



**New Jersey Institute of Technology
University Policies and Procedures**

Date: August 31, 2017

***Subject:* HUMAN RESOURCES ANTI - DISCRIMINATION
AND ANTI- DISCRIMINATORY HARASSMENT POLICY**

I. PURPOSE

NJIT is committed to equal opportunity, diversity and inclusion, and affirmative action in employment, and in providing a work environment free from unlawful discrimination and discriminatory harassment.

II. APPLICABILITY

This Policy and Procedure applies to all employees of the University, and to the extent possible to non-employees who transact business on University grounds, such as contractors, visitors, business partners and vendors.

Student complaints on sexual misconduct are not governed by this Policy and Procedure, but are governed by the Sexual Misconduct Policy for Students.

Student complaints of discrimination or harassment are governed by this policy.

Procedures outlined herein shall apply to all members of the university community and employees. Faculty should additionally refer to the Faculty Handbook. Employee rights and obligations pursuant to applicable collective bargaining agreements are not impaired by these procedures.

III. POLICY

The University prohibits unlawful discrimination or discriminatory harassment (including sexual harassment) by or against any NJIT employee on the basis of race, color, national origin, nationality, ancestry, religion, sex, pregnancy, age, sexual orientation, disability, marital status, gender identity and expression, disability, affectional or sexual orientation, military service, veteran status, atypical cellular or blood trait, an individual's genetic information or any other category protected by federal, state or local laws (collectively "protected categories" or "protected status").

The prohibition on discrimination and discriminatory harassment as outlined above applies to all terms and conditions of employment, including, but not limited to, hiring, training, assignments, promotions, demotions, transfers, discipline, compensation, benefits, and termination of employment.

Discriminatory harassment and discrimination is prohibited both at the workplace and at university-sponsored events. Social interactions between employees that occur off campus, but have a nexus to the workplace are also covered by this policy.

A. Selected Definitions and Guidance:

1. Discrimination: Discrimination occurs when an individual suffers an adverse employment decision/ and or action based on an individual's protected status.
2. Discriminatory Harassment:¹ Discriminatory Harassment is defined as unwelcome conduct that is based on an individual's protected status and where: 1) enduring the offensive conduct becomes a condition of continued employment; or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
3. Additional Guidance on Discriminatory Harassment: Discriminatory Harassment can occur in a variety of circumstances, including, but not limited to, the following:
 - i. The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
 - ii. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
 - iii. Unlawful harassment may occur without economic injury to, or discharge of, the victim.
4. Sexual Harassment:² Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. Sexual Harassment may include quid pro quo harassment or hostile work environment harassment.
 - i. *Quid Pro Quo Harassment*: Unwelcome sexual advances, requests or demands for sexually based favors or other gender-based verbal or physical conduct by a person in a position of power and/or authority where submission to or rejection of such conduct by an individual is used by the person in authority/power as a basis for employment, academic or institutional environment decisions and/or actions affecting such individual.
 - ii. *Hostile Environment*: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such conduct is sufficiently severe or pervasive and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment and/or academic environment. This harassment may arise independent of the supervisor/subordinate relationship.
 - a. Petty slights, annoyances, and isolated incidents (unless extremely serious) are usually not considered severe or pervasive. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

¹ See U.S. Equal Employment Opportunity Commission, *Harassment*, <https://www1.eeoc.gov/laws/types/harassment.cfm?renderforprint=1>.

² See U.S. Equal Employment Opportunity Commission, *Policy Guidance on Current Issues of Sexual Harassment* (Mar. 19, 1990), <https://www.eeoc.gov/policy/docs/currentissues.html>.