



UNIVERSITY POLICY

SUBJECT:	WORKPLACE DIVERSITY	TITLE	DISCRIMINATION, HARASSMENT AND OTHER INAPPROPRIATE WORKPLACE CONDUCT		
CATEGORY: Check One	Board of Trustees <input checked="" type="checkbox"/>	Presidential <input type="checkbox"/>	Functional <input type="checkbox"/>	School/Unit <input type="checkbox"/>	
Responsible Executive:	President		Responsible Office:	Workplace Diversity	
CODING:	00-01-35-60:00	ADOPTED:	10/19/10	AMENDED:	

LAST REVIEWED: 10/19/10

SUMMARY

The University reaffirms its policy, as set forth below, of not tolerating any form of discrimination, harassment or other inappropriate workplace behavior. It is the obligation of every university employee to create a respectful workplace environment free of any discriminatory conduct, harassment or other inappropriate workplace behavior and to report such conduct if they become aware of it.

I. PURPOSE

This policy outlines the University’s policy prohibiting any form of discrimination, harassment and other inappropriate workplace conduct and the procedures and mechanisms to resolve allegations of discrimination, harassment, including sexual harassment and sexual assault, and other inappropriate workplace conduct.

II. ACCOUNTABILITY

By direction of the President, and through the Senior Vice President for Administration, the Associate Vice President for Workplace Diversity shall ensure compliance and the Senior Vice President/Chief Compliance Officer and the Vice President for Investigations shall implement this policy in conjunction with the Executive Vice President, Senior Vice Presidents, Vice Presidents, Deans and other members of management. It is the responsibility of every employee to demonstrate behavior in the spirit of this policy and to take appropriate action to eliminate discrimination, harassment and other inappropriate workplace conduct.

III. APPLICABILITY

This policy applies to all full-time, part-time, permanent and temporary employees, faculty, staff and residents, applicants for employment or educational programs, students, volunteers, patients, vendors, contractors, subcontractors and all parties engaged in business and educational relationships with the University.

IV. DEFINITIONS

- A. **Discrimination** - an individual is subject to disparate treatment because of his or her protected class. Protected classes are race, color, national origin, ancestry, sex (including pregnancy), sexual orientation, gender identity or expression, disability, age, religion or creed, marital, familial, domestic partnership or civil union status, military or veteran status or genetic information.

B. **Harassment –**

1. Harassment (**Protected Class**) - is a form of discrimination that occurs when an individual because of his/her protected class is subjected to conduct that is sufficiently severe or pervasive to create an intimidating, hostile or offensive working or academic environment.
2. General Harassment (**Non-Protected Class**) - occurs when an individual is subjected to conduct that is sufficiently severe or pervasive to create an intimidating, hostile or offensive working or academic environment.
3. **Sexual Harassment** - unwelcome or unwanted sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when it takes the form of:
 - a. Quid Pro Quo Sexual Harassment - occurs when a faculty member or supervisor makes or threatens to make a student's or subordinate's submissions to sexual demands a basis for academic or employment decisions.
 - b. Hostile Environment Sexual Harassment - occurs when an individual is subjected to conduct because of his/her sex and that conduct is sufficiently severe or pervasive to create an intimidating, hostile, or offensive academic or working environment.
 - c. Third Party Sexual Harassment - occurs when the victim, who is not necessarily the target of the sexually harassing conduct, has his/her academic environment or terms and conditions of employment altered or compromised as a result of the sexually harassing conduct.

C. **Consensual Relationships** - shall include marriage, cohabitation, engagement, dating and other ongoing relationships of an intimate or close personal nature which passes beyond a platonic relationship.

D. **Sexual Assault** - refers to nonconsensual sexual contact. It may involve the threat or use of force, violence or intimidation. It may involve sexual contact with a person who is unable to consent due to incapacity or impairment. Any nonconsensual sexual touching may be considered sexual assault.

E. **Inappropriate workplace conduct** – refers to conduct that is unprofessional and inappropriate in a workplace setting that does not rise to the level of harassment and/or discrimination based upon a protected class.

V. REFERENCES

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| A. | University Code of Conduct | http://www.umdnj.edu/complweb/code/ |
| B. | Code of Ethics: General Conduct. | 00-01-10-05:00 |
| C. | Rights and Responsibilities for the Use of University-Accessed Electronic Information Systems | 00-01-10-40:00 |
| D. | Reporting Compliance and Ethics Concerns | 00-01-15-55:00 |
| E. | Students Rights, Responsibilities and Disciplinary Procedures | 00-01-25-50:00 |
| F. | Employee Assistance Program | 00-01-30-45:05 |
| G. | Employment of Relatives | 00-01-30-55:00 |
| H. | Use of Personally-Owned Mobile Communication Devices/ Recording Devices on University Premises | 00-01-30-80:00 |

- I. Information Services and Technology Acceptable Use Procedures
http://umdnjcaprod.umdj.edu/ist/about_IST/pdf/policies_acceptable01.pdf

VI. POLICY

A. General

One of the basic tenets of The University of Medicine and Dentistry of New Jersey's Code of Conduct is the core value of respect for others. This value is expressed in the University's commitment to a working and learning environment for all faculty, staff, and students that is free from discrimination, harassment and other inappropriate workplace conduct. Therefore, the University prohibits any form of discrimination and harassment, which includes sexual assault and sexual harassment, on the basis of race, national origin, creed, color, religion, disability, pregnancy, age, gender, gender identity and expression, sexual orientation, civil union or domestic partnership status, exercising rights to take Family Medical Leave, genetic information and other protected classifications in all educational, employment, research, healthcare delivery and service components. The University has established procedures to address and resolve allegations of discrimination, harassment and other inappropriate workplace conduct.

All forms of discrimination, harassment and other inappropriate workplace conduct and all attempts to commit such acts will not be tolerated and allegations involving such behavior will be addressed in accordance with this policy. Those faculty, staff, and students found to have violated this policy will be subject to appropriate remedial and/or disciplinary action. Those volunteers, vendors or patients found to have violated this policy will be restricted from the University, if appropriate.

B. Use of University Electronic Information Systems

Consistent with providing an environment free of objectionable, disrespectful and harassing conduct or communication, the direct or indirect use of the University's computer information system, including but not limited to email, University owned or operated desktops, laptops, BlackBerrys, PDAs, camera devices on cellular telephones, etc., in a manner inconsistent with University policy or existing law may subject the violator to discipline, including but not limited to termination. The University's computing, networking, telephonic and information system resources may not be used to disseminate hate speech, harass others, access or view pornography or conduct illegal activity. Violations of this policy involving potentially illegal activity will be reported to Public Safety and appropriate law enforcement agencies. (See University policy, Rights and Responsibilities for the Use of University-Accessed Electronic Information Systems, 00-01-10-40:00.)

C. Sexual Assault

The Department of Public Safety is designated as the primary resource for intervention and assistance for those who are subject to violence or threats of violence. Employees are required and students are strongly encouraged, but not required, to report immediately any incident of sexual assault to the Department of Public Safety for assistance and investigation. The Department of Public Safety is authorized and prepared to enforce the criminal statutes of New Jersey, to make appropriate referrals for prosecution, and to assist victims in reaching appropriate sources of medical and personal help.

Allegations of sexual assault may also be reported to the Ethics and Compliance Helpline at 1-800-215-9664 or www.umdj-ethics-helpline.com pursuant to this policy for administrative resolution only.

New Jersey's Campus Sexual Assault Victim's Bill of Rights (see EXHIBIT) provides information on the rights and resources available to victims. Additional information on rights and resources available to all targets of sexual assault in coping with sexual assaults, whether at the time of an emergency or thereafter, is available in any office of Public Safety, Human Resources, Office of Workplace Diversity, Student Ombudsperson, Student Wellness Program and Student Health Centers, as well as from various Student Affairs offices.

D. Consensual Relationships:

The University prohibits any consensual relationship between faculty members, students, supervisors, staff members, or residents, when one individual has authority, influence, or responsibility with regard to the other including consensual relationships between any one in a supervisory capacity over students and residents employed or not employed by the University. Such relationships may lead to circumstances which can be interpreted as sexual harassment or be viewed as causing a hostile or offensive work or academic environment when other faculty, staff, residents or students believe that the person(s) involved in the relationship(s) is (are) receiving favorable treatment in employment or educational decisions and actions. Persons engaging in such conduct may be subject to disciplinary action, if the conduct results in an offensive or hostile environment or interferes with the proper functioning of the University or any of its components or constituents. Such consensual relationships may also violate UMDNJ's policy, Employment of Relatives, 00-01-30-55:00 and New Jersey State Ethics Conflict of Interest Law, N.J.S.A. 52:13D-21.2 Subchapter 7, the anti-nepotism provision.

An individual with supervisory or educational responsibility for an employee, resident, faculty member or student must inform his or her superior of the consensual relationship, so that the University can take action to change the reporting relationship between the two people. If the University is unable to change the reporting relationship, the employees will be provided the opportunity to decide which one of the two will resign. Failure to give proper notice to the individual's immediate superior may result in denial of legal representation and indemnification by the State in the event that a lawsuit is filed in connection with the relationship or considered a violation of this policy and subject the person to disciplinary action.

E Workplace (Campus) Violence:

The Department of Public Safety is designated as the primary resource of protection and assistance for those who are subject to violence or threats of violence. Employees are required and students are strongly encouraged, but not required, to report immediately any incident of violence or threat of violence to the Department of Public Safety for assistance and investigation.

Allegations of violence or threats of violence may also be reported to the Ethics and Compliance Helpline at 1-800-215-9664 or www.umdj-ethics-helpline.com pursuant to this policy for administrative resolution only.

F. Complaint Resolution Procedures

1. Any member of the University Community covered by this policy who is the target of or witness to discrimination and/or harassment as outlined in the policy is expected to immediately report the matter to the Ethics and Compliance Helpline at 1-800-215-9664 or at www.umdj-ethics-helpline.com setting forth 1) a description of the incident or incidents of discrimination and/or harassment, 2) identifying any witnesses to the conduct and 3) indicating the response the individual believes would be appropriate. Students may also report complaints to the Dean of the School or his/her designee. The Dean or his/her designee will report the complaint to the Helpline immediately.
2. The Office of Ethics, Compliance & Corporate Integrity, and the Investigations Group, will jointly assess each complaint and retain them for investigation, or refer them to the relevant School/unit, or other appropriate University office which will review the matter, through any of the following methods: mediation, investigation, or informal review for resolution. The relevant School Dean or his/her designee shall be notified of any complaint involving a student.
3. For matters retained by the Investigations Group, the Group shall render any findings and/or communicate the outcome to the complainant, respondent, School Dean or his/her designee or unit head, and the Office of Ethics, Compliance & Corporate Integrity, as appropriate.
4. If the matter is forwarded to the School or unit or any other University office for

resolution, the School, unit or University office must communicate the outcome to the Office of Ethics, Compliance & Corporate Integrity.

5. Corrective Action:

The unit head or School Dean, or his/her designee shall determine and take appropriate corrective action in consultation with Labor Relations, Legal Management, Academic Affairs and/or Office of Workplace Diversity, as warranted to address discrimination, harassment and inappropriate workplace conduct.

For complaints involving students, the School Dean, or his/her designee shall determine and take appropriate corrective action pursuant to the School's student disciplinary procedures.

Corrective action may include, by way of illustration, but not limitation, directed counseling and/or mandatory education and training, warning, reprimand, probation, suspension, termination or expulsion. Corrective actions shall be implemented fully and in a timely manner and will be documented in an employee's official personnel file, except for those matters involving students, which shall be documented in accordance with the School's procedures.

G. Retaliation:

The University prohibits retaliation against staff, faculty, students, or residents who have filed complaints or cooperated in an investigation or proceeding designed to foster the implementation of this policy. No form of retaliation will be tolerated. Retaliation is a separate and distinct offense under this policy. Any person found to have retaliated against anyone will be subject to disciplinary action, up to and including termination or expulsion.

H. Confidentiality:

All participants in the complaint and/or investigation are expected to maintain confidentiality, except if disclosure is required by law, or when lack of disclosure impedes a full and fair investigation of the complaint or implementation of complaint remedies.

I. False Complaints and Refusal to Cooperate:

The intentional filing of a false complaint is a violation of this policy and may subject such person to discipline up to and including termination or, in the case of a student, dismissal from the School. Refusal to cooperate with/or participate in an investigation is a violation of this policy and may subject such person to discipline, except for refusal to participate by victims of sexual assaults. Anyone who believes that he/she has been the subject of a false complaint may file a complaint with the Ethics and Compliance Helpline. If evidence of an intentional false complaint has been found, appropriate disciplinary action will be taken.

This provision is not intended to discourage complaints in those instances where an individual believes in good faith that discrimination, harassment and/or inappropriate workplace conduct has occurred.

J. Legal Representation:

With the exception of attorneys in UMDNJ Legal Management, no outside attorneys representing anyone covered by the policy will be permitted to participate in or attend meetings related to the complaint process.

K. Recording:

No recording devices and camera-equipped devices (including mobile communication devices) will be permitted during procedures associated with resolutions of complaints, except when appropriate under other relevant policies in the case of student hearings.

L. Education:

The University provides education and training on the prevention and recognition of any type of discrimination, harassment and other inappropriate workplace for all employees, including supervisory and managerial personnel, residents and students. This policy and the materials compiled to inform the University community of victim's rights and resources in case of sexual assault shall be distributed to each new employee, resident and student at the time of orientation and by special publication or electronic distribution issued periodically to each member of the University community.

M. Resources:

1. The Office of Workplace Diversity is available to provide advice and guidance on ways to prevent discrimination and harassment in the workplace or advice on any diversity related issue.
2. The confidential services of the Employee Assistance Program are available to employees who may need counseling and other assistance at any time at 973-972-5429 for the Newark Campus, 732-235-5930 for the New Brunswick and Piscataway campuses, and 856-770-5750 for the Stratford and Camden Campuses.
3. Students may utilize Student Health Services and/or contact the Student Ombudsperson for information and support.
4. Employees and students may seek assistance from the Department of Public Safety to address safety and security concerns.

VII. EXHIBIT

New Jersey's Campus Sexual Assault Victim's Bill of Rights

Signature on file

President

EXHIBIT

New Jersey's Campus Sexual Assault Victim's Bill of Rights

The following Rights shall be accorded to victims of sexual assault that occur:

on the campus of any public or independent institution of higher education in the state of New Jersey, where the victim or alleged perpetrator is a student at that institution, and/or when the victim is a student in an off-campus sexual assault.

Human Dignity Rights:

to be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy to have any allegations of sexual assault treated seriously; the right to be treated with dignity; to be free from any suggestion that victims are responsible for the commission of crimes against them; to be free from any pressure from campus personnel to report crimes if the victim does not wish to do so; report crimes as lesser offenses than the victim perceives the crime to be; refrain from reporting crimes; and refrain from reporting crimes to avoid unwanted personal publicity.

Rights to Resources On and Off Campus:

to be notified of existing campus and community based medical, counseling, mental health and student services for victims of sexual assault whether or not the crime is formally reported to campus or civil authorities to have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling to be informed of and assisted in exercising any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy; and any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

Campus Judicial Rights:

to be afforded the same access to legal assistance as the accused;

to be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused; and

to be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

Legal Rights:

to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;

to receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities; and

to receive full, prompt and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

Campus Intervention Rights:

to require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants to be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

New Jersey's Campus Sexual Assault Victim's Bill of Rights

Statutory Mandates:

Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation.

Each campus shall make every reasonable effort to ensure that every student at that institution receives a copy of this document.

Nothing in this act, or in any "Campus Assault Victim's Bill of Rights" developed in accordance with the provisions of this act, shall be construed to preclude or in any way restrict any public or independent institution of higher education in the State from reporting any suspected crime or offense to the appropriate law enforcement authorities.