaining parties should be informed and understand that, upon their advising a Harassment Adviser or the Equal Rights and Opportunity Officer of a harassment complaint, the University may be legally required to investigate that complaint. Therefore, complaining parties should understand that the complaint may be disclosed, as necessary, to persons other than the one(s) to whom the complaint is made, including the party complained of (hereafter referred to as “the responding party”).

Although the University will endeavor to maintain the confidentiality of harassment complaints and proceedings in accordance with this policy, it cannot absolutely guarantee against the further dissemination of information by individuals to whom such information was reasonably disclosed by the University in the course of a harassment investigation.

2. Waiver of Confidentiality: A complaining party, or a responding party may be deemed to have waived, directly or indirectly, the confidentiality provisions of this policy by voluntarily disclosing information about the complaint or the complaint proceedings to parties within or outside the University community who are not directly involved in the investigation or complaint process. The University retains the right to respond as it deems appropriate, including the right to rebut or refute such allegations consistent with applicable law.

#### B. Retaliation

No individual shall be penalized or retaliated against in any way by a member of the University community for his or her participation in this complaint procedure: This protection includes both the complaining and responding parties and individuals who participate in an investigation of a harassment complaint. Every effort should be made to protect members of the University community so they may use or participate in the harassment complaint procedure without fear of reprisal or retaliatory action. Threats, other forms of intimidation, and retaliation against a complaining or responding party or any other party involved in implementing or utilizing the University's harassment complaint procedure are violations of this policy, and, thus, may be grounds for disciplinary action, including separation from the University, consistent with appropriate procedures.

Individuals who believe they have been retaliated against in violation of Hofstra's harassment policy must follow the complaint procedures outlined herein, and such complaints will be processed in accordance with those procedures.

#### C. Informal Procedure

The goal of the informal options is to end quickly the offending behavior without utilizing disciplinary action or the formal complaint procedure. However, no one is required to pursue an informal resolution and a complaining party may proceed immediately to the formal complaint procedure. If the informal options are not feasible or desired or do not result in a mutually agreeable solution or cessation of the offending conduct, the formal complaint procedure is available as well.

Informal options include:

- Talking directly to the other party or writing a letter describing the unwelcome behavior and asking him or her to stop.
- Consulting with a University Harassment Adviser. Harassment Advisers are individuals specially trained by the University who are available to anyone to discuss issues relating to harassment or the University's policy and procedures. Harassment Advisers may assist the parties in resolving a

complaint informally without the need to file a formal complaint. A current list of Harassment Advisers is available from the Human Resources Office and the Equal Rights and Opportunity Officer.

- Speaking to members of the Student Counseling Center or campus Chaplains. Such conversations may be confidential because of the legal protections held by the specific persons receiving the information.

#### D. Formal Procedure<sup>2</sup>

##### 1. Step One

- a. **Whom to Contact:** Individuals who believe they have been subjected to harassment in violation of this policy and seek to file a formal complaint should contact the Equal Rights and Opportunity Officer at (516) 463-6473, C/O Office of Human Resources, 205 Hofstra University, Hempstead NY 11549.<sup>3</sup> The Equal Rights and Opportunity Officer is the designated official responsible for the investigation of harassment complaints made by members of the University community, as well as for coordinating the processing of such complaints under this policy. Individuals who believe they have been subjected to harassment by a student in violation of this policy should contact the Dean of Students. If such a complaint is made to the Equal Rights and Opportunity Officer, the complaint will be forwarded to the Dean of Students for handling in accordance with the provisions of the Student Judicial Code. Complaints by individuals who believe they have been subjected to harassment by a third party such as a vendor, contractor or visitor to campus will be handled by the Equal Rights and Opportunity Officer, even though not subject to this formal complaint procedure.
- b. **Timing of Complaint:** An initial complaint of harassment to the Equal Rights and Opportunity Officer must be made within six months of the most recent occurrence of alleged harassment. The Equal Rights and Opportunity Officer is authorized to waive this timeliness requirement in extenuating circumstances. Even if the time to file a complaint has elapsed, any member of the University community who becomes aware of a potential violation of this policy is encouraged to report the violation to the Equal Rights and Opportunity Officer so that appropriate action may be taken. In order to facilitate investigation of a complaint, prompt reporting is encouraged.

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<sup>2</sup> The Formal Complaint Proceedings Before the University Harassment Review Board for responding parties other than full-time faculty bargaining unit members and the Faculty Procedures for Formal Harassment Complaint Proceedings Before the University Harassment Review Board (“Faculty Procedures”) are attached hereto as Appendices A and B, respectively.

<sup>3</sup> In the event that the complaining party believes that the Equal Rights and Opportunity officer may have a conflict of interest, or for other compelling reasons, he or she may report the complaint to the Director of Human Resources, or, where the complaining party is a student, to the Dean of Students. This officer will then take the role of the Equal Rights and Opportunity Officer in the procedure.

- c. Making a Written Complaint: If the complainant, after an initial discussion with the Equal Rights and Opportunity Officer, decides to proceed, the complainant must make the complaint in writing by filing a Harassment Complaint Form (hereinafter referred to as “Formal Complaint”). Such forms may be obtained from the Equal Rights and Opportunity Officer.

Investigation By the Equal Rights and Opportunity Officer: The Equal Rights and Opportunity Officer or a designee shall conduct an investigation of the Formal Complaint, which shall include discussing the nature of the complaint and its allegations with the responding party, reviewing any relevant documents or other materials, and interviewing potential witnesses to the alleged harassment, including administrators, faculty members, staff members, students or other persons who may have knowledge of the situation. If the responding party is a member of a union, the party will be advised before the date scheduled for his/her interview that s/he is entitled to request that a union representative be present during his or her interview. When the responding party is a bargaining unit member, the union will be notified in accordance with the relevant Appendix.

Neither the complaining party nor the responding party is entitled to the participation of legal representatives during the course of the Equal Rights and Opportunity Officer’s investigation of the complaint. The responding party shall have the right to submit a written response to the Formal Complaint, accompanied by any relevant documents or other materials he or she may wish to include (including any witnesses he or she may wish to suggest), within ten (10) calendar days of receiving a copy of the Formal Complaint.

- d. Informal Resolution: The Equal Rights and Opportunity Officer is authorized and encouraged to explore informal resolution of the complaint at any time after the complaint is received. The Equal Rights and Opportunity Officer shall advise both the complaining and responding parties that conciliation of the complaint is available should the parties so desire. Informal resolution is designed to obtain an expedient, mutually acceptable solution to a harassment problem without the necessity for conducting further investigation or hearings. The purpose of informal resolution is to attempt through discussion and inquiry to make an effort to resolve or “work out” the issue in a non-adversarial manner. Therefore, the Equal Rights and Opportunity Officer should be able to use a great degree of discretion and flexibility in deciding what kind of informal means would be most effective in accomplishing this end, provided that the result achieved is acceptable to both parties in interest.

If the Equal Rights and Opportunity Officer is able to resolve the complaint to both parties’ satisfaction, the Equal Rights and Opportunity Officer should provide the parties with a written statement reflecting the terms of

the resolution and stating that the agreed-upon resolution will be undertaken. The written statement of informal resolution should be signed by the complaining party and the responding party. Upon the signing of the written statement of informal resolution, the matter will be deemed closed, and no party will be permitted to appeal, contest, re-open, or otherwise attempt to set aside or amend the terms of the informal resolution as long as the terms are adhered to.

- e. False Complaints: Due to the nature of harassment, complaints of harassment cannot always be substantiated. Lack of corroborating evidence should not discourage a complaining party from seeking relief through the procedures outlined above. However, complaints found to have been intentionally dishonest or made maliciously or without regard for the truth will subject the complaining party to disciplinary action in accordance with relevant University procedures.
- f. Interim Action: If, at any point after proceedings have been initiated under this complaint procedure, it is determined that the responding party's continuance in his or her position within the University community threatens immediate harm to the complaining party or others, the Equal Rights and Opportunity Officer or other responsible officials, including the Provost or a Vice President may recommend to the President that the responding party be placed on leave with pay pending the outcome of the complaint procedure. After reviewing the current state of the evidence and consulting, as appropriate, with the individuals making the recommendation, the President may accept or reject the recommendation. The responding party's union will be notified if the President decides to suspend the responding party. The decision at this stage is preliminary in nature, is not a finding of fact, and any ultimate decision of the merits will be based solely on the hearing record. Prior to being placed on such leave, the responding party is entitled to submit a written statement to the President stating why he or she should not be placed on leave. This provision shall not restrict the President's authority with respect to administrative employees and is subject to any applicable collective bargaining agreement and disciplinary provisions with respect to union-represented employees.
- g. Reasonable Cause Determination: After the investigation has been conducted, the Equal Rights and Opportunity Officer shall render a written determination as to whether there is reasonable cause to believe that the harassment policy may have been violated.

(1.) "No Reasonable Cause" Finding

A finding of "no reasonable cause" means that the investigation has not revealed sufficient facts or circumstances indicating that the complaint

may have merit. If the Equal Rights and Opportunity Officer makes a finding of no reasonable cause, he or she shall promptly notify the complaining party and the responding party in writing. The complaining party shall have five (5) calendar days from receipt of such notice in which to file a written appeal of the finding to the President. If the complaining party does not file an appeal of the no reasonable cause finding within the allotted time, the complaint will be dismissed. The President shall notify the responding party that an appeal has been filed and shall provide a copy of the appeal and supporting documents to the responding party, who shall have the right to file a written response thereto. The responding party's written response must be filed within five (5) calendar days after receiving notice of the appeal and copies of the supporting documents.

Upon receipt of the respective parties' written appeals, the President shall appoint a senior administrator to review the merits of the appeal. This administrator, after reviewing the respective parties' written appeals, and any other evidence or information he or she may deem relevant, may either affirm or reverse the Equal Rights and Opportunity Officer's determination of no reasonable cause. The decision of this administrator is final and non-appealable. If the Equal Rights and Opportunity Officer's determination is affirmed, the harassment complaint will be dismissed. If the determination is reversed, the matter will be remanded to the Equal Rights and Opportunity Officer, who shall proceed as if a reasonable cause finding has been made.

(2.) "Reasonable Cause" Finding

A finding of "reasonable cause" means that the investigation has revealed facts or circumstances indicating that a violation of the harassment policy may have occurred, and, therefore, further proceedings are warranted. If the Equal Rights and Opportunity Officer makes a finding of reasonable cause, he or she shall promptly notify the complaining party and the responding party in writing. Upon making a reasonable cause finding, the Equal Rights and Opportunity Officer should attempt to reach an informal resolution, as discussed in Section II.D.1.e, and, if necessary, proceed to Step Two in the complaint procedure.

h. Instituting Step Two Proceedings

If the Equal Rights and Opportunity Officer is unable to reach an informal resolution of the matter within ten (10) calendar days of the date the reasonable cause finding was made, the Equal Rights and Opportunity Officer shall so notify both the complaining party and the responding party in writing, and shall inform the parties that, if the complaining party

chooses to proceed to Step Two, the case will be referred to the University Harassment Review Board for commencement of formal proceedings.

Timing: The complaining party has ten (10) calendar days from receipt of such notice to submit a written request to initiate proceedings under Step Two of the University's harassment complaint procedure, as described below.

## 2. Step Two

- a. **Initiation of Proceedings:** To initiate Step Two of the complaint procedure, the complaining party must file a written statement of intention to proceed to Step Two within the prescribed time period. The statement must be submitted to the Equal Rights and Opportunity Officer.
- b. **The University Harassment Review Board:** The University Harassment Review Board (the "UHRB") shall be responsible for processing Step Two harassment complaints within the University. The Equal Rights and Opportunity Officer will notify the University's General Counsel that Step Two proceedings have been initiated and the General Counsel will see to the formation of the committee. The members will be appointed, as described in the next paragraph, for the duration of the case.

In the event that the responding party is a full-time faculty bargaining unit member, the UHRB shall be constituted pursuant to the Faculty Procedures, attached at Appendix B. In all other cases, the UHRB shall consist of three (3) members: the Provost or the Provost's designee, as Chair, one representative from the constituency of the complaining party and one representative from the constituency of the responding party. For purposes of this complaint procedure, the constituency for a faculty member shall be the faculty (excluding department chairs and except as otherwise provided in the Faculty Procedures for full time faculty bargaining unit members), the constituency for a student shall be the Dean of Students Office, the constituency for an administrative employee shall be the administration (excluding department chairs), and the constituency for a union represented staff member (office, clerical, technical employee or maintenance employee) shall be the membership of the same collective bargaining unit. Except for proceedings pursuant to Appendix B, all faculty members shall be appointed by the Faculty Affairs Committee of the University Senate through the Senate Executive Committee. The Dean of Students shall be responsible for selecting a representative from the Dean of Students Office. All administrative employees shall be appointed by the President. All union-represented staff members shall be appointed by the appropriate union.

Prior to the commencement of proceedings before the UHRB pursuant to Appendix A, members of the UHRB will be trained by the Equal Rights and Opportunity Officer with respect to harassment issues, current standards concerning what conduct may constitute harassment and any other specific issues necessary for determination of the complaint before them. The members of the UHRB in a proceeding pursuant to Appendix B will be trained annually by the Equal Rights and Opportunity Officer with respect to harassment issues and current standards concerning what conduct may constitute harassment. The AAUP has the right to attend these training sessions.

Both the complaining party and the responding party shall be provided with a list identifying the members of the UHRB who will serve as the hearing committee. Any member of the UHRB with an interest in the matter, or who the complaining party or the responding party justifiably maintains has a conflict of interest, may be asked to disqualify himself or herself from participating in processing the complaint. Requests for disqualification should be made within five working days of receipt of the list, and should be submitted to the UHRB, which will provide a copy of such request to the other party. A UHRB member may request disqualification of himself or herself by submitting a statement to the parties and the UHRB setting forth the basis for disqualification. Any disputes concerning disqualification will be decided by the Provost or his/her designee. If a member of the UHRB is disqualified, another member shall be appointed as in the paragraph above or, where the responding party is a full-time faculty member, as in Appendix B.

Formal Complaint Proceedings Before the University Harassment Review Board: The UHRB shall commence formal proceedings for determination of the complaint promptly but no later than fifteen (15) calendar days after Step Two proceedings are initiated. This process shall include hearings before the UHRB in which the complaining party, responding party and other relevant witnesses shall have the opportunity to provide testimony and documents. At the conclusion of the hearings, the UHRB will make written findings and recommend a penalty, if applicable.

- c. Hearing before the UHRB: The UHRB shall conduct hearings, which shall be governed by this Policy and, as applicable, by (a) Formal Complaint Proceedings Before the University Harassment Review Board (which applies to all responding parties, including adjunct faculty members, other than full-time faculty bargaining unit members), attached at Appendix A and (b) the Faculty Procedures where the responding party is a full-time faculty bargaining unit member, attached at Appendix B. The UHRB shall report its findings, which must be based on a preponderance of the evidence in the record considered as a whole, in writing to the President, with copies to the complaining and responding parties.



### 3. Step Three

Within fifteen (15) calendar days after receiving a copy of the UHRB's written finding either party may submit written objections to the findings with the President of the University. Such written objections should set forth, in detail, the reasons why the objecting party believes the UHRB's findings should not be affirmed, or why the recommended penalty should not be adopted, by the President. A copy of the written objections will be provided to the other party in interest, who may file a written response within fifteen (15) calendar days after receipt of the objections.

In addition to filing written objections, either party may request a hearing before the President, which the President may grant in his discretion. The hearing may be attended by the objecting party (with one advisor), the other party (with one advisor), the President, the Equal Rights and Opportunity Officer, and the UHRB. At the hearing, each party will be permitted to present his or her position orally (limited to thirty (30) minutes), and the President may question each. These proceedings will be recorded.

Within thirty (30) calendar days of the submission of written objections or the hearing, whichever is later, the President shall issue his final decision, in writing. If neither party files objections to the UHRB's findings within the prescribed time period, the President will issue a final decision within thirty (30) calendar days after receiving the findings and recommendations. After giving due consideration to the UHRB's findings and recommendations, the President may accept or reject the findings and recommendations, including any recommendation regarding penalty.

Any penalty imposed by the UHRB or the President shall be consistent with any applicable collective bargaining agreement or disciplinary provisions with respect to union-represented employees. A copy of the decision will be provided to each party. The President's decision will be final and binding on all parties. Notwithstanding the foregoing, where the responding party is a full-time faculty bargaining unit member, the President's decision is subject to review as set forth in Appendix B.

### 4. Informal Resolution of Complaint Permitted

At any time during the Step Two or Step Three process, the President, the UHRB or the Equal Rights and Opportunity Officer shall have authority to enter into an informal resolution of the complaint that is acceptable to both the complaining party and the responding party. As noted above, upon the informal resolution of a complaint, the matter will be deemed closed, and no party will be permitted to appeal, contest, re-open, or otherwise attempt to set aside or amend the terms of the informal resolution as long as the terms are adhered to.

#### 5. Extensions of Time

All of the time limits contained in the foregoing and in the attached Appendices may be extended by mutual written agreement of the party requesting the extension and the Equal Rights and Opportunity Officer (Step One), the UHRB (Step Two) or the President (Step Three).

#### 6. Harassment File

The Office of the Equal Rights and Opportunity Officer shall maintain a file of all harassment complaints and their outcomes, including harassment complaints by students against students. The UHRB or the President may inquire of the Equal Rights and Opportunity Officer whether prior cases exist in which the responding party was involved where the case resulted in a finding by the UHRB against the responding party or where the case was informally resolved in conformance with FPS 43. Additionally, the UHRB may consider for purposes of determining an appropriate penalty prior cases involving other parties that involve the same or similar conduct to that alleged in the complaint under consideration. The complainant and the responding party shall be given copies of all information provided to the UHRB in response to such a request.

#### 7. Independent Investigation

The University reserves the right to conduct an investigation of a complaint of harassment independent of or in addition to the procedure provided herein at any time.

### **IV. Policy Review**

The University Senate including representatives from the University and the AAUP shall be responsible for periodically reviewing this policy and its implementation to assess its effectiveness and make recommendations regarding possible changes. The Equal Rights and Opportunity Officer shall deliver an annual report on the activities of the Office of the Equal Rights and Opportunity Officer to the University's General Counsel.