



Employee Anti-Discrimination and Anti-Harassment Policy

PREAMBLE

Discrimination and harassment interfere with the educational purpose of New York Law School ("NYLS" or the "Law School") and negatively affect all members of the Law School community. Faculty, staff, and students have a right to be free from discrimination, harassment, and retaliation, as defined below. Discrimination or harassment directed at any member of the Law School community within the context of the Law School or Law School-sponsored or related activities will not be permitted, and complaints will be investigated promptly and thoroughly. New York Law School is proud of its policy of maintaining a work, academic and residential environment that encourages tolerance and respect for the dignity of each individual.

I. COORDINATION WITH OTHER POLICIES

Consistent with federal and state law requirements pertaining to sexual assault, non-consensual sexual contact, unwelcome conduct (per Title IX), sexual exploitation, stalking, dating violence, domestic violence, and *quid pro quo* sexual harassment (collectively, "Sex-Based Misconduct"), NYLS has adopted a Sexual Misconduct Policy that specifically addresses such conduct. All complaints pertaining to conduct that is prohibited by the Sexual Misconduct Policy shall be handled in accordance with the Sexual Misconduct Policy.

All other complaints of harassment and discrimination made by employees, including complaints of sexual harassment or discrimination not covered by the Sexual Misconduct Policy, shall be handled in accordance with this Employee Anti-Discrimination and Anti-Harassment Policy ("Policy"), which complies with federal and state law and New York State Department of Labor and Division of Human Rights guidance. Any questions regarding which NYLS policy governs a particular situation should be referred to the Office of Human Resources. Additional external resources and statutory references related to incidents of Sex-Based Misconduct can be found in the Sexual Misconduct Policy.

A particular situation may invoke one or more NYLS policies or processes. The Law School reserves the right to determine the most appropriate policy or process and to utilize that policy or process. The Law School reserves the right to determine the most appropriate policy or process and to utilize that policy or process.

II. GENERAL HARASSMENT AND DISCRIMINATION POLICY

A. Prohibition Against Harassment and Discrimination

In compliance with federal, state, and local laws and guidance, the Law School does not discriminate on the basis of race, color, religion, creed, national or ethnic origin, sex, sexual orientation, gender (including gender identity), age, disability, military status, marital/partnership status, alienage, citizenship, or any other legally protected status ("Protected Characteristic") in its employment practices.

Discrimination and Retaliation Based on Employee's Sexual and Reproductive Health Decisions

The Law School shall not:

1. discriminate nor take any retaliatory personnel action against an employee with respect to compensation, terms, conditions, or privileges of employment because of or on the basis of the employee's or dependent's reproductive health decision making, including, but not limited to, a decision to use or access a particular drug, device, or medical service; or
2. require an employee to sign a waiver or other document which purports to deny an employee the right to make their own reproductive health care decisions, including use of a particular drug, device, or medical service; or
3. access an employee's personal information regarding the employee's or the employee's dependent's reproductive health decision making, including but not limited to, the decision to use or access a particular drug, device, or medical service, without the employee's prior informed affirmative written consent.

Employees who believe that the Law School has violated their rights per this subsection have the right to bring a civil action in any court of competent jurisdiction. The remedies that may be available the employee as a result of a successful civil action include back pay, benefits, reasonable attorneys' fees and costs, injunctive relief, reinstatement, and liquidated damages.

B. Scope of This Policy

This Policy applies to all NYLS employees, individuals applying for employment, and other non-employees, including contractors, subcontractors, vendors, consultants, or other persons providing services pursuant to a contract on NYLS premises (collectively, "Covered Individuals"). Covered Individuals may report a complaint under this Policy regardless of whether the alleged offender is also an employee. Conduct that may violate this Policy could occur on-campus or off-campus, including on social media and other online platforms. NYLS may be limited in what actions it may take when investigating or responding to a report of off-campus behavior or on-campus behavior of an individual not affiliated with NYLS, but in such cases NYLS will conduct an inquiry and respond to the best of its ability.

This Policy applies to all phases of employment, including, but not limited to, recruiting, hiring, selection for training, promotion, demotion, discipline, rates of pay or other compensation, termination, use of all facilities, and participation in all Law School sponsored or related activities.

C. Definitions of Harassment and Discrimination

The following definitions apply to this Policy only. All conduct described in this section is collectively referred to as "Prohibited Conduct" hereinafter. Engaging in any Prohibited Conduct is a violation of this Policy.

Discrimination is the adverse treatment of another individual on the basis of a Protected Characteristic; or the use of facially-neutral employment policies or practices which disproportionately disadvantage individuals on the basis of a Protected Characteristics.

Harassment is certain unwelcome conduct on the basis of an individual's Protected Characteristic, including, but not limited to: subjecting an individual to humiliating, offensive, abusive or threatening conduct that creates an intimidating, hostile or abusive work environment; alters the conditions of employment; or unreasonably interferes with an individual's work performance on the basis of that individual's Protected Characteristic. Examples of harassing behavior may include: communicating, sharing or displaying written or visual materials; epithets or slurs; negative stereotyping; denigrating jokes; and display or circulation in the working, learning, or living environment (including electronic transmission) of written or graphic material; making verbal comments; or engaging in physical conduct that is demeaning or derogatory to an individual because of a Protected Characteristic. Whether or not conduct is harassment will depend on the totality of the circumstances, including the frequency and severity of the discriminatory conduct; whether the conduct is physically threatening or humiliating, or a mere offensive utterance; and whether the conduct unreasonably interferes with the alleged victim's employment environment, if applicable.

Sexual Harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender (collectively, "Sex"). Such conduct may occur between any individuals, regardless of their sex or gender. Sexual harassment may also include unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

The following describes some of the types of sexual harassment prohibited under this Policy: offensive and unwelcome sexual invitations, whether or not the individual submits to the invitation, and particularly when a spoken or implied *quid pro quo* for sexual favors is a benefit of employment opportunities; sex stereotyping (i.e., discrimination based on a person's failure to conform to gender stereotypes, which are oversimplifications of how people of a particular gender should act); hostile actions taken against an individual because of that individual's Sex; unwelcome sexual flirtations, advances, questions or propositions; requests or demands for sexual favors; graphic or degrading verbal comments or questions about an individual's appearance or their sexual conduct or relationships; sexually oriented gestures, noises, remarks or jokes, or comments about an individual's sexuality or sexual experience; unwanted, offensive, or abusive physical contact; words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's Sex, which cause the recipient discomfort or humiliation, and/or which interfere with the recipient's work performance. The above list is only illustrative of types of conduct that would violate this Policy and, as such, by no means represents an exclusive list of conduct or types of conduct that would violate this Policy.

It is important to note that behavior that is not sufficiently severe or pervasive to constitute a violation of law may still violate this Policy. Of course, NYLS may also discipline employees for inappropriate behavior that is not a violation of this Policy under other applicable policies.

D. Prohibition on Certain Relationships with Students

Sexual relationships between members of the NYLS Board of Trustees/faculty members/staff members and students threaten the maintenance of the atmosphere of impartiality and trust that is the foundation of any healthy academic environment.

For purposes of this prohibition, "sexual relationship" includes, but is not limited to, intimate involvement between persons that goes beyond the bounds of personal or academic friendship or mentoring, or that includes any form of sexual conduct between the persons.

Sexual relationships between Trustees and students, sexual relationships between faculty and students, and sexual relationships between staff and students, are prohibited. Any Trustee, faculty member, or staff member who has a sexual relationship with a person enrolled as a student at NYLS—and who knows, or reasonably should know, that such person is an enrolled student—shall be subject to disciplinary action, up to and including termination of employment.

If a Trustee, faculty member, or staff member is in a continuing sexual relationship with a person who enrolls at NYLS, the Trustee, faculty member, or staff member shall apply to the Title IX Coordinator for a waiver of this policy. Even if a waiver is approved, such person may not enroll in a class taught by such Trustee, faculty member, or staff member and such Trustee, faculty member, or staff member shall not have any academic, administrative, or supervisory responsibilities for the person.

E. Academic Freedom

This Policy is intended to compliment and support NYLS' educational mission. The Law School believes it can only be successful, and that its students, employees, and visitors can reach their full potential, when all people in the Law School community are treated fairly and equitably. Accordingly, the Law School recognizes a distinction between violations of this Policy and statements and materials which are relevant and appropriately related to the subject matter of a course or academic scholarship. Consistent with these principles, no provision of this Policy is intended to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship or public commentary of an individual faculty or staff member. However, academic freedoms do not protect speech or expressive conduct that violates federal, state or local anti-discrimination laws.

III. HARASSMENT AND DISCRIMINATION COMPLAINT PROCEDURES

Any Covered Individual, to the extent applicable under the law, who believes that they have been subjected to Prohibited Conduct or has witnessed or is aware of Prohibited Conduct, is encouraged to report the conduct immediately to their supervisor. If the Covered Individual (excluding non-employees) is unable to report the misconduct to their immediate supervisor (whether because the supervisor has committed the misconduct or for any other reason whatsoever), the Covered Individual should report the conduct to the next higher level of management above the immediate supervisor or, if the Covered Individual prefers, to the Office of Human Resources. A complaint of Prohibited Conduct made by a non-employee should be directed to Human Resources.

Alternatively, Covered Individuals may, if they wish, submit a written complaint to their supervisor and/or Human Resources. If a Covered Individual is reporting more than one incident, a separate submission should be made for each incident.

It is, of course, very difficult for NYLS to address an instance of Prohibited Conduct unless it learns of the incident. Therefore, in order for NYLS to ensure that it provides an environment free from Prohibited Conduct, NYLS strongly encourages Covered Individuals to immediately report such conduct so that the investigation can commence. However, due to the sensitivity of these problems and because of the emotional toll such conduct may have on the individual, no fixed period has been set for reporting incidents.

Covered Individuals can also use the External Remedies (*e.g.*, a government agency or in court under federal, state) outlined in the "*Legal Protections and External Remedies*" section below.

All supervisors and managers who receive a complaint or information about suspected Prohibited Conduct, observe what may be Prohibited Conduct, or, for any reason, suspect Prohibited Conduct is occurring, are required to report such suspected Prohibited Conduct to Human Resources. Failure to immediately notify any of Human Resources may impede the ability of the investigators to conduct an impartial, timely, and thorough review of the complaint and inhibit NYLS's ability to adhere to its obligations under the law. In addition to being subject to discipline if they engaged in Prohibited Conduct, NYLS will enforce sanctions, up to and including termination of employment, against supervisory and managerial personnel who knowingly allow behavior prohibited by this Policy to continue or engage in any retaliatory behavior.

IV. HARASSMENT AND DISCRIMINATION RESOLUTION PROCEDURES

Reports of Prohibited Conduct will be investigated promptly, thoroughly, and impartially, with every effort to maintain confidentiality to the greatest extent possible. The Law School cannot guarantee absolute confidentiality. All persons involved, including complainants, witnesses and alleged offenders will be accorded due process, as outlined below, to protect their rights

to a fair and impartial investigation. While the process may vary from case to case depending on the circumstances, typically, the investigation will include an interview of the complaining party, the person or persons being complained about, and other relevant witnesses, if any. During the investigation, the Law School will provide all parties appropriate due process and reach a reasonable conclusion based on the evidence collected. The Law School will keep reasonable documentation regarding, and track the progress of, each complaint and ensuing investigation. All parties contacted in the course of such investigation will be notified that NYLS will not tolerate retaliation in any form against any employee who believes in good faith that discrimination or harassment has occurred and reports such conduct, or who truthfully cooperates in an investigation of alleged Prohibited Conduct. All employees are expected to cooperate with any internal investigation of sexual harassment.

The Law School will promptly notify the complainant and respondent of the final determination. If, based on the investigation, the Law School believes that it is more likely than not that conduct in violation of this Policy has occurred, it will take appropriate remedial measures to resolve the situation, on a case by case basis. Upon completion of the investigation, it will be timely closed and kept confidential to the extent possible.

In addition, appropriate corrective action against the individual found to have violated this Policy will be imposed, up to and including termination of employment (*see* Section V *infra*). Employees of every level who engage in sexual harassment, harassment, discrimination, retaliation, or other conduct in violation of this Policy, including managers and supervisors who engage in Prohibited Conduct or who allow such behavior to continue, will be penalized for such misconduct. This is a zero tolerance policy. NYLS also will take appropriate action to deter future misconduct.

V. CORRECTIVE ACTION AND SANCTIONS

If NYLS determines that Prohibited Conduct occurred in violation of this Policy, it will take measures to stop the Prohibited Conduct and ensure that it does not recur. Employees of every level who engage in Prohibited Conduct, including managers and supervisors who engage in Prohibited Conduct or who allow such behavior to continue, will receive sanctions for such misconduct, up to and including termination of employment.

The Investigator(s) will work with NYLS administration, including Human Resources and the Associate Dean of Academic Affairs in a case concerning faculty, to recommend the appropriate corrective action based on the circumstances surrounding a complaint.

All employee sanctions will be noted in the employee's file, along with a copy of the Final Report.

For tenured faculty, discipline will be imposed consistent with applicable law, existing contracts, and NYLS' Standards and Procedures for Tenure, Promotion and Reappointment ("Tenure Rules"). Discipline for other employees will be imposed consistent with state and local law, collective bargaining agreements, and the terms and conditions of any other existing contract.

Sanctions for employees may include, but are not limited to the following:

Staff:

- A warning, with appropriate documentation of the circumstances;
- Suspension, with or without pay, for a time certain;
- Probation, for a time certain, with terms and conditions set forth as to termination of probation;
- Denial or limitation of future increases in salary, benefits, perquisites, and the like, upon specified terms and conditions;
- Reduction in grade or position;
- Termination of employment.

Non-Tenured and Non-Long-Term Contract Faculty:

- A warning, with appropriate documentation of the circumstances;
- Suspension, with or without pay, for a time certain, under stated terms and conditions.
- Probation, for a time certain, with terms and conditions set forth by the Board as to termination of probation;
- Denial or limitation of future increases in salary, benefits, perquisites, courses, summer teaching assignments, research grants, and the like, upon specified terms and conditions;
- Reduction in position;
- Termination of employment.

Tenured and Long-Term Contract Faculty:

- A warning, with appropriate documentation of the circumstances;
- Suspension, with or without pay, for a time certain, under stated terms and conditions, to the extent permissible under the Tenure Rules;
- Probation, for a time certain, with terms and conditions set forth by the Board as to termination of probation, to the extent permissible under the Tenure Rules;
- Denial or limitation of future increases in salary, benefits, perquisites, courses, summer teaching assignments, research grants, and the like, upon specified terms and conditions;
- Reduction in grade or position, to the extent permissible under the Tenure Rules;
- Termination of employment, to the extent permissible under the Tenure Rules. In such case, the Board shall recommend to the Administration that it commence a proceeding pursuant to Article IX of the Tenure Rules.

A. Prohibition on Retaliation

Retaliation is unlawful. Retaliation, including seeking revenge, reprisal, injury, or engaging in an adverse employment action (including, but not limited to: making any decision regarding job assignment or reassignment, performance evaluation, compensation, promotion or demotion, termination or commencement of employment, or any other decision involving any tangible employment action), against an individual based in whole, or in part, on any individual's (i) exercise of his/her rights under this Policy; (ii) participation in an investigation into allegations of any of the conduct covered in this Policy; (iii) opposition to any conduct covered in this Policy; or (iv) encouragement of others to exercise their rights under this Policy, is *absolutely prohibited* by NYLS and under federal, state, and local law. If an individual believes that they have been retaliated against for one of these reasons, that individual should contact the General Counsel. Any employee who retaliates against anyone involved in a discrimination, harassment, including sexual harassment, or retaliation investigation or court proceeding will be subject to discipline, up to and including termination of employment.

Individuals who deliberately make false complaints or claims, or malicious accusations of conduct covered under this Policy will be subject to disciplinary action, up to and including termination of employment. Please note that this does not apply to individuals who make a complaint *in good faith*.

VI. LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Discrimination and harassment, including sexual harassment, is not only prohibited by NYLS but is also prohibited by state, federal, and, where applicable, local law. Aside from the process described in this Policy, Covered Individuals or Covered Third Parties may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, Complainants may seek the legal advice of an attorney.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the HRL may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court. If an individual did not file at DHR, they can sue directly in state court under the HRL. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to NYLS does not extend your time to file with DHR or in court. The time to file is counted from date of the most recent incident of harassment. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR. DHR will investigate your complaint and determine whether there is probable cause to believe that harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines. DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal antidiscrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC. An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime.

In addition to notifying the local police department, or the government agencies listed above, employees can also file a complaint in federal or state court under federal and/or state anti-discrimination and anti-harassment laws.

VII. DISCLAIMER

This Policy does not constitute a guarantee that employment will continue for any specified period of time or will end only under certain conditions. Nothing in this Policy constitutes an express or implied contract of employment or warranty of any benefits or particular procedures.

NYLS reserves the right to take whatever actions it deems appropriate to best educate students, resolve conflict, and maintain an environment free of harassment and discrimination. The Law School therefore reserves the right to alter, amend, modify, or interpret these provisions within its sole discretion, unless such action or interpretation would violate applicable laws, employee collective bargaining agreements, written employment contracts, or other requirements.