



Volume 1: Volume Title: Governance

Chapter 5: Chapter Title: Equal Opportunity/Affirmative Action

Section 1: Policy Name: Non-Discrimination and Harassment

Approval Authority: Board of Trustees

Interpreting Authority: Director, HR; Dean of Students; Title IX Coordinator

Effective: February 4, 2016

Last Revised: February 4, 2016

Next Review Date: February 2021

Non-Discrimination and Harassment Policy

Policy Statement

Manhattanville College adheres to all federal, state, and local civil rights law banning discrimination in higher education institutions. The College prohibits discrimination and harassment against any employee, applicant for employment, volunteer, student, or applicant for admission on the basis of age, race, creed, color, religion, national origin, alienage or citizenship status, ethnicity, sexual orientation, military status, sex, gender, disability, predisposing genetic characteristics, criminal conviction, marital status, familial status, domestic violence victim status, gender identity, transgender status, or gender dysphoria.

Entities Affected by the Policy

Board of Trustees, faculty, staff, students, and volunteers (College Community) as well as anyone doing business with or for the College.

Policy Background

This policy supersedes all previous policies that identified Protected Classes.

Policy Procedures

I. Non-discrimination and Harassment

The College confirms its commitment to promote the goals of fairness and equality in all aspects of the educational enterprise.

This policy prohibits Discrimination and Harassment in employment and in access to educational opportunities on the basis of actual or perceived membership in a Protected Class. Any such Discrimination or Harassment will be appropriately addressed by the College according to this policy.

This policy also prohibits aiding or inciting another person or persons to violate this policy. The College prohibits Retaliation against any College Community member who participates in any complaint process under this policy.

This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The College may respond to any incident or behavior that could have an on-campus impact or otherwise infringes upon the educational mission of the College, even if the incident or behavior occurred off-campus or online.

Deliberately false and/or malicious accusations of Harassment, Discrimination, or Retaliation are serious offenses and persons who make such accusations will be subject to appropriate disciplinary action.

For assistance with conflict resolution techniques or mediation services, individuals should contact the Office of Human Resources.

II. Retaliation

Retaliation against an individual for alleging Harassment, Discrimination, or Sexual Misconduct, for supporting a person filing a complaint of Harassment, Discrimination, or Sexual Misconduct, for assisting in providing information relevant to a claim of Harassment, Discrimination, or Sexual Misconduct, or for otherwise participating in an investigation of a complaint of Harassment, Discrimination or Sexual Misconduct is a serious violation of this policy.

Acts of alleged Retaliation should be reported immediately to the Director, Human Resources, or the Title IX Coordinator and will be promptly investigated. The College will take appropriate steps to protect individuals who fear that they may be subjected to Retaliation.

III. Reporting of Offenses under this Policy

College employees have an obligation to report allegations of misconduct and violations of this policy. Failure to report allegations of misconduct may result in disciplinary action up to and including termination and/or dismissal from the College. Some employees, such as College-employed counselors, are permitted to maintain confidentiality of reports.

- A. Reporting Options – Board of Trustees, Faculty, Staff, volunteers as well as anyone doing business with or for the College.
Board of Trustees, faculty, staff, volunteers, as well as anyone doing business with or for the College bringing a complaint under this policy are encouraged to report the matter to the following College officials:
 - Immediate Supervisor
 - Director, Human Resources
 - Title IX Coordinator/Deputy Coordinators
 - Manhattanville’s Human Resource Helpline at (914) 323-5270

- A. Reporting Options – Students
Students bringing a complaint under this policy are encouraged to report the matter to the following College officials:
 - Dean of Students
 - Title IX Coordinator/Deputy Coordinators

- B. If the Complaint involves Title IX matters, the Title IX Coordinator will promptly and thoroughly investigate the facts and circumstances, See Sexual Misconduct Policy, Policy 1.5.2.

- C. If the Complaint involves any other alleged violation of this policy, the Director of Human Resources or the Dean of Students will promptly and thoroughly investigate the facts and circumstances.

- D. To the extent possible, the College will endeavor to keep the Complainant’s concerns confidential, however, confidentiality cannot be guaranteed.

- E. Upon completion of the investigation, the College will take whatever corrective measures the College determines necessary using existing College grievance resolution and grievance procedures.

Definitions

College Community

- All Board of Trustees, faculty, staff, and students

Age discrimination

- Involves treating someone (an applicant or employee) less favorably because of his or her age; age 40 or older.
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/age.cfm>
- Age Discrimination in Employment Act (ADEA)

Alienage or citizenship status discrimination

- “Makes it illegal for an employer to discriminate with respect to hiring, firing, or recruitment or referral for a fee, based upon an individual's citizenship or immigration status. Similarly, makes it illegal for an institution of higher education to discriminate with respect to admission based upon an individual’s citizenship or immigration status”.
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/nationalorigin.cfm>.
- Immigration Reform and Control Act of 1986 (IRCA)

Criminal conviction discrimination

- “No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:
 - There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or
 - the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public”.
- New York State Corrections Law, Sections 752

Disability

- “(a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others

as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held”.

- N.Y. Executive Law, Article 15, Human Rights Law, Sec. 292.21(21).

Discrimination

- Actions that deprive or limit access to education, employment, benefits, or other opportunities on the basis of an individual’s actual or perceived membership in a Protected Class.

Domestic Violence

- “A pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse perpetrated by one person against a family or household member, with the goal of establishing and maintain power and control over the victim.”
- State of NY Unified Court System, Domestic Violence Policy, found at: <https://www.nycourts.gov/ip/womeninthecourts/pdfs/dvp.pdf>
- Domestic violence victim means an individual who is a victim of an act which would constitute a family offense pursuant to Family Court Act, Section 812; Subdivision 1.

Familial Status

- “any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of eighteen years, or
- one or more individuals (who have not attained the age of eighteen years) being domiciled with:
 - (1) a parent or another person having legal custody of such individual or individuals, or
 - (2) the designee of such parent”.
- N.Y. Executive Law, Article 15, Human Rights Law, Sec. 292.21(26).

Gender

- Attitudes, feelings, and behaviors that a given culture associates with a person’s biological sex
- American Psychological Association Definitions, found at <https://www.apa.org/pi/lgbt/resources/sexuality-definitions.pdf>

Gender Dysphoria

- “a recognized medical condition related to an individual having a gender identity different from the sex assigned to him or her at birth”.
- Proposed NY Executive Law, Article 15, Sec. 446.13 (b)(3)

Gender Expression

- “how someone expresses gender through appearance, behavior, or mannerisms. A person’s gender expression may or may not be the same as the Gender Identity or assigned sex at birth”.
- Guidelines Regarding Gender Identity Discrimination, Administrative Code of NYC, found at: <http://www.trans-health.org/sites/www.trans-health.org/files/NYC%20GenderDisGuidelines.pdf>

Gender Identity

- “having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth”.
- Proposed NY Executive Law, Article 15, Sec. 446.13 (b)(1)

Harassment

- Any unwelcome conduct that: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working or educational environment; or (2) has the purpose or effect of unreasonably interfering with an individual’s work or educational performance; or (3) otherwise adversely affects an individual’s employment or educational opportunities. Examples include vulgar or offensive conversation or jokes; unwelcome comments about an employee’s physical characteristics, religious beliefs, ethnic background, medical condition, or disability; teasing, slurs, threats, derogatory comments, or other similar verbal, non-verbal or physical conduct directed toward a person, which is sufficiently severe or pervasive to create an unprofessional and hostile working or educational environment.
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/harassment.cfm>

Marital Status

- Condition of being single, married, separated, divorced or widowed.
- N.Y. Executive Law, Article 15, Human Rights Law, 296.1

Military Status

- “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”.
- N.Y. Executive Law, Article 15, Human Rights Law, Sec. 292.21(28).

National Origin/Ethnicity

- “Involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they

appear to be of a certain ethnic background (even if they are not). National-origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group”.

- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/nationalorigin.cfm>

Predisposing genetic characteristics

- “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”.
- N.Y. Executive Law, Article 15, Human Rights Law, Sec. 292.21(21-a)

Protected Class

- A group of people protected from Discrimination and Harassment based upon membership in the specific group. Under this policy, Protected Classes including age (40 or over), race, creed, color, religion, national origin, alienage or citizenship status, ethnicity, sexual orientation, military status, sex, gender, disability, predisposing genetic characteristics, criminal conviction, marital status, familial status, domestic violence victim status, gender identity, transgender status, or gender dysphoria.

Race/color

- “Race discrimination involves treating someone unfavorably because he or she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion. Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color or because of a person’s connection with a race-based organization or group, or an organization or group that is generally associated with people of a certain race or color”.
- EEOC Guidelines, found at http://www.eeoc.gov/laws/types/race_color.cfm

Religion/Creed

- “Religious discrimination involves treating a person unfavorably because of his or her religious beliefs or because she or he does not subscribe to a belief system. The law protects not only people who belong to traditional, organized religions such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical, or moral beliefs.
- Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because

of his or her connection with a religious organization or group or because he or she does not subscribe to a belief system.”

- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/religion.cfm>

Retaliation

- Any adverse action a College Community member experiences as a result of the College Community member making an Inquiry, participating in an investigation, or making a reasonable good-faith Report of possible non-compliance with laws, regulations, and policies.

Sex

- “includes gender identity and the status of being transgender”.
- Proposed NY Law Sec. 446.13(3)(c)(1)

Sexual Orientation

- “heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived. However, nothing contained herein shall be construed to protect conduct otherwise proscribed by law”.
- N.Y. Executive Law, Article 15, Human Rights Law, Sec. 292.21(27)

Transgender

- “an individual who has a gender identity different from the sex assigned to him or her at birth”.
- Proposed NY Law, Sec. 446.13 (b)(2)

Responsibilities

Dean of Students

- Responsible for administering this policy as it pertains to students

Director, Human Resources

- Responsible for administering this policy as it pertains to Board of Trustees, faculty, staff, volunteers, as well as anyone doing business with or for the College.

Title IX Coordinator

- Responsible for administering this policy as it pertains to complaints involving discrimination or harassment based upon sex/gender involving the Board of Trustees, faculty, staff, students volunteers, as well as anyone doing business with or for the College.

Violations of the Policy

Violations of this Policy will be handled in accordance with existing College procedures.

Interpreting Authority

Title IX Coordinator (for issues of discrimination or harassment based upon sex/gender)

Director, Human Resources (for issues of discrimination or harassment for all other protected classes for Board of Trustees, faculty, staff, volunteers, as well as anyone doing business with or for the College)

Dean of Students (for issues of discrimination or harassment for all other protected classes for students)

Statutory or Regulatory References

Age Discrimination in Employment Act (ADEA)

Americans with Disabilities Act of 1990 (ADA) as amended by the ADA Amendments Act (2008)

Immigration Reform and Control Act of 1986 (IRCA)

New York Executive Law, Article 15, Human Rights Law, Sec. 292.21(21).

New York Executive Law, Article 15, Sec. 446.13 (proposed)

New York State Corrections Law, Sections 752

New York State Unified Court System, Domestic Violence Policy

Relevant Links

Non-Retaliation Policy, Policy 1.5.3

Sexual Misconduct Policy, Policy 1.5.2

Policy Adoption Review and Approval

Recommended approval by President's Cabinet on January 7, 2016

Approved by President on January 7, 2016

Approved by Board of Trustees on February 4, 2016