Title: Policy on Sexual Assault, Harassment and Other Forms of Sexual Misconduct

Effective Date: August 15, 2012

Issuing Authority: Marc Wais, Office of the Vice President for Student Affairs

Responsible Officer: Thomas Grace - Director of Community Standards and Compliance

PURPOSE OF POLICY:

1. To comply with the requirements of Title IX.

2. To define the nature of sexual assault, harassment and other forms of sexual conduct that is prohibited at the University.

3. To set forth the manner in which allegations of sexual misconduct will be addressed at the University.

4. To provide resources for victims and those accused of sexual misconduct.

TO WHOM THE POLICY APPLIES:

This policy applies to all students, administrators, faculty and staff at the University.

I. General Statement:

New York University is committed to maintaining a safe learning environment that is free of acts of violence, harassment and other forms of sexual misconduct that undermine the character and purpose of the University and to creating a campus climate that supports, nurtures, and rewards educational and career advancement on the basis of ability and performance. All students are subject to this policy and also are encouraged to report any incidents of sexual assault or harassment of which they become aware that compromise the well-being of an individual or the University community.

II. Policy Statement:

A. Sexual Assault: Within New York University, sexual assault is defined as a sexual act against the will and without the consent of the victim. While defining effective consent in sexually intimate relationships can be difficult, examples of sexual assault include, but are not limited to:

- Sexual contact with someone whom you reasonably should have known was impaired due to the use of alcohol or other drugs.
- Sexual contact with someone who is “passed out” or sleeping.
- Sexual contact with someone who is unable to say “no” and/or change his/her mind due to the presence of coercion or intimidation.
- Sexual contact with someone who is under the legal age to consent.

B. Sexual Harassment: Within New York University, sexual harassment is defined as unwelcome conduct of a sexual nature. It includes sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature when:

- Submission to or rejection of the conduct is either an explicit or implicit term or condition of employment, basis for participation or advancement in an academic program, or basis for participation in a University activity or benefit
- Such conduct creates an intimidating, hostile or offensive work, academic or residential environment;
- Such conduct otherwise adversely affects employment or academic opportunities.

Examples of sexual harassment include, but are not limited to:

- Verbal abuse or hostile behavior such as insulting, teasing, mocking, degrading or ridiculing another
person or group.

- Unwelcome or inappropriate physical contact, comments, questions, advances, jokes, epithets or demands.
- Physical assault or stalking.
- Displays or electronic transmission of derogatory, demeaning or hostile materials.
- Unwillingness to train, evaluate, assist, or work with a student.
- Engaging in behavior that is invasive or disruptive to another student for the purpose of initiating a sexual or romantic relationship with that person.

C. **Other Forms of Sexual Misconduct**: Other forms (in addition to sexual assault and sexual harassment) of sexual misconduct that compromise the well-being of another student also are subject to review at the University. Examples of such misconduct may include, but are not limited to, actions that are sexually exploitative or degrading, retaliatory and/or abusive acts directed toward former relationship partners, or retaliatory/abusive actions directed toward someone who has rejected the efforts of another to establish a relationship.

III. **Consensual Relationships**: Sexual behavior that is welcome or consensual does not constitute sexual harassment. However, consensual sexual relationships in situations where one individual has power or authority over another may result in claims of harassment when the relationship ends and/or may give rise to complaints by others of favoritism while the relationship continues. Examples of such relationships may include: a professor and his/her student, a supervisor and a subordinate, or a coach and team player. If such a consensual relationship occurs, any situation of authority should be discontinued immediately.

IV. **Violations of Law**: Behavior which violates the University policy may also violate the laws of the locality in which the incident occurred and subject the perpetrator to criminal action by the presiding authority.


B. **New York State**: Sex Offenses are described in Sections 130.00 to 130.90 of the New York State Penal Code. [http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS](http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS)

C. **Global Academic Centers**: students who are studying at one of the University’s Global Academic Centers should be aware that they are subject to the laws of that country in regard to what constitutes sexual assault or another sex-based offense.

V. **Reporting an Incident of Sexual Assault, Harassment or other Sexual Misconduct**:

A. **New York City Campus**: Victims, or anyone else who is aware of the occurrence of such an incident, are encouraged to report such offenses as soon as possible, whether the incident took place on or off campus, to the NYU Department of Public Safety (212-998-2222), the Title IX Coordinator (212-998-2352) or via the web at: [http://www.nyu.edu/about/policies-guidelines-compliance/equal-opportunity/harassment-and-discrimination/submitcomplaint.html](http://www.nyu.edu/about/policies-guidelines-compliance/equal-opportunity/harassment-and-discrimination/submitcomplaint.html), a Residence Life and Housing staff member (212-998-4600), the Office of the Dean of Students in their school, the Office of Community Standards (212-998-4403), the Student Health Center (212-443-1000) and/or the Wellness Exchange (212-443-9999), or another campus official listed on the following webpage

B. **Global Academic Centers**: Students at a site should report an incident to a campus security officer, a residence hall staff member, the site Wellness Coordinator, or the appropriate Student Affairs administrator:
<table>
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<tr>
<th>CAMPUS</th>
<th>WELLNESS COORDINATOR</th>
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| NYU Abu Dhabi | Dr. Birgit Pols  
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| NYU London    | Donna Drummond-Smart  
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| NYU Madrid    | Caridad Dawson  
Student Life and Wellness Coordinator  
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| NYU Paris     | Dr. Cynthia Mitchell  
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Cynthia.mitchell@nyu.edu  
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| NYU Prague    | Martina Faltova  
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| NYU Sydney    | Cathryn McConaghy  
Director |

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C. **Referral to Police:** A victim of sexual misconduct has the option to report the incident to the appropriate local authorities and the University will assist victims in doing so. (In New York: contact the Victims Services Liaison in the Department of Public Safety at 212-998-9829. At a Global Academic Center: contact the office of the site Director). A criminal investigation into an allegation of sexual misconduct does not relieve, or substitute for, the University’s duty and authority to conduct its own prompt review of a complaint; the University will not wait for the conclusion of a criminal investigation or proceeding to begin its own concurrent investigation and resolution of an alleged violation. Furthermore, because the standards for criminal proceedings differ from those used in campus disciplinary actions, conduct that may not be subject to criminal action may still be addressed through the University disciplinary process, and/or a finding of “not guilty” in a criminal matter does not necessarily preclude a finding of responsibility for violating the University’s policy in a campus proceeding. Students are advised to preserve physical evidence to support their complaint in the event they wish to pursue criminal action.

D. **Retaliation:** The University will take steps to prevent/address any form of retaliation against the complainant.

E. **Specific Rights Afforded to Sexual Assault Complainants:** Victims of sexual assault are entitled to specific rights, among them:

- The right to a prompt and equitable investigation and resolution of a complaint.
- The right to file a complaint with the appropriate local law enforcement authorities and to obtain assistance from the University in doing so.
- The right to request and receive a change in his/her living situation if such a change is reasonably available.
- The right to request and receive a change in his/her academic situation if such a change is reasonably available.
- The right to be referred to on- and off-campus counseling, mental health or other student services for victims of sex offenses.
- The right to file a complaint on campus and to avail him/herself of the process for doing so including, but not limited to, the following: adequate, reliable, and impartial investigation of complaints; an equal opportunity to present relevant witnesses and other evidence; an equal opportunity to be accompanied by an adviser (who may be an attorney); an equal opportunity to the appeal processes.
- The Family Educational Rights and Privacy Act (FERPA) permits a school to disclose to the student victim information about the sanction imposed upon a student who was found to have engaged in violative behavior when the sanction directly relates to the victim. Furthermore, when the conduct involves allegations of a crime of violence or a non-forcible sex offense, FERPA permits a postsecondary institution to disclose to the victim the final results of a disciplinary proceeding against the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.
VI. Resolution of a Report of Sexual Assault, Harassment or other Sexual Misconduct:
The University will act promptly in response to information that an incident of an assault, harassment or other form of sexual misconduct has occurred. Any conduct that may be in violation of this policy will be investigated and addressed in a timely manner, typically within 60 calendar days.

A. Confidentiality: If a complainant requests confidentiality or asks that the complaint not be pursued, the University still must take all reasonable steps to investigate and respond to the complaint within the parameters of such a request. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the complainant must realize that the University’s ability to respond may be limited. When a complainant insists that his or her name or other identifiable information not be revealed, the University must evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Thus, the University will weigh the request for confidentiality against the following factors:

• the seriousness of the alleged harassment
• the complainant’s age
• whether there have been other complaints about the same individual
• the alleged perpetrators’ rights to receive information about the allegations under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.15

If the University cannot ensure confidentiality, the complainant will be so informed. If the University cannot take disciplinary action against the alleged perpetrator because the complainant insists on confidentiality, it may pursue other steps to limit the effects of the alleged conduct and prevent its recurrence.

B. Investigation and Resolution:

1. Step One: Investigation. An investigator will conduct a prompt, thorough and impartial initial investigation of the complaint in the manner he or she deems necessary. The parties to the complaint each will have an opportunity to be heard and will be kept informed of the status of the investigation as deemed appropriate. Preliminary administrative actions (e.g., interim suspension, restricted access to campus facilities, reassignment in University housing, or academic modifications) that are deemed necessary to preserve the safety and well-being of those involved and/or the campus community may be taken.

2. Step Two: Informal Resolution: With the consent of the complainant and the alleged perpetrator, and if the University deems the circumstances to warrant doing so, a matter may be resolved through non-disciplinary interventions (e.g., educational, counseling, changes in housing and/or academic accommodations, administrative actions). A complainant has the right, however, to end the informal process at any time and begin a formal student conduct proceeding. Mediation, even on a voluntary basis, is not an appropriate means of resolving a sexual assault complaint.

2. Step Three: Formal Student Conduct Action (if initiated): Should informal resolution be inappropriate or unattainable, the matter will be referred to the appropriate student conduct process. At NYU, there is no single office that handles all disciplinary cases. An alleged policy violation may be addressed through one of the following jurisdictions:

• If the matter involves students from a single School or College and occurred in the context of an academic activity, disciplinary action is carried out by the faculty and administrators of that School or College through its student conduct process. Information about each School’s or College’s disciplinary procedures is available online at: http://www.nyu.edu/academics/schools-and-colleges.html

• If the matter involves students from more than one School or College or occurred in the
context of a non-academic activity, then disciplinary action is carried out under the authority of the University Senate, through its designee the Office of the Vice President for Student Affairs. A description of that student conduct process is located at: http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/disciplinary-policies-and-procedures.html

- Student Conduct matters at Global Academic Centers are managed by the site Director. Information about that process is available at: http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/global-academic-centers--conduct-process-and-procedures.html

(a) **Standard of Evidence:** The University utilizes a standard of preponderance of the evidence (*i.e.*, it is more likely than not that sexual assault, harassment or another form of sexual misconduct occurred) when reviewing a complaint.

(b) **Disciplinary Sanctions:** The specific sanctions available to the adjudicating body may differ depending on the circumstances of the matter being addressed. In general, however, sanctions imposed upon students determined to have violated this policy can include a range of sanctions including, but not limited to, warning, censure, education/counseling, disciplinary probation, suspension or dismissal from the University.

VII. **Medical and Counseling Resources Available to Victims/Complainants:**

Many services, including resources for medical and emotional well-being, are available to victims of sexual assault, harassment and other forms of sexual misconduct whether the incident occurred in New York or at one of the University’s Study Away Sites. Contact information and general advice on how to seek assistance for yourself or another person who has been subjected to such behavior can be obtained from one of the offices listed above. Counseling and additional resources are available on the following University webpage: http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/resources-available-to-victims-complainants-of-assault--harassme.html