

Office of Diversity & Inclusion

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**THE STATE UNIVERSITY OF NEW YORK
DOWNSTATE HEALTH SCIENCES UNIVERSITY
GRADUATE MEDICAL EDUCATION**

POLICY ON EQUAL OPPORTUNITY AND NON-DISCRIMINATION

I. Policy on Equal Opportunity and Non-Discrimination

The Office of Graduate Medical Education (hereinafter, “GME”), a division of The State University of New York (SUNY) — Downstate Health Sciences University’ (“University” or “Downstate,”) located in the historically diverse borough of Brooklyn, New York is committed to a policy of equal employment and equal access in its educational programs and activities. Diversity, inclusion, and an environment free from discrimination are central to Downstate’s mission.

It is Downstate’s policy —applicable to each of its five (5) colleges, including GME— to recruit, employ, retain, promote, and provide benefits to employees (including medical residents, fellows, paid and unpaid interns) and to admit and provide services for students without regard to race, color, creed, national origin, ethnicity, religion, age, gender (including gender identity and gender expression, pregnancy, childbirth and related conditions), sexual orientation, marital status, disability, genetic information, military or veteran status, status as a victim of domestic violence/stalking/sex offenses, or any other legally prohibited basis in accordance with SUNY policies, federal and state laws.¹

It is also Downstate’s policy to provide reasonable accommodations when appropriate to individuals with disabilities, individuals observing religious practices, students, medical residents, fellows and employees who have pregnancy or child birth-related medical conditions, or students, medical residents, fellows and employees who are victims of domestic violence/stalking/sex offenses.

¹ As a public university system, SUNY adheres to federal and state laws and regulations regarding non-discrimination and affirmative action. Should any SUNY, federal or state law or regulation be adopted that prohibits discrimination based on grounds or characteristics not included in this policy, discrimination on those additional bases will also be prohibited by this policy.

This policy also prohibits retaliation for reporting or opposing discrimination, or cooperating with an investigation of a discrimination complaint.

Prohibited Conduct Definitions:

Discrimination is treating an individual differently or less favorably because of that individual's protected characteristics—such as race, color, religion, sex, gender, national origin, or any of the other categories prohibited by this policy.

Harassment is a form of discrimination that consists of unwelcome conduct based on a protected characteristic that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic environment. Such conduct can be spoken, written, visual, and/or physical. This policy covers prohibited harassment based on all protected characteristics including gender discrimination and sexual misconduct. Gender based harassment and sexual misconduct are covered by [Downstate's Sexual Misconduct Policy](#).

Retaliation is adverse treatment of an individual because he or she made a discrimination complaint, opposed discrimination, or cooperated with an investigation of a discrimination complaint.

II. Discrimination and Retaliation Complaints

Downstate is committed to addressing discrimination and retaliation complaints promptly, consistently and fairly. Downstate has an Office of Diversity and Inclusion ("ODI"), whose responsibility shall be to address discrimination and retaliation complaints under this policy. The ODI office has in place, procedures for making and investigating such complaints, which are applicable at each of Downstate's five (5) schools and Hospital.

III. Academic Freedom

This policy shall not be interpreted so as to constitute interference with academic freedom.

IV. Responsibility for Compliance

The President of Downstate has the ultimate responsibility for overseeing compliance with these policies at Downstate. In addition, vice presidents, deans, directors, or other persons with managerial responsibility, including department chairpersons and executive officers, must promptly consult with the Assistant Vice President of Office of Diversity and Inclusion if that individual becomes aware of conduct or allegations of conduct that may violate this policy. All members of the Downstate campus community are required to cooperate in any investigation of a discrimination or retaliation complaint conducted by ODI.

**COMPLAINT PROCEDURES UNDER SUNY
DOWNSTATE HEALTH SCIENCES UNIVERSITY'S POLICY ON
EQUAL OPPORTUNITY AND NON- DISCRIMINATION¹**

1. Reporting Discrimination and/or Retaliation

Downstate is committed to addressing discrimination and/or retaliation complaints promptly, consistently and fairly.

Members of the Downstate community, as well as patients, visitors, may promptly report any allegations of discrimination or retaliation to the individuals set forth below:

A. Applicants, employees, medical residents, fellows, patients, visitors and students with discrimination complaints should raise their concerns with the Assistant Vice President, Office of Diversity and Inclusion. ODI reserves the right to not accept complaints filed more than 180 calendar days after the event that is the subject of the complaint. This time limitation does not apply to complaints of sexual misconduct. However, complaints alleging discrimination, harassment or retaliation committed against students are not subject to this 180 calendar day time limit.

B. Applicants, employees, medical residents, fellows, patients, visitors and students with complaints of sexual harassment or sexual violence, including sexual assault, stalking, domestic and intimate violence, should follow the process outlined in Downstate's [Sexual Misconduct Policy](#).

C. There are separate procedures under which applicants, employees, medical residents, fellows, patients, visitors and students may request and seek review of a decision concerning reasonable accommodations for a disability, which are set forth in Downstate's [Procedures on Reasonable Accommodation](#).

2. Preliminary Review of Employee, Medical Resident, Fellow, Student, or Visitor Concerns

Individuals who believe they have experienced discrimination and/or retaliation should promptly contact the Assistant Vice President, Office of Diversity and Inclusion to discuss their concerns, with or without filing a complaint. Following the discussion, the Assistant Vice President, Office of Diversity and Inclusion will inform the complainant of the options available to them. The options can include seeking informal resolution of the issues the complainant has encountered or Downstate can conduct a full investigation into the allegations made. Based on the facts of the complaint, the Assistant Vice President, Office of Diversity and Inclusion may also advise that the individual's situation is more suitable for resolution by another entity within Downstate.

¹ These procedures govern any complaint of discrimination and/or retaliation, except complaints of sexual harassment and sexual violence, which are covered by Downstate's Sexual Misconduct Policy. These procedures are applicable to all of schools within SUNY Downstate. These procedures are intended to provide guidance for implementing Downstate's Policy on Equal Opportunity and Non-Discrimination. These procedures do not create any rights or privileges on the part of any others. Downstate reserves the right to alter, change, add to, or delete any of these procedures at any time without notice.

3. Filing a Complaint

Following the discussion with the Assistant Vice President, Office of Diversity and Inclusion, individuals who wish to pursue a complaint of discrimination and/or retaliation should be provided with a copy of the [ODI's Complaint Intake Form](#). Complaints should be made in writing whenever possible, including in cases where the complainant is seeking an informal resolution.

4. Informal Resolution

Individuals who believe they have been discriminated or retaliated against may choose to resolve their complaints informally. Informal resolution is a process whereby parties can participate in a search for a fair and workable solution. The parties may agree upon a variety of resolutions, including but not limited to modification of work assignment, training for a department and/or an individual, or an apology. The Assistant Vice President, Office of Diversity and Inclusion will determine if informal resolution is appropriate in light of the nature of the complaint. Informal resolution requires the consent of both the complainant and the respondent and suspends the complaint process for up to thirty (30) business days, which can be extended upon consent of both parties, at the discretion of the Assistant Vice President, Office of Diversity and Inclusion.

Resolutions should be agreed upon, signed by, and provided to both parties. Once both parties reach an informal agreement, it is final. Because informal resolution is voluntary, sanctions may be imposed against the parties only for a breach of the executed voluntary agreement.

The Assistant Vice President, Office of Diversity and Inclusion or either party may at any time, prior to the expiration of thirty (30) business days, declare that attempts at informal resolution have failed. Upon such notice, the Assistant Vice President, Office of Diversity and Inclusion may commence a full investigation.

If no informal resolution of a complaint is reached, the complainant may request that the Assistant Vice President, Office of Diversity and Inclusion conduct a full investigation of the complaint.

5. Investigation

A full investigation of a complaint may commence when it is warranted after a review of the complaint, or after informal resolution has failed.

It is recommended that the intake and investigation include the following, to the extent feasible:

- a. Interviewing the complainant. In addition to obtaining information from the complainant (including the names of any possible witnesses), the complainant should be informed that an investigation is being commenced, that interviews of the respondent and possibly other people will be conducted, and that the President or the President's designee will determine what action, if any, to take after the

investigation is completed.

- b. Interviewing the respondent. In addition to obtaining information from the respondent (including the names of any possible witnesses), the respondent should be informed that a complaint of discrimination has been received and should be provided with a written summary of the complaint unless circumstances warrant otherwise. Additionally, the respondent should be informed that he/she is the target of an investigation which may include interviews with third parties, and that the President or his/her designee will determine what action, if any, to take after the investigation is completed. A respondent employee who is covered by a collective bargaining agreement may consult with, and have, a union representative present during the interview. The respondent must be informed that retaliation against any person who files a complaint of discrimination, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited under this policy as well as federal and state laws. The respondent should be informed that if retaliatory behavior is engaged in by either the respondent or anyone acting on the respondent's behalf, the respondent may be subject to disciplinary charges, which, if sustained, may result in disciplinary penalties.

- c. Reviewing other evidence. The Assistant Vice President, Office of Diversity and Inclusion should determine if, in addition to the complainant, the respondent, and those persons named by them, there are others who may have relevant information regarding the events in question, and speak with them. The Assistant Vice President, Office of Diversity and Inclusion should also review documentary evidence that may be relevant to the complaint.

6. Withdrawing a Complaint

A complaint of discrimination may be withdrawn at any time during the informal resolution or investigation process. Only the complainant may withdraw a complaint. Requests for withdrawals must be submitted in writing to the Assistant Vice President, Office of Diversity and Inclusion. Downstate reserves the right to continue with an investigation if it is warranted. In a case where Downstate decides to continue with an investigation, it will inform the complainant.

In either event, the respondent must be notified in writing that the complainant has withdrawn the complaint and whether Downstate officials have determined that continuation of the investigation is warranted for corrective purposes.

7. Timeframe

While some complaints may require extensive investigation, whenever possible, the investigation of a complaint should be completed within sixty (60) business days of the Office of Diversity and Inclusion's receipt of the complaint.

8. Action Following Investigation of a Complaint

- a. Promptly following the completion of the investigation, the Assistant Vice President, Office of Diversity and Inclusion will report ODI's findings to the President or the President's designee. In the event that the respondent or complainant is a student, the Assistant Vice President, Office of Diversity and Inclusion will also report ODI's findings to the Chief Student Affairs Officer or his/her designee.
- b. Following such report, the President or President's designee will review the complaint investigation report and, when warranted by the facts, authorize such action as deemed necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. This can include commencing action to discipline the respondent under applicable Downstate University bylaws or collective bargaining agreements.
- c. The complainant should be informed in writing of the outcome and action taken as a result of the complaint, if any. The respondent shall be informed of the outcome and may be advised of institutional action, as appropriate.
- d. The President or President's designee will sign a form that will go into each investigation file, stating what, if any, action will be taken pursuant to the investigation.
- e. If the President is the respondent, the SUNY Vice Chancellor of Human Resources Management will appoint an investigator who will report the Vice Chancellor's findings to the Chancellor. The Chancellor will determine what action will be taken. The Chancellor's decision will be final.

9. Immediate Preventive Action

The President or the President's designee may take whatever action is appropriate to protect the college community in accordance with applicable bylaws and collective bargaining agreements.

10. False and Malicious Accusations

Members of the Downstate community who make false and malicious complaints of discrimination, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

11. Anonymous Complaints

All complaints will be taken seriously, including anonymous complaints. In the event that a complaint is anonymous, the complaint should be investigated as thoroughly as possible under the circumstances.

12. Responsibilities

a. Responsibilities of the President:

- Appoint an Assistant Vice President, Office of Diversity and Inclusion who will be responsible for addressing complaints under this Policy.
- Ensure that the Assistant Vice President, Office of Diversity and Inclusion is fully trained and equipped to carry out the required responsibilities.
- Ensure that managers receive training on this policy.
- Annually disseminate this policy and these procedures to the entire Downstate community and include the names, titles and contact information of all appropriate resources at Downstate. Such information should be widely disseminated, including placement on Downstate's website.

b. Responsibilities of Managers:

Managers must take steps to create a workplace free of discrimination, harassment and retaliation, and must take each and every complaint seriously. Managers must promptly consult with the Assistant Vice President Office of Diversity and Inclusion if they become aware of conduct that may violate this policy.

For purposes of this policy, managers are employees who either (a) have the authority to make tangible employment decisions with regard to other employees (including medical residents and fellows), i.e. the authority to hire, fire, promote, compensate or assign significantly different responsibilities; or (b) have the authority to make recommendations on tangible employment decisions that are given particular weight. Managers include vice presidents, deans, directors, or other persons with managerial responsibility, including, for purposes of this policy, department chairpersons and executive officers.²

c. Responsibilities of the Downstate Community-at-Large:

- Members of the Downstate community who become aware of allegations of discrimination or retaliation should encourage the aggrieved individual to report the alleged behavior.
- All employees (including medical residents and fellows) are required to cooperate in any ODI investigation.

² As of September 2018, Downstate faculty members represented by the United University Professions (UUP) who become aware of complaints of sexual misconduct/gender discrimination are considered Responsible Employees (i.e. mandated reporters) pursuant to Downstate's Sexual Misconduct Policy.

Some Relevant Laws Concerning Non-Discrimination and Equal Opportunity

Executive Order 11246, as amended, prohibits discrimination in employment by all institutions with federal contracts and requires affirmative action to ensure equal employment opportunities.

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in employment (including hiring, upgrading, salaries, fringe benefits, training, and other terms, conditions, and privileges of employment) on the basis of race, color, religion, national origin, or gender.

Title VI of the Civil Rights Act of 1964 prohibits discrimination or the denial of benefits because of race, color, or national origin in any program or activity receiving federal financial assistance.

Equal Pay Act of 1963, as amended, requires that men and women performing substantially equal jobs in the same workplace receive equal pay.

Title IX of the Education Amendments of 1972 prohibits discrimination or the denial of benefits based on sex in any educational program or activity receiving federal financial assistance.

Age Discrimination in Employment Act, as amended, prohibits discrimination against individuals who are age 40 or older.

Age Discrimination Act of 1975 (In Education), prohibits discrimination based on age in programs or activities that receive federal financial assistance.

Section 504 of the Rehabilitation Act of 1973 defines and forbids acts of discrimination against qualified individuals with disabilities in employment and in the operation of programs and activities receiving federal financial assistance.

Section 503 of the Rehabilitation Act of 1973 requires federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.

Vietnam Era Veterans' Readjustment Act of 1974, as amended, requires government contractors and subcontractors to take affirmative action to employ and advance in employment disabled and other protected veterans.

Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, prohibits employment discrimination based on military status and requires reemployment following military service in some circumstances.

Americans with Disabilities Act of 1990, as amended, prohibits discrimination on the basis of disability.

Genetic Information Non-Discrimination Act of 2008 prohibits employment discrimination based on genetic information.

New York State Education Law Section 224-a requires institutions of higher education to make accommodations for students who are unable to attend classes or take examinations due to their religious beliefs.

New York State Human Rights Law prohibits discrimination based on race, creed, color, national origin, sexual orientation, military status, sex, age (18 and older), marital status, domestic violence victim status, disability, predisposing genetic characteristics or prior arrest or conviction record.