

SUNY DOWNSTATE, COLLEGE OF MEDICINE POLICY AND PROCEDURE

SUBJECT AND KEY WORDS:	Anti-Discrimination Policy and Complaint Procedures
PREPARED BY:	Senior Associate Dean for Administration
REVIEWED BY:	Dean's Advisory Council
APPROVED BY:	F. Charles Brunicardi, M.D., FACS, Dean
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Non-Discrimination by the College of Medicine

It is the College of Medicine's policy to provide equal educational opportunities without regard to actual or perceived race, color, religion, age, creed, ethnicity, national origin, disability, sexual orientation, gender (including pregnancy), gender identity, veteran status, prior record of arrest or conviction (except as permitted by law), predisposing genetic characteristics, or status as a victim of domestic violence, sexual offenses, or stalking. It is also the College of Medicine's policy to maintain an environment free of harassment on the basis of any of these grounds, including sexual harassment.

The College of Medicine, as part of SUNY Downstate Health Sciences University (the "University") is subject to and abides by University anti-discrimination and anti-harassment policies maintained by the University's Office of Diversity and Inclusion ("ODI"), as such policies may be modified from time to time, including without limitation:

- Reaffirmation of Non-Discrimination Policy
- Veterans Non-Discrimination Policy
- Policy on Prevention
- Policy on Religious Accommodations
- Policy On Sexual Harassment

Notice of the College of Medicine's non-discrimination/sexual misconduct policy, internal complaint procedures and University policies are given to students and employees annually. In addition, the College of Medicine prominently posts the University's non-discrimination/sexual misconduct policy (which provides contact information for ODI, and indicates where a copy of this policy may be obtained).

University policies are also available on ODI's website: <https://www.downstate.edu/diversity/index.html>.

Non-Discrimination and Sexual Misconduct Policy - Violations

It is a violation of the University's non-discrimination and sexual misconduct policies for members of the College of Medicine community to engage in behavior that subjects any student, faculty, staff, other employee, applicant for employment, or applicant for placement, to discrimination and/or harassment at a worksite location or during or as part of a work-related function on the basis of the individual's race, color, religion, age, creed, ethnicity, national origin, disability, sexual

orientation, gender (including pregnancy), gender identity, veteran status, prior record of arrest or conviction (except as permitted by law), predisposing genetic characteristics, or status as a victim of domestic violence, sexual offenses, or stalking if such conduct: (1) adversely affects any aspect of an employee's/applicant's employment or the compensation, terms, conditions or privileges of employment; or (2) creates a hostile, offensive, or intimidating work environment. We expect similar standards of professionalism are accorded to all patients and their families or other community members with whom we interact.

It is also a violation of this policy for members of the College of Medicine community to engage in discriminatory behavior and/or harassment with respect to students, faculty, staff, or applicants for employment or applicants for placement and other individuals who do business with the College of Medicine, use College of Medicine facilities or otherwise interact with College of Medicine.

Accordingly, it is a violation of this Policy and University Policies for any member of the College of Medicine community to discriminate against or create a hostile educational environment for a student by conduct and/or verbal or written acts on College of Medicine property, or at a College of Medicine sanctioned function on the basis of any of legally protected status or status set forth as protected in University policies if such behavior:

- (1) has or would have the effect of unreasonably and substantially interfering with a student's ability to participate in or benefit from an educational program, University-sponsored activity or any other aspect of a student's education; or
- (2) has or would have the effect of unreasonably and substantially interfering with a student's mental, emotional or physical well-being; or
- (3) reasonably causes or would reasonably be expected to cause a student to fear for his/her physical safety; or
- (4) reasonably causes or would be expected to cause physical injury or emotional harm to a student.

It is also a violation of this Policy for any College of Medicine member to engage in the behavior noted above off University property when such behavior creates or would foreseeably create a risk of disruption within the educational/campus environment.

Non-Retaliation

It is the University's and College of Medicine's policy to prohibit retaliation against any individual who objects to discriminatory practices at the College of Medicine, in the workplace or school or who complains of discrimination or harassment, or who files or participates in the investigation of an internal or external complaint of discrimination. Any adverse act against individuals due to their participation in a protected activity is considered retaliatory.

In order to develop and maintain a positive and supportive learning and working environment that is free of discrimination, harassment, retaliation and intimidation, the full cooperation of every staff member is necessary. Employees are expected to be exemplary role models in the academic programs and offices in which they serve.

- Faculty and supervisors are required to maintain an environment free of unlawful discrimination or discriminatory harassment.
- Behavior which violates this Policy may serve as a basis for discipline, even if it does not rise to the level of a violation of federal, state or local discrimination laws.
- This Policy applies to conduct and comments, whether or not intentionally offensive or directed at a particular person or group, which constitute a violation of this Policy.
- Any University employee or faculty member found to be in violation of this Policy may be subject to legal sanctions and appropriate disciplinary action.
- All College of Medicine employees and faculty members are expected to cooperate with ODI investigations and are required to report if summoned to appear by ODI. Tampering with, interfering with, or impeding an ODI investigation constitutes a violation of the University's non-discrimination/sexual misconduct policy and may result in disciplinary action.

Reporting Incidents of Discrimination or Policy Violations

The University and the College of Medicine, in its continuing effort to seek equity in education and employment consistent with Federal and State anti-discrimination laws, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of actual or perceived race, color, religion, creed, ethnicity, national origin, age, marital status, disability, sexual orientation, gender (including pregnancy), gender identity, veteran status, prior record of arrest or conviction (except as permitted by law), predisposing genetic characteristics, or status as a victim of domestic violence, sexual offenses, or stalking.

If students, residents, faculty, or administrators believe they are being treated unfairly due to a protected class (as identified above), they are referred to ODI which provides oversight on issues of non-discrimination, affirmative action, and diversity and inclusion in the workplace. ODI is responsible for ensuring Downstate's compliance with the State University of New York's employment policies and federal and state civil rights laws and regulations, which includes Title VI, Title VII, and Title IX compliance, Sexual Harassment, 504/ADAAA compliance, and New York State's Human Rights Law.

Faculty, staff, students or employees who observe or become aware of sexual misconduct, should report this information to Downstate's Office of Diversity & Inclusion (ODI). More detailed information regarding discrimination and/or sexual misconduct may be obtained by emailing ODI at: AskODI@Downstate.edu or calling (718) 270-1738.

Supervisors (mandated reporter) are required to immediately report instances of any oral or written complaints of discrimination or discriminatory harassment committed by employees to ODI. Supervisors can make the report by calling ODI, e-mailing ODI or filling out a copy of ODI's Complaint Intake form. Advice and assistance on how to proceed will be provided as needed. A supervisor's failure to report complaints or instances of discrimination to ODI may constitute a violation of this Policy.

Complaint Procedures

Employees, applicants for employment, students, and others who do business with the College of Medicine, College of Medicine facilities, or otherwise interact with the College of Medicine may file complaints of discrimination, harassment, or retaliation as set forth below. Such complaints may be filed in writing or orally by contacting ODI at: (718) 270-1738 or Email: AskODI@Downstate.edu.

- (1) Complainants should use the ODI non-discrimination/sexual misconduct policy Complaint Intake form to file a complaint. Complaint forms can be obtained directly from ODI or the Office of Human Resources. Upon receipt of a complaint, ODI will determine whether the complaint alleges a violation of this Policy, the University policy or applicable regulations. If ODI believes that irreparable harm will occur before the complaint can be fully investigated and resolved, ODI may recommend interim relief pending completion of the investigation of the complaint.
- (2) Following the investigation, ODI will submit written recommended findings as to whether there has been a violation of non-discrimination/sexual misconduct policies to the University President or the President's designee. The President/President's designee will issue a written determination within 90 working days of receipt of the complaint, unless circumstances warrant extension of the time period. Complainant(s) and respondent(s) will be informed in writing of the determination by ODI.
- (3) If a violation of this Policy, the University Policy or applicable State regulations are sustained, the respondent's supervisor/VP of Academic & Students will confer with ODI to determine if any disciplinary or corrective action is required.
- (4) ODI will ensure that any corrective action required by the decision is implemented.

Anonymous Complaints

A student or complainant may file an anonymous complaint with ODI alleging that a particular practice or policy is discriminatory. ODI will review such complaints in order to determine how they should be processed in light of the information provided by the anonymous complainant.

Confidentiality

It is ODI's policy to respect the privacy of all parties and witnesses regarding complaints brought under this regulation. However, the need for confidentiality must be balanced against the obligation to cooperate with lawful investigations, to provide due process to the accused, and/or to take necessary action to conciliate, investigate, or resolve the complaint. Therefore, information regarding the complaint may need to be disclosed in certain appropriate circumstances.

False Accusations of Discrimination

A student, other complainant or witness who knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, may be subject to discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

Alternative Complaint Procedures

University and College of Medicine internal procedures do not deny the right of any individual to pursue other avenues of recourse that may include filing charges with any of the external agencies noted below. However, where appropriate, if a complaint is filed with an external agency, ODI

may opt to not conduct an internal investigation, and may refer the matter to the University's Office of the General Counsel.

- U.S. Department of Education, Office for Civil Rights
- U.S. Equal Employment Opportunity Commission
- New York State Division of Human Rights

The time frames for filing with these agencies may vary and is determined by the policies of these agencies or applicable law.

General Inquiries

Inquiries pertaining to this Policy should be addressed to:
Victoria A. Ajibade, AVP of Diversity & Inclusion & Title IX
Office of Diversity and Inclusion
450 Clarkson Avenue, MSC 1220
Brooklyn, NY 11203

Tel (718) 270-1738
Fax (718) 270-2276

Conflicts

In the event of a conflict between this College of Medicine Policy and a University policy, the University policy shall prevail.

Recommended by the Dean's Advisory Council November 20, 2020

Approved by F. Charles Brunicaudi, Dean, November 20, 2020