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INTRODUCTION: Described is the policy against sexual and other forms of harassment, discrimination and retaliation

SCOPE: All persons who work for or on behalf of the University without regard to job status or title (including but not limited to, all faculty members, non-faculty employees and contract employees), and students.

POLICY:

The University affirms its commitment to equal opportunity and non-discrimination and recognizes its responsibility to provide for all employees an environment that is free of discrimination and harassment based on sex, sexual orientation, race, color, creed, national origin, age, marital status, Vietnam Era or disabled veteran status, disability, predisposing genetic characteristic, domestic violence victim status, gender identity, or any other category protected by law.

The University also does not tolerate any actual or attempted reprisals or retaliation against anyone who raises a sincere and valid concern regarding harassment or discrimination. All such discrimination, harassment, and/or retaliation are, therefore, strictly prohibited. Anyone engaging in the above-mentioned conduct is subject to disciplinary action up to and including discharge, suspension, expulsion, or termination.

PROHIBITED CONDUCT and DEFINITIONS:

Below, please find definitions of prohibited conduct:

Discrimination is to treat a person differently based on traits other than individual merit.

Harassment

Harassment has many definitions under the law, but essentially is action that demeans, alienates, or debases another, even if it is not specifically directed to them. Since harassment creates an atmosphere where people are treated differently, it is a form of discrimination.

Discrimination based on Sex is treating people differently based on gender stereotypes and assumptions about abilities, traits, or the performance of individuals of that gender.

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Sexual harassment is a form of discrimination based on sex. There are two categories of sexual harassment:

- 1) The creation of a hostile or abusive work environment. This type of discrimination is created by a work environment that exhibits discriminatory intimidation, ridicule, and insult so severe or pervasive that it alters the conditions of education/employment, or creates an abusive atmosphere. An example of this would be an office where pornography was hung on the walls.

- 2) "Quid Pro Quo" harassment. This type of discrimination occurs when a superior conditions the granting of job benefits upon the receipt of sexual favors from a subordinate, or punishes that subordinate for refusing to comply with the request(s). An example of this would be a Supervisor asking a subordinate for sex, and offering a promotion in return.

It is important to note that both males and females are protected under this policy, and that it is possible for people to harass those of the same gender.

Pregnancy harassment is different treatment on the basis of pregnancy, childbirth, or related medical conditions. .

Discrimination based on Sexual Orientation means different treatment based on heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

It is important to note that actions consistent with our Catholic Mission and teachings, taken by the University and its employees to promote the religious principles by and for which the University is maintained, are not barred by this prohibition.

Discrimination based on Race or Color is different treatment based on either a person's racial group or perceived racial group, their race-linked characteristics (e.g., hair texture, color, facial features), or even their marriage to or association with someone of a particular race or color. Also prohibited are actions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups.

These prohibitions apply regardless of whether the discrimination is directed at Whites, Blacks, Asians, Latinos, Arabs, Native Americans, Native Hawaiians and Pacific Islanders, multi-racial individuals, or persons of any other race, color, or ethnicity.

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Discrimination based on Creed, is different treatment of individuals because of their religious practices. The Equal Employment Opportunity Commission, the federal agency that evaluates claims of discrimination, defines "religious practices" to include "moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views."

However, the University, as an educational institution operated in connection with a religious organization and a Catholic Mission, may limit employment to or give preference to Catholics in certain positions where it such is relevant, and may take such action as is calculated by the University to promote the religious principles for which it is established or maintained, in order to effectuate its religious mission.

Discrimination based on National Origin means treating someone differently because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background. National origin discrimination also means treating someone less favorably at work because of marriage or other association with someone of a particular nationality. "National origin" includes "ancestry."

Also prohibited is offensive conduct, such as ethnic slurs, that creates a hostile work environment based on national origin.

Discrimination based on Age. The Age Discrimination in Employment Act (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Discrimination against a person because of his/her age is prohibited.

However, a job notice or advertisement may specify an age limit where age is shown to be a "bona fide occupational qualification" (BFOQ) reasonably necessary to the normal operation of the business.

Discrimination based on Marital Status is different treatment based on whether an individual is or is not married, legally separated, divorced, or widowed.

Discrimination based on Vietnam Veteran or disabled Veteran status is different treatment if an individual is a Vietnam Veteran, or has disabled Veteran status.

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Discrimination based on Military Status means different treatment depending on a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law.

Discrimination based on Disability is different treatment on the basis of a real or perceived disability, discounting accommodations as required by law. An individual with a disability is a person who: Has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. "Major life activities" include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working, and can also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Discrimination based on Predisposing Genetic Characteristic is different treatment based on family and personal genetics. "Predisposing genetic characteristic" shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.

Retaliation is adverse action for reporting or cooperating in the investigation of unlawful conduct. Niagara University prohibits retaliation against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as well as wage differences between men and women performing substantially equal work, also prohibit retaliation against individuals who oppose unlawful discrimination or participate in an employment discrimination proceeding.

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Examples of protected opposition to discrimination include:

- Complaining to anyone about alleged discrimination against oneself or others;
- Threatening to file a charge of discrimination;
- Picketing in opposition to discrimination; or,
- Refusing to obey an order reasonably believed to be discriminatory.

Examples of activities that are NOT protected opposition include:

- Actions that interfere with job performance so as to render the employee ineffective; or
- Unlawful activities such as acts or threats of violence.

Occurrence of Discrimination and Harassment: Harassment and discrimination can occur over the phone, by e-mail, via Internet use, in person, and behind closed doors. Persistent, unwanted sexual advances, racially charged "jokes" and e-mails, and the viewing of pornography in the office are just a few examples of how a hostile work environment can be created and unlawful harassment can occur. If you are in doubt regarding the above definitions or conduct you have witnessed, please refer to the reporting procedures that follow.

REPORTING, INVESTIGATING AND HANDLING OF DISCRIMINATION, HARASSMENT AND RETALIATION

Individuals who believe they are being discriminated against or harassed, or who have witnessed discrimination or harassment, are encouraged to clearly and promptly notify the offender that his/her behavior is unwelcome. If, for any reason, an individual does not wish to confront the offender directly or if such confrontation does not successfully end the harassment, the individual should notify their immediate manager/supervisor, chair, dean or the Complaint Officers noted below:

Associate Director for Equity and Inclusion, OR a designee noted on the Office of Equity & Inclusion web page at <https://www.niagara.edu/oei/>.

(716) 286-8324

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Additional guidance for students may be found in the student-specific version of this policy, “Harassment & Discrimination (Involving Students).”

In the event of a sexual assault, domestic violence, dating violence, consult the “Sexual Misconduct Policy.”

Any employee or student who believes that he/she has been subjected to or has witnessed discrimination, harassment and/or retaliation of any kind shall report all such incidents of such conduct to one of the University’s Complaint Officers. **It is expected that all employees observing behavior that could violate this policy will report it to their supervisor, or the Complaint Officer.**

All reports of alleged harassment in violation of this policy will be addressed by appropriate University representatives as dictated by the specific circumstances. Investigations will be conducted in as confidential manner as possible, and formal investigations will be completed within a time frame that ensures the response is prompt and equitable (usually 60 days). Any individual making a formal complaint, as well as the accused, will be advised of the results of the investigation.

Any person who violates this harassment policy will be subject to disciplinary action and/or penalty as is deemed warranted by the University. If the accused is an administrative, professional, hourly or faculty staff member, such action may include discipline or discharge in accordance with the employee guide/related policies or Statutes of the University/provisions of the Collective Bargaining Agreement. If the accused is a student, any sanctions will be handled in accordance with the Student Handbook, which may include dismissal from the University.

Employees are hereby placed on notice that if an employee engages in acts which the University determines to be acts of harassment or unlawful discrimination, such acts are outside of the course and scope of the employee’s employment. Such conduct may result in the employee having to obtain his/her own legal counsel, and may result in a money judgment against the employee personally, or the filing of criminal charges.

The University prohibits any retaliatory behavior directed against reporting employees and/or witnesses. Any such retaliation may result in discipline up to and including discharge.

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Reporting employees or witnesses experiencing retaliation from anyone should report it to a Complaint Officer immediately.

Any individual found by the University to have made a charge of harassment under this policy that is intentionally dishonest or malicious will be subject to disciplinary action under appropriate University policy.

A copy of this policy shall be posted in appropriate places and be made available to all.

AWARENESS:

The University will conduct workshops and provide training materials to build awareness of this Policy and the procedures for reporting prohibited actions. Human Resources staff, the Title IX Coordinator and the General Counsel will be available for consultation regarding interpretation of the policy.

Any person who believes he or she is being harassed in violation of the University policy or who witnesses what he or she believes is harassment in violation of University policy has an obligation to report such harassment either to his or her department chairperson, dean, immediate manager, or the Complaint Officers.

Any student who believes he or she is being harassed by a university employee, should contact one of the Complaint Officers. Complaints will be handled in a timely manner.

The Director of Business Services will be notified by the Complaint Officers of any violation of this policy by a contract employee or vendor.

INVESTIGATION PROCEDURE

RESPONSIBILITY

Complainant, anyone covered under this policy

ACTION

Will report the allegation(s) to a department chair, dean, officer, immediate manager, Director of

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Human Resources, Director of Equity & Inclusion (ADEI), Residence Life Staff, Director of Athletics, or coach (collectively, “Responsible Employees”) or as appropriate.

Responsible Employee

Will refer the Complainant or report the allegation(s) to the ADEI for appropriate response, including formal or informal action.

Compliance

When a complaint is first received by a supervisor or individual other than a Complaint Officer, that person shall relay the complaint to a Complaint Officer immediately. In the event that one Complaint Officer is the offender, the reporting employee shall report his/her complaint to an alternate Complaint Officer (an investigator designated on the OEI website).

Investigation Determined by the Complaint Officer(s)

INITIAL INTAKE

All such reports will remain confidential to the extent possible during the investigatory process. Anyone who believes he/she is being harassed or discriminated against may report a complaint through complaint procedures as set forth below:

Procedure: The Complaint Officer will assess the complaint to see if action under this policy is appropriate (a “threshold analysis”). If the complained-of behavior could constitute a violation of this policy, the Complaint Officer, or designated investigators, may initiate a formal procedure by interviewing the reporting person, any witnesses with knowledge of the complaint or persons who may have related information, and the alleged violator. For non-Title IX matters, the Complaint Officer

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may also explore an informal, or mediated approach, upon consent of the complainant. The goal of any response shall be to assess the complained-of behavior and, if it is in violation of the policy, mitigate any damage caused by it, and take steps to ensure it does not recur.

Role of the Complaint Officer

Upon receipt of a complaint, the Complaint Officer will conduct an immediate assessment of the reported behavior, and may, together with the appropriate administrator, direct immediate action as required by law and allowed by policy (including relocation of persons, suspension of employees or students, change of academic schedule, and other immediate accommodations).

If a Complaint Officer has knowledge of or has reason to know of any alleged harassment, the university may be obligated, even in the absence of a complaint, to investigate such conduct promptly and thoroughly. Based upon the results of the investigation, immediate and corrective action will be taken, up to and including termination of the offender’s employment in accordance with legal guidelines.