

and procedures regarding sexual misconduct, including but not limited to student experiences with and knowledge of reporting, investigation and disciplinary processes. The assessment instrument shall include all topics required to be included under applicable law, including Section 129-B of the New York State Education Law. The University shall publish the results of the surveys on its Title IX web page. The published results shall not contain any information which would enable a reader to identify any individual who responded to the climate assessment.

X. Rules Regarding Intimate Relationships

A. Relationships between Faculty or Employees and Students

Amorous, dating or sexual activity or relationships (“intimate relationships”), even when apparently consensual, are inappropriate when they occur between a faculty member or employee and any student for whom he or she has a professional responsibility. Those relationships are inappropriate because of the unequal power dynamic between students and faculty members and between students and employees who advise or evaluate them, such as athletic coaches or workplace supervisors. Such relationships necessarily involve issues of student vulnerability and have the potential for coercion. In addition, conflicts of interest or perceived conflicts of interest may arise when a faculty member or employee is required to evaluate the work or make personnel or academic decisions with respect to a student with whom he or she is having an intimate relationship. Finally, if the relationship ends in a way that is not amicable, the relationship may lead to charges of and possible liability for sexual harassment.

Therefore, faculty members and other employees are prohibited from engaging in intimate relationships with students, for whom they have a professional responsibility, including undergraduates, graduate and professional students and postdoctoral fellows.

For purposes of this section, professional responsibility for a student means responsibility over academic matters, including teaching, counseling, grading, advising for a formal project such as a thesis or research, evaluating, hiring, supervising, coaching, making decisions or recommendations that confer benefits such as admissions, registration, financial aid, other awards, remuneration, or fellowships, or performing any other function that might affect teaching, research, or other academic opportunities.

B. Relationships between Supervisors and Employees

Many of the concerns about intimate relationships between faculty members or employees and students also apply to relationships between supervisors and employees they supervise. Those relationships therefore are strongly discouraged. Supervisors shall disclose any such relationships to their supervisors in order to avoid or mitigate conflicts of interest in connection with the supervision and evaluation of the employees with whom they have an intimate relationship. Mitigation may involve the transfer of

either the supervisor or employee, reassigning the responsibility to evaluate the employee to a different supervisor, or other appropriate action.

For purposes of this section, supervising an employee means supervising in an employment setting, including hiring, evaluating, assigning work, or making decisions or recommendations that confer benefits such as promotions, raises or other remuneration, or performing any other function that might affect employment opportunities.

XI. Definitions of Terms in this Policy

- A. **Affirmative Consent** is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Consent may be initially given but withdrawn at any time. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

In order to give consent, one must be of legal age (17 years or older). Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

When consent is withdrawn or can longer be given, sexual activity must stop.

- B. **Complainant** refers to the individual who alleges that she/he has been the subject of sexual harassment, gender-based harassment or sexual violence, and can be a CUNY student, employee (including all full-time and part-time faculty and staff), or visitor. Under this policy, the alleged incident(s) may have been brought to the college's attention by someone other than the complainant.
- C. **Complaint** is an allegation of sexual harassment, gender-based harassment or sexual violence made under this policy.
- D. **Dating, Domestic and Intimate Partner Violence** is a pattern of coercive behavior that can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an intimate partner. Such violence may occur in all kinds of intimate relationships, including married couples, people who are dating, couples who live together, people with children in common, same-sex partners, and people who were formerly in a relationship with the person abusing them.