

## UNIVERSITY POLICY

<b>Policy Name:</b>	Policy Prohibiting Discrimination and Harassment				
<b>Section #:</b>	60.1.12	<b>Section Title:</b>	Universitywide HR Policies & Procedures	<b>Formerly Book:</b>	6.4.14
<b>Approval Authority:</b>	Senior Vice President for Human Resources and Organizational Effectiveness		<b>Adopted:</b>	7/1980	<b>Reviewed:</b> 7/05/2016
<b>Responsible Executive:</b>	Senior Vice President for Human Resources and Organizational Effectiveness		<b>Revised:</b>	4/27/1997; 6/30/2006; 2/12/2008; 7/24/2008; 12/9/2010; 8/31/2012; 7/1/2013; 2/6/2014; 7/05/2016	
<b>Responsible Office:</b>	University Human Resources		<b>Contact:</b>	<a href="mailto:policies@hr.rutgers.edu">policies@hr.rutgers.edu</a>	

**1. Policy Statement**

This Policy discusses the University's prohibitions against discrimination and harassment based upon membership in enumerated protected classes as well as the prohibitions against retaliation based upon the exercise of rights pursuant to the Policy. The scope of the Policy is set forth herein, as well as definitions of harassment and discrimination. The Policy also references the process for reporting violations of the Policy.

The University has a separate policy that addresses sexual and gender-based discrimination and harassment, [Policy 60.1.28, Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking and Related Misconduct by Employees and Third Parties](#).

**2. Reason for Policy**

To inform all members of the Rutgers community that this Policy applies to all areas of University operations and programs.

**3. Who Should Read this Policy**

All members of the Rutgers University community.

**4. Resources**

- [Discrimination, Harassment, Workplace Violence, Sexual Misconduct, and Retaliation Complaint Process: Complaints Against University Employees and Third Parties](#)
- [Policy 60.1.13, Policy Prohibiting Workplace Violence](#)
- [Policy 60.1.16, Conscientious Employee Protection Policy](#)
- [Policy 60.1.28, Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related Misconduct by Employees and Third Parties](#)
- [Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related Misconduct by Employees and Third Parties Resources Supplement](#)
- [Office of Employment Equity Formal Complaint Form](#)
- [Policy 10.3.12, Student Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related Misconduct](#)
- [Policy 10.2.11, Code of Student Conduct](#)
- [RBHS Students Rights, Responsibilities and Disciplinary Procedures](#)
- [Policy 60.1.1, Employment of Relatives](#)

- [Policy 60.1.8, Equal Employment Opportunity and Affirmative Action Policy](#)
- [Policy 60.5.1, Academic Freedom Policy](#)
- [Staff and Faculty Guidelines for Disability Accommodations](#)
- [Student Life Policy Against Verbal Assault, Harassment, Intimidation, Bullying and Defamation](#)
- [Staff and Faculty Guidelines for Religious Accommodations](#)
- [University Human Resources](#): 848-932-3020
- [Office of Employment Equity](#): 848-932-3973; [employmentequity@hr.rutgers.edu](mailto:employmentequity@hr.rutgers.edu)
- [Office of Student Conduct](#)
  - New Brunswick: 848-932-9414, [conduct@rci.rutgers.edu](mailto:conduct@rci.rutgers.edu)
  - Newark: 973-353-2772
  - Camden: 856-225-6050, [deanofstudents@camden.rutgers.edu](mailto:deanofstudents@camden.rutgers.edu)
- [Rutgers University Police Departments](#):
  - New Brunswick: 732-932-7211
  - Newark: 973-353-5581
  - Camden: 856-225-6009
  - Health Sciences-Newark: 973-972-4491

## 5. Definitions

- A. **Discrimination** is defined as an intentional or unintentional act which adversely affects employment or educational opportunities on the basis of membership in one or more protected classes. Rutgers provides equal employment opportunity to all its employees and applicants for employment regardless of their race, religion, color, national origin, ancestry, age, sex, sexual orientation, pregnancy, gender identity and expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. Rutgers considers as a basis for selection in employment only those characteristics which are demonstrably related to job performance or requirements.
- B. **Harassment** is conduct directed toward an individual or group based on membership in one or more protected classes. Such conduct must be sufficiently severe or pervasive to alter an individual's employment conditions, or a student's educational opportunities<sup>1</sup> which, in turn, creates an unreasonably intimidating, offensive, or hostile environment for employment, education, or participation in University activities.

A person does not have to be the direct and immediate target of harassment to complain about it. Harassing behavior toward others may be so offensive, demeaning, or disruptive as to constitute a hostile work or academic environment, though not specifically directed at the observer or individual lodging the complaint. Conduct alleged to constitute harassment will be evaluated according to the objective standard of a reasonable person.

Examples of conduct that may constitute or support a finding of harassment in violation of this Policy include, but are not limited to, the following types of behavior:

### PHYSICAL CONDUCT

- Unnecessary or unwanted physical contact
- Blocking someone's path or impeding movement
- Physical interference with work
- Stalking, Deliberate destruction of property

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<sup>1</sup> A student's educational opportunities refer to his or her learning environment (academic performance and/or academic opportunities), living environment (campus housing accommodations), and ability to participate in activities made available by Rutgers.

#### NON-VERBAL CONDUCT

- Display of offensive material or objects
- Suggestive or insulting gestures, or sounds

#### VERBAL CONDUCT

- In some instances, innuendo or other suggestive, offensive, or derogatory comments or jokes about a protected group listed in Section I above
- Extortion, overt threats, or intimidation
- Obscene or harassing messages sent via computer or left on an answering machine or voice mail

- C. Sexual harassment, sexual assault, sexual exploitation, gender-based harassment, stalking, relationship violence (including dating and domestic violence), and related misconduct committed are also acts of discrimination on the basis of sex and are governed by the [Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related Misconduct by Employees and Third Parties](#).

## 6. The Policy

### I. POLICY

Rutgers University is committed to a working and learning environment for all faculty, staff and students that is free from discrimination and harassment. The University strictly prohibits discrimination and harassment based on membership in certain enumerated protected classes (“protected classes”). These classes are race, religion, color, national origin, ancestry, age, sex<sup>2</sup>, sexual orientation, pregnancy, gender identity and expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. Harassment is a form of discrimination and, therefore, harassment directed toward an individual or group, or experienced by an individual or group, based on membership in a protected class, also violates University policy.

Discrimination and harassment compromise the integrity of the University and unfairly interfere with the opportunity for all persons to fully participate in the academic, work, and living environment at Rutgers. The University recognizes the human dignity of each member of the Rutgers community and believes that each member has a responsibility to promote respect and dignity for others so that all employees and students are free to pursue their educational and work goals in an open environment, participate in the free exchange of ideas, and to share equally in the University’s employment and educational opportunities. To achieve this end, the University strives to foster an academic, work, and living environment that is free from discrimination and harassment on the basis of membership in the protected classes referenced above.

At the same time, the University is committed to the principles of academic freedom and believes that vigorous discussion and debate, as well as free inquiry and free expression, are an integral part of the University community.<sup>3</sup>

### II. SCOPE

This policy applies to all areas of University operations and programs, including the conduct of all University employees and student employees that arises out of their employment status, as well as

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<sup>2</sup> Claims of discrimination on the basis of sex made against University employees or third parties may be covered by this policy or the [Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking and Related Misconduct by Employees and Third Parties \(60.1.28\)](#).

<sup>3</sup> See [Academic Freedom Policy 60.5.1](#).

to the conduct of all interns, volunteers, vendors, contractors, subcontractors, and others who do business with the University.

### **III. DESIGNATION OF UNIVERSITY OFFICES AND EMPLOYEES**

Throughout this Policy, the University office and/or employee(s) who will typically perform certain roles or duties are identified. However, the University may designate other University offices or employees to perform any roles or duties described in this Policy where necessary to effectuate this Policy.

### **IV. ACADEMIC FREEDOM**

The classroom and other instructional settings (e.g., studio, laboratory) present special problems because academic freedom protects the expression of ideas, even when the idea or its expression may be perceived to be offensive, if conduct or statements which are the subject of a complaint are germane to the subject matter taught. The educational process is predicated upon the free exchange of ideas, and this Policy shall not be interpreted to prohibit free expression protected by the First Amendment. The National AAUP's Statement on Professional Ethics provides that professors should avoid any exploitation, harassment, or discriminatory treatment of students. The 1940 Statement of Principles on Academic Freedom and Tenure provides that Professors should not introduce into their teaching controversial matter which has no relation to their subject. Accordingly, if conduct or statements which are the subject of a complaint occur in an instructional context and are germane to the subject matter being taught, wide latitude is required for professional judgment in determining the appropriate content and presentation of the academic material being taught. Therefore, harassment in violation of this Policy will not be found to exist in an instructional setting unless the conduct or statements which are the subject of a complaint are not germane to the subject matter taught and:

- are directed toward an individual or group based on one or more of the protected classes listed in Section I above;
- are sufficiently severe or pervasive to alter an individual's educational environment;
- create an objectively hostile learning environment; and
- are, in fact, perceived as hostile by the complainant.

### **V. REPORTING DISCRIMINATION AND HARASSMENT**

Any member of the University community alleging discrimination or harassment on the basis of membership in any of the protected classes is encouraged to report it immediately to the Office of Employment Equity.<sup>4</sup> If managers and supervisors receive reports of discrimination or harassment, they are required to refer them immediately to the Office of Employment Equity. One does not have to be the direct target of the discrimination or harassment to report it. Complaints against students, arising out of their conduct as students, are addressed by the [Code of Student Conduct, Policy 10.2.11](#).<sup>5</sup>

Any individual who believes that he or she has been the victim of a crime (including but not limited to forced physical contact and/or sexual violence) also has a right, and is encouraged, to report the incident to the appropriate law enforcement agency. Questions about law enforcement assistance

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<sup>4</sup> The Director of the Office of Employment Equity supervises the operation of the [Discrimination, Harassment, Workplace Violence, Sexual Misconduct, and Retaliation Complaint Process: Complaints Against University Employees and Third Parties](#). The Office is also a resource for all members of the University community, and is responsible for arranging education and training for the community regarding the Policy and the Complaint Process. Contact information for the Director is 848-932-3973 or [employmentequity@hr.rutgers.edu](mailto:employmentequity@hr.rutgers.edu).

<sup>5</sup> Additional information about complaints against students can be found at <http://studentconduct.rutgers.edu/> or by contacting the Office of Student Conduct, which responds to such complaints, and can be reached at 732-932-9414 or [conduct@rci.rutgers.edu](mailto:conduct@rci.rutgers.edu).

and involvement may be directed to the Chief of Police at Rutgers University–New Brunswick, Rutgers University–Newark, and Rutgers University–Camden.

The University is committed to responding to reports and complaints of discrimination and harassment promptly, fairly, and with sensitivity, as outlined in [the Discrimination, Harassment, Workplace Violence, Sexual Misconduct, and Retaliation Complaint Process: Complaints Against University Employees and Third Parties \(“Complaint Process”\)](#).<sup>6</sup> Upon completion of the Complaint Process, the University will take appropriate corrective action consistent with the results of the investigation. Disciplinary action, up to and including discharge, may be taken against an employee who violates this Policy.<sup>7</sup>

The University will maintain confidentiality as to discrimination and harassment complaints, and the investigation of those complaints, to the extent possible. Only those who have a need to know will be told the identity of the parties to a complaint. Any manager, supervisor or other employee who violates confidentiality as to a complaint of discrimination and/or harassment will be subject to appropriate sanctions. Please contact the Office of Employment Equity with any questions regarding confidentiality.

In some instances, a complainant may choose to take no action or to defer action until a later date in order to maintain anonymity. In these instances, the University reserves the right to limited disclosure and to take appropriate action in order to ensure the safety and well-being of members of the University community.

## **VI. RETALIATION**

The University prohibits retaliation against individuals who, in good faith, assert their rights to bring a complaint of discrimination or harassment as defined in this Policy, participate in a discrimination or harassment investigation, or protest the alleged discrimination, harassment, or retaliation. Retaliation is an offense separate from the original complaint of discrimination, and will be considered independently from the merits of the underlying complaint. Individuals who believe they have been subjected to retaliation should report the conduct to the Office of Employment Equity.

## **VII. FALSE ACCUSATIONS**

Knowingly making a material misstatement of fact may subject the complainant to discipline. Anyone who believes that he or she has been the subject of a false complaint may meet with the Director of the Office of Employment Equity to discuss the allegations. The filing of a complaint that does not result in a finding of prohibited conduct is not alone evidence of the intent to file a false complaint.

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<sup>6</sup> Available at <https://uhr.rutgers.edu/sites/default/files/userfiles/DiscriminationHarassmentComplaintProcess.pdf>. Information is also available at <http://uhr.rutgers.edu/policies-resources/policies-procedures/policy-and-compliance-guidelines/discrimination-and->

<sup>7</sup> Complaints of discrimination or harassment against vendors, contractors, subcontractors, and others who do business with the University will be handled by the Director of the Office of Employment Equity.