

## **SUNY Maritime Policy Regarding Non-Discrimination and Harassment**

**October 2003; amended March 2007**

Ensure that you understand acceptable behavior—visit Sexual Harassment Prevention online learning at:  
<http://www.goer.state.ny.us/Train/onlinelearning/SH/intro.html>

SUNY Maritime College is committed to a work and learning environment in which all individuals are treated with respect and dignity. Employees, students, vendors and campus visitors have the right to an environment that promotes equality, respects diversity and prohibits discriminatory practices, including harassment. Therefore, SUNY Maritime College expects that all decisions and relationships among employees, students, and guests will be civil and free of bias, prejudice and harassment.

SUNY Maritime College is fully committed to compliance with all provisions of state and federal human rights and equal opportunity laws which prohibit discrimination in employment, educational programs and services on the basis of race, color, religion, sex, sexual orientation, age, disability, marital status, national origin or any other characteristic protected by law.

SUNY Maritime College will not tolerate discrimination or harassment of any type, from any source. It is the responsibility of all College administrators, supervisors, employees, and students to create and maintain a workplace and academic learning environment free from discrimination and harassment.

We are confident that the majority of the members of our campus community do not wish to offend or create offensive working or learning environments. In fact, most interactions are civil, courteous, mutually respectful, comfortable, appropriate, pleasant, and non-coercive. However, it is important, and consistent with the state and federal laws relating to discrimination and harassment, that SUNY Maritime have a clear policy and that it be broadly disseminated.

### **POLICY**

It is the policy of SUNY Maritime College to ensure equality without discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, age, disability, marital status, national origin or any other characteristic protected by law. It is also the policy of SUNY Maritime College that employees, students and guests respect diversity and react to one another with civility.

Any and all forms of discrimination or harassment which involve or affect SUNY Maritime College (“the College”) or which occur on the College’s campus, or in any off-campus location that could be considered an extension of the College, (i.e., the Empire State Training Ship even at times it is away from the campus, or when employees, students, and others are in official travel status as representatives of the College, etc.), are prohibited by this policy.

## **Individuals Covered**

This policy applies to all applicants, employees, students, visitors, third party vendors, consultants and all persons involved in the operation of the college.

## **Employee/Student/Vendor/Visitor Misconduct**

Discrimination and harassment have been and are determined to be serious forms of misconduct.

## **The College's Response**

The College will actively work to prevent and/or eliminate discrimination and harassment on campus. The College will respond promptly, positively, and aggressively to deal with discrimination and harassment. For employees this response may include, for example, training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding a promotion or pay increase, reassignment, temporary suspension without pay, or termination, as the College believes appropriate under the circumstances. Similar and appropriate responses will be taken against students who harass or create a hostile environment for others. The College's response may also include removal of third party vendors from campus or termination of contracts with such vendors. If the nature of an offense warrants it law enforcement agencies will be notified.

Supervisors play a critical role in prevention and correction. Supervisors must respond to inappropriate and/or offensive behaviors that they observe or otherwise become aware of -- even if an employee, student, vendor or visitor does not file a complaint. All observed misconduct, as well as formal or informal complaints of harassment or discrimination, should be reported by supervisors, employees and students to the Director of Human Resources/EEO Compliance Officer. The obligation applies even if:

- ◆ The complainant asks that the complaint be kept confidential
- ◆ The complainant does not use the words "harassment" or "discrimination"
- ◆ The complaint appears to lack merit

## **Definitions of Harassment**

### **Unlawful Sexual Harassment**

Unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal and physical contact of a sexual nature are expressly forbidden by this policy when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, or basis for admission to, performance in, evaluation in, or completion of an educational program.
2. Submission to or rejection of such conduct by an individual is used explicitly or implicitly as the basis for employment or evaluative decision affecting such individual.
3. Such conduct is sufficiently severe, persistent, and/or pervasive so as to substantially and unreasonably interfere with the individual's work or academic environment or performance, or unreasonably creates an intimidating, threatening, or abusive working or learning environment.

Although the majority of incidents of sexual harassment involve a man harassing a woman, the law and this policy also prohibits women harassing men, women harassing women, and men harassing men.

## **Other Forms of Unlawful Harassment**

Also expressly prohibited by this policy is unwelcome conduct concerning a person's race, color, religion, sex, sexual orientation, age, disability, marital status, national origin, or any other characteristic protected by law that is sufficiently severe, persistent, and/or pervasive so as to substantially and unreasonably interfere with the individual's work or academic environment or performance, or unreasonably creates an intimidating, threatening, or abusive working or learning environment.

Normal, courteous, mutually respectful, comfortable, appropriate, pleasant, non-coercive interactions between employees and students, employees and employees, and students and students that are acceptable to both parties are not considered to be unlawful harassment. "Harassment" does not include any speech or expressive activity, including without limitation, speech conducted in class, on campus, or in extracurricular activities, which is protected by the United States Constitution and the Constitution of the State of New York. However, unlawful harassing behavior, as described herein and/or as defined by federal and New York State law, shall not be immunized from disciplinary or other action simply because it is accompanied by protected speech.

## **Specific Examples of Harassment**

- Unwelcome, repeated demands or requests for dates.
- Granting job or academic favors to those who participate in sexual activity or the direct or implied threats that an individual will fail a class or lose his/her job absent sexual activity.
- Sexual innuendo that demeans another individual and creates for them a hostile environment.
- Subtle or overt pressure for sexual activity.  
(Examples that are criminal offenses)
- Physical contacts such as patting, pinching, or repeated brushing against another's body.
- Sabotaging or destroying the work of the harassed employee or student as part of the harassment or in retaliation for reporting harassment.
- Physically attacking or threatening to attack a person because of that person's race, sex, religion, or national origin.
- Racist or anti-gay graffiti.
- Targeting an individual with racist epithets so as to interfere with his or her education.
- Vandalism or destroying a person's property because of that person's sexual orientation.

## **Reporting an Incident of Harassment, Discrimination or Retaliation**

Cases where the behavior is severe enough to constitute a crime should be immediately reported to University Police. Otherwise, the College encourages individuals who believe they are subjected to harassing or discriminatory conduct to promptly advise the offender that his or her behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. The College recognizes, however, that an individual may prefer to pursue the matter through informal or formal complaint procedures.

### ***Informal Procedure***

If for any reason an individual does not wish to address the offender directly, or if such action does not successfully end the offensive conduct, the individual should notify his/her immediate

supervisor, the Dean of Students, or the Director of Human Resources EEO/Compliance Officer, who may, if the individual so requests, talk to the alleged offender on the individual's behalf. An individual reporting harassment, discrimination or retaliation should be aware that the College might decide it is necessary to take action to address such conduct beyond an informal discussion. This decision will be discussed with the individual. The best course of action in any case will depend on many factors and, therefore, the informal procedure will remain flexible. Confidentiality cannot be guaranteed.

The informal procedure is not a required first step for the reporting individual.

### ***Formal Procedure***

As noted above, individuals who believe they have been the victims of conduct prohibited by this policy statement or believe they have witnessed such conduct should discuss their concerns with their supervisor, or any of the harassment/discrimination complaint facilitators (Student Life Staff, Regimental Affairs Officer, etc.) or with the Director of Human Resources/EEO Compliance Officer.

The College encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

**There is a more formal SUNY Internal Discrimination Complaint Procedure for filing complaints about illegal discrimination. The complaints must be filed with the Director of Human Resource Services/EEO Compliance Officer. A copy of this complaint procedure may be obtained by contacting the Human Resource Services Office or from its website. The members of the campus community may also choose to file their complaints with the New York State Division of Human Rights (DOH) or with the U. S. Equal Employment Opportunity Commission (EEOC) if either is their preference or if they are not satisfied with a determination through use of the internal complaint procedure.**

- ◆ Each employee, student, and vendor of the College and anyone visiting the campus should report all incidents of discrimination and harassment. If an employee, student, or visitor believes he/she or others are in immediate danger the University Police Officer on duty should be contacted immediately by dialing 911 from any campus phone or 718-409-7311 from a cell phone.
- ◆ All supervisory personnel (administrators, deans, directors, department chairs, supervisors, and resident directors) are responsible for:
  - ✓ Properly responding to discrimination and harassment complaints.

- ✓ Promptly reporting all such complaints to the Director of Human Resources/EEO Compliance Officer.
  - ✓ Obtaining education and training in the area of discrimination and harassment prevention. (See on-line training link above).
  - ✓ Discouraging discrimination and harassment in their responsibility areas.
  - ✓ Ensuring compliance with this policy in their responsibility areas.
- ◆ Each employee, student, vendor or visitor of the College who believes he/she is being discriminated against or harassed should consider taking one or more of the following actions:
- ✓ Say No! Say it firmly, without smiling or apologizing. Do not ignore the situation.
  - ✓ Keep a record of what occurred. Include direct quotes, witnesses, and patterns to the harassing behavior. Save any relevant cards, letters, e-mail messages or other documentation sent to them, or otherwise disseminated, however harmless they may seem.
  - ✓ Talk to the person involved if you feel you can. You might explain why you were offended by what occurred. Sometimes a clearing of the air is all that is necessary.
  - ✓ Write a letter to the person, especially if you feel that direct confrontation might not work or is not possible. If the person does not stop his/her actions, you have a copy of your letter for further use. The letter should include:
    - ◆ Statements of the situation as you see it.
    - ◆ A description of your feelings and damage you think has been done.
    - ◆ A short statement of what you would like to happen next.
  - ✓ Take action. Discuss the situation with your supervisor, student life staff or the Director of Human Resources/EEO Compliance Officer. You can talk to any of these people as your first step or after you have tried to resolve the issue yourself. Anyone you speak to will maintain your confidence to the extent possible.

### **Retaliation is Prohibited**

Retaliation against an individual for reporting harassment or discrimination, or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to a disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

### **False Allegations**

Harassment and discrimination are very serious offenses in the workplace. Consequently there must be serious penalties for individuals found guilty of such acts. Unfortunately, being charged or investigated for harassment has the potential for damaging an individual's career and reputation even if the individual charged is proven not guilty and the charges are unfounded. It is therefore SUNY Maritime College's hope and intent with this policy that responses to harassment or discrimination, except those that would constitute a crime, be handled confidentially at the lowest possible level and that formal complaints be filed only when such efforts have failed. Individuals who feel that they are being harassed or discriminated against should try to find a safe opportunity to confront the person or persons responsible and ask that they stop. If that is not possible or if the acts continue, or if the confrontation results in retaliation, the person should then choose an appropriate next-level for bringing the acts to the attention of others who can take appropriate action.

While it is the intent of this policy to create a “zero tolerance” for harassment and discrimination environment, it is also necessary to remind the campus community that anyone found guilty of filing false and malicious complaints of harassment, discrimination or retaliation, as opposed to complaints, which even if erroneous, are made in good faith, shall be the subject of appropriate disciplinary action.