SUMMARY OF PROHIBITED DISCRIMINATION/SEXUAL MISCONDUCT

SUNY Downstate Medical Center's (DMC) non-discrimination/sexual misconduct policy sets forth the procedures by which employees, applicants for employment, students, visitor and others who do business with DMC, use DMC facilities or otherwise interact with DMC can raise and resolve claims of discrimination and/or sexual misconduct within DMC’s Office of Diversity & Inclusion (ODI). The following information is intended to provide guidance to assist people in avoiding discriminatory practices/sexual misconduct but is not, however, exhaustive.

DEFINITIONS

Age: Actual or perceived age.

Disability: actual or perceived disability, or history of disability. The term “disability” means any physical, medical, mental, or psychological impairment or history or record of such impairment, or a condition regarded by others as a disability. It is not discriminatory for an employer to require that any employee or applicant be able to perform the essential functions of a job with or without reasonable accommodation. If a person believes that he/she has a qualifying disability and is in need of a reasonable accommodation in order to fulfill the essential functions of his/her position, that person should contact the Department of Human Resources or ODI for additional information.

Ethnicity/National Origin: actual or perceived national origin or ethnic identity. National origin is distinct from race/color or religion/creed because people of several races and religions or their forbearers may come from one nation. The term “national origin” includes members of all national groups and groups of persons of common ancestry, heritage, or background; it also includes individuals who are married to or associated with a person or persons of a particular national origin.

Gender (Sex): actual or perceived gender (sex), pregnancy, or conditions related to pregnancy or childbirth. The prohibition against gender discrimination includes sexual harassment. The term “gender” shall also include a person’s 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 legal sex assigned to that person at birth.

Marital Status: single, married, separated, divorced, widowed; actual or perceived marital status.

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.

Predisposing Genetic Characteristic: Any inherited gene or chromosome, or alteration thereof, 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 is associated with a statistically significant increased risk of development of a physical or mental disease or disability.

Prior Arrest/Conviction: record of prior arrests and convictions for criminal offenses. After the extension of a conditional offer, DMC may inquire about criminal convictions and deny employment because of a conviction record if there is a direct relationship between the offense and the job or if hiring would create an unreasonable risk to property or the safety and welfare of others.
**Race/Color:** Actual or perceived race or color.

**Religion/Creed:** Actual or perceived religion or creed (set of fundamental beliefs, whether or not they constitute a religion).

An employee requesting a reasonable accommodation for religious reasons should follow the procedures set forth in DMC’s non-discrimination/sexual misconduct policy. A student requesting a reasonable accommodation for religious reasons may contact the Office of Student & Academic Affairs or ODI.

**Sexual Orientation:** Actual or perceived sexual orientation. The term sexual orientation means heterosexuality, homosexuality or bisexuality.

**Victim of Domestic Violence, Sexual Offenses, or Stalking:** An actual or perceived victim of domestic violence is a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person who is cohabitating with or who has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature or a person who is or has continuously or at regular intervals lived in the same household as the victim.

An actual or perceived victim of sex offenses or stalking is a person who has been subjected to such behavior as defined by the penal code. An employee may request a reasonable accommodation due to his/her status as an actual or perceived victim of domestic violence, sex offenses or stalking in order to fulfill the essential requests of a job. The employee may be asked to provide certification that he/she is a victim of domestic violence, sex offenses or stalking. An employee requesting the reasonable accommodation shall provide a copy of such certification within a reasonable period after the request is made. The certification requirement may be satisfied by providing a police or court record, documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider that the employee or that employee’s family or household member sought assistance as an actual or perceived victim of domestic violence, sex offenses, or stalking and/or the effects of the violence or stalking; or other information consistent with the employee’s disclosure and the request for accommodation.

**Sexual Harassment/Sexual Misconduct**

**A. Sexual Harassment between Employees**

Sexual harassment of one employee by another consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may take different forms, including explicit sexual propositions or threats, sexual innuendos, sexually suggestive comments, sexually oriented jokes, obscene gestures, displays of pornographic or obscene visual or printed material, and physical contact, such as touching, patting, pinching or brushing against another’s body. These behaviors can constitute sexual harassment whether they are directed at persons of the same or opposite sex and may also constitute criminal behavior.

**B. Sexual Harassment of Students by Employees:**

Sexual conduct between an adult employee and a student can never be considered welcome or appropriate. Sexual harassment of a student by an employee consists of sexual advances, requests for sexual favors and other verbal and physical conduct of a sexual nature. It includes situations where:

1. Submission to such conduct is a condition of the student’s advancement or obtaining an education;
2. Submission to or rejection of such conduct by a student is used as a basis for evaluating or grading a student or
as a factor in decisions affecting the student’s education; or

3. Such conduct has the purpose or effect of unreasonably interfering with a student’s education or creating an intimidating, hostile or offensive educational environment.

Sexual harassment may take different forms, including explicit sexual propositions or threats, sexual innuendos, sexually suggestive comments, sexually oriented jokes, obscene gestures, displays of pornographic or obscene visual or printed material, and physical contact, such as touching, patting, pinching or brushing against another’s body. These behaviors can constitute sexual harassment whether they are directed at persons of the same or opposite sex and may also constitute criminal behavior.

C. Sexual Harassment of Students by Students:

Student-to-student sexual harassment is conduct and/or communication by a student directed against another student. It consists of unwelcome and uninvited sexual advances, requests for sexual favors, sexually motivated physical conduct and other verbal, nonverbal or physical conduct or communication of a sexual nature which is sufficiently severe, pervasive or persistent to:

1. Substantially interfere with a student’s ability to participate in or benefit from an educational program, school-sponsored activity, or any other aspect of a student’s education; or
2. Create a hostile, offensive, or intimidating school environment; or
3. Otherwise adversely affect a student’s educational opportunities. Such behavior can constitute sexual harassment regardless of the gender, sexual orientation, or gender identity of any of the students involved.

Student-to-student sexual harassment may take many forms and can be physical, verbal or written. Written harassment includes electronically transmitted acts (e.g., via Internet, cell phone, personal digital assistant or wireless handheld devices).

Sexually harassing behavior may take many forms, including but not limited to:

- engaging in physical conduct of a sexual nature such as patting, pinching, grabbing, brushing up against another person in a sexual way;
- making sexual comments, remarks, insults, and/or jokes;
- electronically posting, displaying or distributing sexually oriented or suggestive objects, pictures, drawings or images;
- making obscene gestures;
- stalking;
- pressuring for sexual activity;
- spreading rumors of a sexual nature;
- engaging in sexually violent or coercive behavior (assault, rape)
- threatening or engaging in physical, sexual, verbal and/or emotional abuse to harm, intimidate or control a current or former dating partner (dating abuse).
COMPLAINT OF ALLEGED DISCRIMINATION/SEXUAL MISCONDUCT FORM

Complainant Information:
Please complete every appropriate item and submit it as soon as possible after the incident of alleged discrimination or sexual misconduct to:

THE OFFICE OF DIVERSITY & INCLUSION
450 Clarkson Avenue, E-7001
Brooklyn, NY 11203
Email: AskODI@Downstate.edu
Phone #: 718-270-1738
Fax #: 718-270-2276

➢ This form should be used by individual(s) who are filing a complaint as well as individual(s) reporting a complaint on behalf of an employee or student.
➢ Please print clearly all requested information.
➢ Also attach additional pages and supporting documentation, if necessary.

Check (☑) One: ☐ Employee      ☐ Student       ☐ Applicant for Employment       ☐ Other

Your Name: ____________________________________________
Title: ____________________________________________

____________________________________________________

Head of Site Information:

Name Head of Dept.: 
Title: 
Office/Dept.: 
Site Address: 
Email Address/Tel:
**Nature of Complaint:**

1. Check ✔ below why you believe you were discriminated against.

- Age
- Arrest/Conviction (not applicable to students)
- Color
- Creed
- Disability
- Ethnicity/National Origin
- Gender (including pregnancy)
- Marital Status (not applicable to students)
- Military Status (not applicable to students)
- Familial Status
- Predisposing Genetic Characteristic
- Race
- Religion
- Retaliation (for asserting a claim of discrimination)
- Sexual Harassment
- Sexual Orientation
- Status as a Victim of Domestic Violence, Sexual Offenses or Stalking

2. Name(s)/title(s) of person(s) you believe engaged in discrimination.

3. Where did it take place? □ On DMC Premises □ Off DMC Premises

4. Date(s) on which alleged act(s) of discrimination occurred.

   Month: _______ Day _______ Year ________
   Month: _______ Day _______ Year ________
   Month: _______ Day _______ Year ________
   Month: _______ Day _______ Year ________
5. Explain what happened *(cite names and evidence, if any, and attach extra pages if needed)*.

6. What relief or corrective action are you seeking?

Signature: ___________________________  Date: ___________________________

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