

XI: Equal Employment Opportunity/Affirmative Action

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A. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION POLICY OF THE STATE UNIVERSITY OF NEW YORK (SUNY)

The State University of New York Board of Trustees adopted an Equal Opportunity policy in 1971 calling for the development of a University-wide Affirmative Action Program to "detail actions designed to realize our University's commitment to equal employment; analyze employment patterns within the University; set forth plans to rectify any deficiencies; identify and remove impediments to equal opportunity;...provide for internal and external dissemination of University policy; pursue the commitment to equal opportunity throughout the institution; and provide for the review, assessment, evaluation, and improvement of University action in carrying out...Affirmative Action Programs. The SUNY Office for Diversity and Affirmative Action, a part of the Chancellor's Office has responsibility for implementation of this policy. In addition to the matters listed above, the Office also has responsibility for administering the SUNY Internal Discrimination Grievance Procedure, programs for people with disabilities, and programs to encourage minority business development.

Employees of the State University of New York are assured equal opportunity without regard to race, sex, age, national origin, religion, marital status, disability, or sexual orientation. In addition Vietnam Era Veterans, disabled veterans, and Armed Forces service medal veterans are ensured equal opportunity under the Vietnam Era Veterans Readjustment Act of 1974.

Any employee of the State University of New York who believes that he or she has been discriminated against in any personnel decision or condition of employment may file a complaint with his or her campus Affirmative Action Officer using the University's Internal Discrimination Grievance Procedures. A copy of the procedures is available from the campus

Office of Human Resources. Externally, complaints may be filed with the local office of the New York State Division of Human Rights or the applicable federal agency. Complaints of discrimination on the basis of sexual orientation may be filed with the Governor's Office for Employee Relations in Albany.

B. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION POLICY OF THE STATE UNIVERSITY OF NEW YORK, AT POTSDAM

SUNY POTSDAM is committed to the principles of non-discrimination and equality of opportunity in all of its personnel procedures and practices. The College recruits, selects, hires, trains and promotes staff and provides benefits without regard to race, sex, age, national origin, religion, marital status, disability, veteran status, or sexual orientation except where sex is bona fide occupational qualification.

It is the policy of SUNY Potsdam to provide equal opportunity in employment and upward mobility for all qualified persons, to prohibit discrimination in employment because of race, sex, age, national origin, religion, marital status, disability, veteran status, or sexual orientation.

This policy of equal employment opportunity:

1. Applies to all persons without regard to race, sex, age, national origin, religion, marital status, disability, veteran status, or sexual orientation, except where sex is a bona fide occupational qualification.
2. Applies equally to all job classifications and titles at SUNY Potsdam and to all types of appointment, whether full-time or part-time.
3. Governs all college employment policies, practices and actions including but not necessarily limited to recruitment, employment, rate of pay or other compensation, advancement, upgrading, promotion, demotion, renewal, non-renewal, termination, transfer, layoff, leave, training and employee benefits of whatever nature.
4. Applies to all college employees wherever physically located.
5. Expects each contractor, supplier, union, public agency or other co-operative agent to support this policy by complying with all applicable State and Federal equal employment opportunity laws and regulations.

In addition to providing equal employment opportunities for all qualified persons, the College has a special commitment to the principle of Affirmative Action, which entails a positive, ongoing effort to seek qualified members of under-represented groups: women, minorities, qualified veterans, and people with disabilities.

It is the goal of this College to achieve equitable representation of women, minorities, qualified veterans, and people with disabilities in all academic, administrative, and service units of the College.

C. COMMITMENT TO QUALITY

The standing of SUNY Potsdam as a leading liberal arts college in the State of New York and in the nation requires that it recruit staff of the highest possible caliber. Its faculty and staff should be highly qualified for their positions and they should show promise of achievement in the future. They should exhibit breadth as well as depth of talent and they should be drawn from diverse backgrounds.

The search for new talent should, under normal circumstances, be national in scope. It should include advertising in leading professional journals, contact with major centers of excellence and a systematic attempt to bring to the campus the most talented and promising candidates. The College should avoid settling for less than the best.

D. RECRUITMENT PROCEDURES

The college recruits its faculty and staff through an on-line recruitment system. Procedures related to that process are contained on the employment sight under supervisors guide.

E. THE OFFICE OF AFFIRMATIVE ACTION

1. THE OFFICE OF AFFIRMATIVE ACTION

SUNY Potsdam is responsible for providing a learning and working environment free from discrimination. The College reserves the right to pursue any complaint of discrimination brought to its attention. The Affirmative Action Officer, based on information received, could exercise his/her own discretion and initiate a complaint on behalf of the College.

In addition, the Affirmative Action Officer may determine that a specific complaint of unlawful discrimination or harassment is of such a serious or potentially criminal nature that the investigation steps outlined in this process should be accelerated or eliminated. If made, this determination shall be communicated to the President or his/her designee, to the Affirmative Action Office, and to Human Resources for appropriate action, which may include the initiation of disciplinary action.

If at any time during the course of investigating or resolving a complaint of discrimination, the Affirmative Action Officer determines that a complaint is not within the jurisdiction of the office, the complaint and Complainant shall be referred to the appropriate office and the matter shall be considered concluded for the purposes of the Affirmative Action Office.

a. Role of the Affirmative Action Officer

The Affirmative Action Officer is trained in investigating and resolving complaints, and is available for assistance in filing the complaint with the College and will remain impartial during an investigation. The Affirmative Action Officer does not represent any individual or department, but does advocate on behalf of the College's goals of equal opportunity and nondiscrimination.

The Affirmative Action Officer may receive initial inquiries, reports and requests for consultation and counseling. Assistance will be available, whether or not a formal complaint is contemplated or even possible. It is the responsibility of the Affirmative Action Officer to respond to all such inquiries, reports and requests as promptly as possible and in a manner appropriate to the particular circumstances. An individual may refuse to put a complaint into writing. However, notwithstanding that refusal, there may be a continuing obligation on the part of the campus to investigate the verbal complaint to the best of its ability and proceed with any action warranted.

The Affirmative Action Officer shall solicit information concerning any factors that might prejudice an objective evaluation of the evidence and shall reassign an investigation if a conflict or potential conflict emerges.

b. Supervisory Responsibility

Complaints or concerns that are reported to an administrator, manager or supervisor concerning an act of discrimination shall be immediately referred to the Affirmative Action Officer.

2. POLICY STATEMENT

a. INTRODUCTION

An atmosphere of mutual respect among members of the academic community is necessary for SUNY Potsdam to function as a center of academic freedom and intellectual advancement. Any violation of mutual trust, any form of intimidation or exploitation, damages the institution's educational process by undermining the essential freedoms of inquiry and expression. Students, staff, and faculty must feel personally secure for real learning to take place.

As a place of work and study, SUNY Potsdam must be free of discrimination and harassment in all of its forms, including intimidation and exploitation. All students, staff, and faculty must be assured that the College will take action to prevent such misconduct, prevent its recurrence, remedy its discriminatory effect on the victim(s) and others (if appropriate) and ensure that anyone who engages in such behavior is subject to disciplinary procedures.

b. NON-DISCRIMINATION NOTICE/POLICY

Pursuant to the State University of New York policy, SUNY Potsdam is committed to fostering a diverse community of outstanding faculty, staff, and students, as well as ensuring equal educational opportunity, employment, and access to services, programs, and activities, without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, gender expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants, or other members of the campus community (including, but not limited to, vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law or treated adversely or retaliated against based upon a protected characteristic.

The University's policy is in accordance with federal and state laws and regulations prohibiting discrimination and harassment. These laws include the American with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the New York State Human Rights Law. These laws prohibit discrimination and harassment, including sexual harassment and sexual violence.

Inquiries regarding the application of Title IX and other laws, regulations, and policies prohibiting discrimination may be directed to Title IX Coordinator & Affirmative Action Officer Stacey Basford at (315) 267-2516/basforsl@potsdam.edu. Inquiries may also be directed to the United States Department of Education's Office of Civil Rights, 32 Old Slip 26th Floor, New York, NY 10005-2500; Tel. (646) 428-3800; email OCR.NewYork@ed.gov.

3. DISCRIMINATION AND HARRASSMENT

a. SEXUAL DISCRIMINATION

<http://prometheus.potsdam.edu/hr/fachdbk/Sexual%20Violence%20Response%20Policy.pdf>

Sexual discrimination (including sexual harassment, sexual assault, and sexual violence) is not simply inappropriate behavior; it is against the law. Title VII (Section 703) of the Civil Rights Act of 1964 protects employees from sexual harassment in that it is a form of unlawful sex discrimination. Title IX, enforced by the Office of Civil Rights of the U.S. Department of Education, protects both students and employees from sexual discrimination in that it constitutes differential treatment on the basis of sex. (Title IX applies to any educational

institution receiving Federal funds.) The Campus Sexual Violence Elimination (Campus SaVE) Act provides mandatory procedures for reporting of sexual misconduct and protecting student rights in the context of investigations and disciplinary proceedings. Its enactment reflects a greater tendency to treat certain forms of Title IX sexual misconduct as a crime rather than a less serious civil offense.

Incidents of sexual discrimination should be reported to University Police or Title IX Coordinator Stacey Basford, VanHousen 392, (315) 267-2516, basforsl@potsgdam.edu. For more information on sexual discrimination, please review our Sexual Violence Response Policy and/or see Chapter 10 of this Handbook, Section 62.

b. OTHER FORMS OF DISCRIMINATION AND HARASSMENT

I. INTRODUCTION

Sexual discrimination has been more thoroughly defined in the law than discrimination/harassment based on other protected characteristics. Because harassment and discrimination can take many forms, an expanded definition and examples are provided herein. Intimidating, threatening, and harassing behavior can also occur without reference to protected characteristics. This type of behavior may fall under the College's Workplace Violence Policy and should be followed-up through the Office of Human Resources.

II. DEFINITION

Harassment on the Basis of Protected Characteristic(s) Other Than Sex/Gender – harassment based on race, color, age, religion, national origin, disability, sexual orientation, or other protected characteristics is oral, written, graphic, or physical conduct relating to an individual's protected characteristic(s) that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational institution's programs or activities.

Examples of individual and third party harassing conduct:

- displaying or distributing material that contains language or images that is derogatory or demeaning,
- using derogatory references in communications,
- telling of offensive, off-color jokes

III. REPORTING OTHER FORMS OF DISCRIMINATION AND HARASSMENT

If you experience, see, or otherwise learn of any conduct that you believe

is discrimination or harassment on the basis of protected characteristic(s) other than sex/gender, you should report the conduct immediately to the Affirmative Action Officer listed below or in case of imminent danger contact University Police at 315-267-2222.

Affirmative Action Officer Stacey Basford, Van Housen 392, (315) 267-2516, basforsl@potdam.edu. If safe to do so, tell the person who is engaging in the conduct that you consider it unwelcome and would like it to stop.

IV. DISCRIMINATION COMPLAINT PROCEDURES

SUNY Potsdam has opted to use the SUNY-Wide Discrimination Procedure to provide prompt and equitable resolution of complaints of alleged discrimination. The SUNY-Wide Discrimination Complaint Procedure can be found at:

http://www.suny.edu/sunypp/documents.cfm?doc_id=451

4. RECOMMENDED CORRECTIVE ACTION

The purpose of any action to resolve a complaint will be to correct or to remedy the injury, if any, to the complainant and to prevent further discrimination or harassment. Recommended action may include written or verbal reprimand of the harasser; suspension, dismissal, or transfer of the harasser; a change of grade or other academic record for a student who has been the victim of harassment; a change in personnel action (such as a promotion) for an employee who has been victimized; or other appropriate action with the understanding that the imposition of sanctions against an employee can occur only after completion of contractual disciplinary procedures.

5. FALSE CHARGES

If it has been determined that a complaint was made by a student with the knowledge that the facts were false, the Affirmative Action Officer shall so notify the Dean of Student Affairs. In the case of a false complaint made knowingly by an employee, this finding shall be stated in the recommendation to the Assistant Vice President for Human Resources for possible disciplinary action.

6. RETALIATION

Retaliation against a person who files a complaint, serves as a witness, or assists or participates in any manner in this procedure is strictly prohibited and may result in disciplinary action. Retaliation is an adverse action taken against an individual as a result of complaining about unlawful discrimination or harassment, exercising a legal right,

and/or participating in a complaint investigation as a third-party witness. Participants who experience retaliation should contact the Affirmative Action Officer.

7. CONFIDENTIALITY

The College shall maintain confidentiality to the extent possible within the requirements of conducting reasonable investigations. Only those who have a need to know will be told the identity of the parties to a complaint. In some instances, a grievant may choose to take no action or to defer such action until a later date in order to maintain anonymity. In these instances, the College reserves the right to limited disclosure and to take appropriate action in order to ensure the safety and well-being of other members of the College community.

8. RECORD KEEPING

Notice of all reports of discrimination or harassment must be forwarded to the Affirmative Action Officer by the supervisor receiving the complaint. The Affirmative Action Officer will keep a record of all informal and formal complaints. This information will be used to monitor repeated complaints within the same division or against the same individual. This information will also be used to document the incidence of discrimination or harassment in the College community.

F. SUMMARY OF FEDERAL AND STATE LAWS AND GUIDELINES

1. EXECUTIVE ORDER 11246, as amended, prohibits job discrimination because of race, color, religion, sex or national origin and requires Affirmative Action to ensure equality of opportunity in all aspects of employment.
2. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 prohibits discrimination on the grounds of race, color or national origin in programs and activities receiving Federal financial assistance.
3. TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, as amended, prohibits job discrimination because of race, color, religion, sex or national origin.
4. SECTION 503 OF THE REHABILITATION ACT OF 1973 prohibits job discrimination because of handicap and requires Affirmative Action to employ and advance in employment qualified handicapped workers.
5. SECTION 504 OF THE REHABILITATION ACT OF 1973 prohibits discrimination on the basis of physical or mental handicap in every federally assisted program or activity in the country.

6. SECTION 402 OF THE VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1974 (as amended) prohibits job discrimination and requires Affirmative Action to employ and advance in employment (1) qualified Vietnam Era Veterans during a period which ends December 31, 1991, and, (2) qualified Special Disabled Veterans throughout their working life if they have a 30 percent or more disability; or a disability rated at 10 or 20 percent in the case of a veteran who has been determined under Section 1506 of Title U.S. Code to have a serious employment handicap; or a person who was discharged or released from active duty because of a service connected disability. Amended 2006 Armed Forces service medal veterans would include any veteran who, while serving on active duty in the Armed Forces, participated in a US. Military operation for which a service medal was awarded pursuant to Executive order 12985. Disabled veterans would include any veteran who: (1) is entitled to compensation or who but for the receipt of military retired pay, would be entitled to compensation under laws administered by the Secretary of Veteran Affairs, or (2) was discharged or released from active duty because of a service connected disability.

7. NEW YORK STATE HUMAN RIGHTS LAW guarantees equal opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, sexual orientation, sex, disability, genetic predisposition or carrier status, or marital status; guarantees the use of places of public accommodation and the ownership, use and occupancy of housing accommodations and commercial space without discrimination because of age, race, creed, color, national origin, sexual orientation, sex, disability, genetic predisposition or carrier status, or marital status. Also prohibits discrimination on the basis of ex-offender status.

8. AGE DISCRIMINATION ACT OF 1975 prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

9. AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, as amended, prohibits discrimination based on age in all aspects of employment against persons at least age 40.

10. IMMIGRATION REFORM AND CONTROL ACT OF 1986

SUNY Potsdam, in co-operation with the Immigration and Naturalization Service, fully complies with employment provisions as outlined in the Immigration Reform and Control Act of 1986. Only those persons who are professionally qualified for employment and who are American Citizens or aliens authorized to work in the United States will be offered the opportunity to accept employment at the College when vacancies are authorized to be filled.

11. AMERICANS WITH DISABILITIES ACT OF 1990 prohibits discrimination against individuals with disabilities in employment, public service, public accommodation, transportation, and telecommunications.

12. EXECUTIVE CHAMBER MEMORANDUM OF 1996 reaffirms commitment to the ADA.