

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
HARASSMENT COMPLAINT PROCESS

I. INTRODUCTION

This Harassment Complaint Process is to be followed whenever a complaint of harassment is made that alleges conduct that may be in violation of the University's Policy Prohibiting Harassment. That policy prohibits harassment based upon certain enumerated protected categories or traits. These categories or traits are race, religion, color, national origin, ancestry, age, sex, sexual orientation, disability, and marital or veteran status. The purpose of this Harassment Complaint Process is to describe the steps to be followed for reporting and handling complaints of harassment. The University is committed to handling complaints and reports of harassment swiftly, fairly, and with sensitivity.

II. REPORTING INSTANCES OF HARASSMENT

Members of the University community who believe they are being or have been harassed in violation of the Policy Prohibiting Harassment should report their experience. Students and employees should report instances of possible harassment to a University Advisor¹ or to the Director of University Harassment Compliance & Equity.² Complaints against employees, or against students in their role as employees, will be resolved through the process outlined below. Complaints against students arising out of their conduct as students will not be handled by this process. Rather, they are addressed by other University policies that address student conduct, including the University Student Life Policy Against Verbal Assault, Defamation and Harassment, and the University Code of Student Conduct.

If it is believed that the harassment is very serious, the University Police should be consulted. Questions about police assistance and involvement may be directed to the Chief of Police on each campus.

¹ The University Advisor provides general information about the University Policy Prohibiting Harassment and this Complaint Process regarding harassment and discrimination. Advisors may assist either the complainant or the respondent during the complaint process. As used in this policy, "complainant" refers to a person who makes a complaint of harassment. As used in this Policy, "respondent" refers to a person who has been accused of harassment.

² The Director of University Harassment Compliance & Equity is a staff employee who is responsible for supervising the operation of the Policy Prohibiting Harassment and this Harassment Complaint Process. This person is a resource for all members of the University community. The Director is also responsible for arranging education and training for the Rutgers community regarding the University's Policy Prohibiting Harassment and this Harassment Complaint Process.

Individuals who believe they have been subjected to harassment should report the alleged acts promptly so that appropriate action can be taken. Individuals who witness harassment should report the act of harassment to a University Advisor or to the Director of University Harassment Compliance & Equity.

It is the responsibility of all individuals in the University community to maintain an academic, work and living environment free from harassment that violates the University's Policy Prohibiting Harassment. Any of these individuals (except those who have a legally protected counselor/client privilege) who have knowledge of conduct involving harassment or who receive a complaint of harassment should inform the Director of University Harassment Compliance & Equity immediately.

III. COMPLAINT PROCESS

Because harassment may involve a wide range of behaviors, the way in which a given case is best handled will vary. This Harassment Complaint Process provides a number of options to those subjected to harassment. A University Advisor or the Director of University Harassment Compliance & Equity can explain the options available to the complainant. The option selected will depend on a number of factors, including the seriousness of the offense, the amount of evidence available, the degree of confidentiality sought, and the outcome desired by the complainant. If it appears to the Director of University Harassment Compliance & Equity that the complainant's allegations do not constitute a violation of the Policy Prohibiting Harassment, the Director will so advise the complainant and cease processing the complaint.

A complainant may select an informal or formal resolution. An informal resolution focuses on stopping the harassing behavior without a formal investigation and seldom results in sanctions. A formal resolution involves an investigation and may result in sanctions. The choice of one type of resolution does not preclude employing the other type at the same time or at a later time.

Prompt reporting of a complaint of harassment is strongly encouraged, as it facilitates a faster resolution. Ordinarily, complaints should be reported within one year after the last occurrence of the identified behavior. However, there may be instances where the complainant is reluctant to report alleged harassment within the one-year time frame. Thus, the Director of University Harassment Compliance & Equity is authorized to process a complaint of harassment where the Director is satisfied as to the adequacy of the complainant's explanation of a delay in reporting the complaint.

A. INFORMAL RESOLUTION

There are a variety of forms of informal resolution. The means for seeking an informal resolution will vary from case to case but could include the following: (1) the direct approach, (2) third-party intervention, or (3) indirect action taken by a University Advisor or the Director of University Harassment Compliance & Equity.

1. The Direct Approach

After a discussion with an Advisor or the Director of University Harassment Compliance & Equity, a complainant may choose to take action personally. This direct approach may be appropriate when the goal is to stop the behavior rather than sanction the respondent.

This direct approach might include the complainant writing a letter to the respondent asking him/her to change his/her behavior. Another option might be telling the respondent in person exactly what behavior is offensive and asking the respondent to stop the behavior. This approach should be taken only if the complainant feels comfortable confronting the respondent.

2. Third-Party Intervention

This option involves having an Advisor go back and forth between the complainant and the respondent, or asking the Advisor to bring the complainant and respondent together informally to resolve the problem. This type of intervention may result in such solutions as separating the complainant and respondent, reassignments of work, or an agreement by the respondent to stay away from the complainant.

3. Indirect Approach

The complainant may choose an indirect approach. This approach is intended to alert the respondent to inappropriate behavior in such a way that the behavior stops without the complainant having had to do anything except talk to the Advisor. This option has the advantage of maintaining the anonymity of the complainant and respondent. The type of indirect action will vary according to the circumstances. One example of indirect action is to have the Director of University Harassment Compliance and Equity address a faculty or staff meeting covering the University's Policy Prohibiting Harassment and/or reminding Supervisors and faculty of their responsibility to foster an environment free of harassment.

B. FORMAL RESOLUTION

A complainant may choose the formal complaint resolution for a complaint of harassment. This option may result in sanctions against the respondent.

1. Initiation of Complaint

The formal complaint resolution process is initiated by a signed, written complaint. If the complainant chooses to make a formal complaint, an Advisor will be available to assist in writing the complaint. A complaint should include the following:

- a. description of the harassing behavior
- b. name of the respondent
- c. when and where the harassing behavior occurred
- d. what effect the behavior had on the complainant
- e. who witnessed the behavior, if applicable
- f. whom the complainant spoke to about the behavior, if applicable

g. name of the complainant

Once the complaint is written, it is forwarded to the Director of University Harassment Compliance & Equity. The Director will send a copy of the complaint to the respondent and shall afford the respondent reasonable time to prepare a written response. The respondent may choose an advisor to assist him/her during the formal complaint process.

2. Investigation and Findings

If the Director deems it appropriate to proceed with the complaint, the Director will select an individual to investigate the complaint. The investigator will work as expeditiously as possible to conduct a full and fair investigation. The investigator will give the respondent a reasonable opportunity to be heard, orally and/or in writing, with respect to the complaint and to furnish names of witnesses along with information pertaining to their knowledge of the matters set forth in the complaint. Upon completion of the investigation, the investigator will report in writing to the Director, setting forth the steps taken in the investigation and the investigator's findings.

The Director will review the report of the investigator. If the Director finds the investigation incomplete or otherwise unacceptable, the Director may request further investigation by the investigator, or may assign a new investigator to the complaint. Once the investigation is complete, the Director shall give the complainant and the respondent a copy of the investigator's report,³ a reasonable time to prepare a response, and then a reasonable opportunity to be heard orally or in writing by the Director. If the respondent asserts that an issue of academic freedom is involved, the Director shall consult with appropriate faculty or staff members as the Director determines is advisable.

The Director will then make a preliminary determination as to whether the respondent's conduct that is complained of may constitute harassment, and notify the complainant and the respondent in writing. If the Director determines that a respondent has not engaged in harassment, the Director shall notify the respondent and the complainant in writing of this conclusion, and it shall be noted on all relevant records.

If the Director preliminarily determines that the respondent has engaged in harassment, all of the written documents pertaining to the case (the "record") shall be sent by the Director to the Dean or Vice President of the respondent's unit. The Director's preliminary determination of prohibited harassment shall constitute a recommendation of a finding of prohibited harassment to

³ The Director has the discretion to redact the names of witnesses in order to maintain confidentiality.

the appropriate Dean or Vice President. (In the case of a student employee not covered by a collectively negotiated agreement or grievance procedure as set forth in University policy, the role of the Dean or Vice President will be replaced by the student employee's Supervisor.) The Director may also recommend a sanction to the appropriate Dean or Vice President or student employee's Supervisor.

The Director and the Dean, Vice President, or student employee's Supervisor, after giving the respondent an opportunity to be heard (either orally or in writing), will consult with each other and make a final determination as to whether harassment has been proven and whether the respondent engaged in prohibited harassment. The Director and the Dean, Vice President, or student employee's Supervisor will then determine the sanction, as appropriate, and notify the parties in writing of these decisions and the reasons supporting them.

Sanctions will be determined on a case-by-case basis, and the Director and the Dean, Vice President, or student employee's Supervisor will take reasonable steps to foster consistency for similar violations and circumstances across the University. Possible sanctions and remedial actions include, but are not limited to:

- Participation in education sessions on harassment;
- A Warning placed in the respondent's file;
- Reassignment of teaching or other responsibilities;
- Probation;
- Suspension without pay; or
- Termination, dismissal⁴

If the respondent is an employee of the University, and if the sanction results in discipline or termination, the respondent may grieve in accordance with applicable collectively negotiated agreements or University policies.

Student employees (not covered by such a grievance procedure) may appeal the imposition of sanctions imposed under this Harassment Complaint Process to the head of the department in which the student works.

3. Remedial Action

There may be situations in which harassment in violation of the Policy Prohibiting Harassment is found not to have occurred (for example, where the conduct complained of involved an isolated incident or where the conduct is protected by academic freedom). This finding does not prevent the University from bringing to the attention of the respondent that his/her conduct was deemed by the complainant to be inappropriate. This fact may be brought to

⁴ Nothing in this Policy is intended to abrogate any rights accorded faculty under the University dismissal regulations.

the attention of the respondent either through an informal process or the formal process. Similarly, while a respondent may not have engaged in conduct in violation of the Policy Prohibiting Harassment and, thus, is not disciplined, the University reserves the right to take remedial action with respect to the complainant to enable the complainant to pursue employment or educational opportunities unimpeded by the conduct that prompted the complaint.

C. INDEPENDENT UNIVERSITY ACTION

The University reserves the right to investigate allegations of harassment in appropriate circumstances even in the absence of a complaint of harassment filed pursuant to this Harassment Complaint Process. The University may then proceed under either the informal or formal procedures as set forth in this process.

IV. CONFIDENTIALITY

The University shall maintain confidentiality to the extent possible within the requirements of conducting reasonable investigations. Only those who have a need to know will be told the identity of the parties to a complaint. 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 other members of the University community.

V. RETALIATION

Retaliatory conduct against any individual who has filed a complaint of harassment, who has reported witnessing harassment, who has participated in the Harassment Complaint Process, or who has been the subject of an investigation or the subject of a complaint of Harassment and not found to have engaged in harassment is also a violation of the University's Policy Prohibiting Harassment and is grounds for discipline and/or remedial action. Anyone who believes that he/she may be or has been the victim of retaliation should discuss his/her concerns with the Director of University Harassment Compliance & Equity.

VI. FALSE ALLEGATIONS

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

VII. RECORD KEEPING

Notice of all reports of harassment, whether a formal written complaint or an informal complaint, must be forwarded to the Director of University Harassment Compliance & Equity by the Advisor receiving the complaint. The Director will keep a record of all informal and formal complaints. This information will be used to monitor repeated complaints within the same unit or against the same individual. This information will also be used to document the incidence of harassment in the University community.

Dated: March 1, 2002

Effective Date: September 1, 1997