



RIDER
UNIVERSITY

University Anti-Harassment and Non-Discrimination Policy and Procedures

- Title IX
- Discrimination
- Harassment
- Sexual Assault
- Sexual Misconduct

Notice of the Title IX Coordinator

Rider University is an Equal Opportunity and Affirmative Action Employer. No one will be denied employment at or admission to Rider University on the basis of race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation, gender identity, national origin, status as a Vietnam-era, qualified disabled veteran or other protected veteran, or status as a member of any other protected class under federal or state law. The University does not discriminate on the basis of any of the aforementioned protected bases in the recruitment and admission of students, the recruitment and employment of faculty and staff, and the operation of any of its programs and activities as specified by federal law and regulations.

The Associate Vice President for Human Resources serves as both the Affirmative Action Officer and the Title IX Coordinator for the University, and is the resource available to anyone seeking additional information or wishing to file a complaint related to Affirmative Action and discrimination on the basis of race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation, gender identity, national origin, status as a Vietnam-era, qualified disabled veteran or other protected veteran, or status as a member of any other protected class under federal or state law.

The Associate Vice President for Human Resources is located in Moore Library, Room 108 and can also be reached at 609-895-5683.

University Anti-Harassment and Non-Discrimination Policy

This Anti-Harassment and Non-Discrimination Policy (the “Policy”) shall govern the treatment of harassment and discrimination cases at Rider University including sexual harassment, sexual misconduct, domestic violence, dating violence and stalking. To the extent this policy conflicts with provisions found in the University Student Code of Conduct and University Employee Handbook, the terms of this Policy shall control.

The Associate Vice President for Human Resources is the University’s Affirmative Action Officer and its Title IX Coordinator and the designated coordinator for compliance with this policy. The Affirmative Action Officer/Title IX Coordinator may be contacted at 609-895-5683 or extension 5683, at his/her office in Moore Library, room 108. He/she is the resource available to anyone seeking additional information or to file a complaint related to Affirmative Action and discrimination. The U.S. Department of Education, Office for Civil Rights (OCR) is the federal agency charged with enforcing compliance with Title IX. Information regarding OCR can be found at: www.ed.gov/ocr.

Introduction

All students, faculty and staff at the University have the right to expect an environment that allows them to enjoy the full benefits of their work or learning experience. It is the policy of the institution that no member of the University community may harass or discriminate against one another.

Definitions

Discrimination involves unfair treatment of a person or group based on prejudice regarding their personal characteristics. Rider University does not discriminate on the basis of race, creed, color, religion, gender, sexual orientation, gender identity, handicap/disability, age, marital status, national origin, status as a Vietnam-era, qualified disabled veteran or other protected veteran, or status as a member of any other protected class under federal or state law, in employment or in the application, admission, operation, participation, access and treatment of employees and students, in any of the University’s programs and activities as specified by federal law and regulations. Additionally, it is the policy of Rider University to provide an environment for prospective and current students, job applicants, employees and other third parties that is free from harassment and intimidation on

account of an individual's race, creed, color, religion, gender, sexual orientation, gender identity, handicap/disability, age, marital status, national origin, status as a Vietnam-era, qualified disabled veteran or other protected veteran, or status as a member of any other protected class under federal or state law.

Harassment is any action that may reasonably be expected to a) threaten, coerce, or intimidate an individual or a class of individuals or b) substantially interfere with an individual's work or education experience. Where the alleged harassment involves a potential violation of federal or state anti-discrimination laws, the University's Affirmative Action Officer or his/her designee will be called upon to investigate the allegations, using procedures outlined below. Nothing contained in this policy shall be construed either to (1) limit the legitimate exercise of free speech, including but not limited to written, graphic, or verbal expression that can reasonably be demonstrated to serve legitimate education, artistic, or political purposes, or (2) infringe upon the academic freedom of any member of the University community.

Sexual Harassment is defined as unwelcome sexual advances (including, but not limited to, sexual assault and sexual misconduct), requests for sexual favors, and/or physical, verbal or written conduct of a sexual nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, education, or participation in University programs or activities, or
2. Submission to or rejection of such conduct by an individual is used as a basis for decisions pertaining to an individual's employment, education, or participation in University programs or activities; or
3. Such speech or conduct is directed against another and is abusive or humiliating and persists after the objection of the person targeted by the speech or conduct, or
4. Such conduct would be regarded by a reasonable person as creating an intimidating, hostile or offensive environment that substantially interferes with an individual's work, education, or participation in University programs or activities.

In the educational setting within the University, as distinct from other work places within the University, wide latitude for professional judgment in determining the appropriate content and presentation of academic material is required. Conduct, including pedagogical techniques, that serves a legitimate educational purpose does not constitute sexual harassment. Those participating in the educational setting bear a responsibility to balance their rights of free expression with a consideration of the reasonable sensitivities of other participants.

Supplemental Definitions

These supplemental definitions are more likely to be relevant in harassment and discrimination cases involving alleged student misconduct, but will be utilized in cases where employee or third party misconduct is alleged, when appropriate. These supplemental definitions will be used during the Formal Hearing stage to determine charges and sanctions.

Sexual Assault occurs when an unwelcomed physical contact of a sexual nature is intentional and is committed either by a) physical force, violence, threat, or intimidation; b) ignoring the objections of another person; c) causing another's intoxication or impairment through the use of drugs or alcohol; or d) taking advantage of another person's incapacitation, state of intimidation, helplessness, or other inability to provide consent.

Sexual Misconduct occurs when the act is committed without the intent to harm another and where, by failing to correctly assess the circumstances, a person believes unreasonably that consent was given without having met his/her responsibility to gain such consent. Situations involving physical force, violence, threat or intimidation fall under the definition of Sexual Assault, not Sexual Misconduct, and will be treated as such under these procedures.

Stalking occurs when an individual(s) engages in a pattern of repeated and unwanted attention, advances, contact, or any other course of repeated and unwanted conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others, or (b) suffer substantial emotional distress.

Cyber-harassment is the willful and repeated use of computers, cell phones or other electronic communications to engage in conduct that (a) may reasonably be expected to threaten, intimidate, harass or discriminate against an individual or a class of individuals, (b) substantially disrupts the orderly operation of the University, or (c) substantially interferes with an individual's work or education experience.

Conduct that may rise to the level of cyber-harassment includes, but is not limited to, the following:

- Using any form of electronic communication (including the Internet, email, text messages, instant messages, photo messages, discussion boards, digital images/video/audio, blogs or social networking sites) to threaten, humiliate, harass, intimidate, or discriminate against an individual or a class of individuals;
- Sending threatening, harassing, intimidating, or discriminating messages to

anyone, including using the University email server to send such messages to individuals outside of the University;

- Breaking into or using without an individual's authorization an online account and sending messages without that individual's consent;
- Creating a fictitious or anonymous on-line account and posting threatening, harassing, or discriminatory information or posting an individual's personal identifying information;
- Taking or downloading pictures of someone and posting the pictures without their consent when such pictures may reasonably be expected to threaten, humiliate, harass, intimidate, or discriminate against an individual or a class of individuals;
- Engaging in on-line fighting or trash-talking.

Domestic Violence –

- A. Means the occurrence of one or more of the following acts inflicted upon a protected person as defined in subparagraph (B) of this definition of Domestic Violence: homicide, assault, terroristic threat in violation of federal or state law, kidnapping, criminal restraint in violation of federal or state law, false imprisonment, sexual assault, sexual misconduct, lewdness, criminal mischief in violation of federal or state law, burglary, criminal trespass in violation of federal or state law, harassment, stalking.
- B. A protected person for purposes of Domestic Violence is:
- (1) a person with whom the accused shares a child in common or is about to share a child in common; or
 - (2) a person who is cohabitating with or has cohabitated with the accused as a spouse; or
 - (3) a person similarly situated to a spouse of the accused under state or federal domestic or family violence laws including the New Jersey Prevention of Domestic Violence Act of 1991 (N.J.S.A. 2C:25-17 et seq.); or
 - (4) any other person who is protected from that accused's acts under state or federal domestic or family violence laws, including the New Jersey Prevention of Domestic Violence Act of 1991 (N.J.S.A. 2C:25-17 et seq.).

Dating Violence includes the occurrence of one or more of the acts in Subparagraph A of the definition of ***Domestic Violence*** where the accused a) is or has been in a social relationship of a romantic and intimate nature with the complainant; and b) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.
- (iii) The frequency of interaction between the persons involved in the relationship.

Retaliation Prohibition

Rider University prohibits retaliation against any individual who complains of a violation of the Policy or assists in providing information about a complaint of discrimination or harassment including, but not limited to, sexual assault, sexual misconduct and sexual harassment.

Prompt Reporting

Members of the University community are strongly encouraged to promptly report all experienced or observed incidents of discrimination and harassment, including sexual assault, sexual misconduct and sexual harassment. Prompt reporting of such incidents makes investigation of the incident more effective and enhances the ability of the University to take action on a complaint. Further, pursuant to Title IX all “responsible employees” must report all experienced or observed incidents of discrimination and harassment, including sexual assault, sexual misconduct and sexual harassment. A “responsible employee” is someone who has the authority to take action to redress the alleged misconduct, who has the duty to report the alleged misconduct to appropriate University officials, or an individual who a student could reasonably believe has this authority or responsibility to redress or report the alleged misconduct.

Statement on Consensual Relations between Faculty and Students, Athletic Staff and Student-Athletes and Employees and Subordinates

Consensual romantic and/or sexual relationships between employees (including faculty and athletic staff) and students with whom they also have an academic, supervisory or evaluative relationship or between an employee and his or her subordinate, is fraught with the potential for exploitation and may compromise the University's ability to enforce its policy against sexual harassment. Employees must be mindful that the authority that they exercise in their interactions with students and subordinates may affect the decision of a student or a subordinate to enter into or end a romantic or sexual relationship. Even when both parties initially have consented, the development of a sexual relationship renders both the employee and the institution vulnerable to possible later allegations of sexual harassment in light of the significant power differential that exists between faculty members and students, athletic staff members and student-athletes or supervisors and subordinates.

In their relationships with students and subordinates faculty, athletic staff and supervisors are expected to be aware of their professional responsibilities and to avoid apparent or actual conflict of interest, favoritism, or bias. When a sexual or romantic relationship exists, effective steps should be taken to ensure unbiased evaluation or supervision of the student or subordinate.

Reporting and Investigating Complaints of Employee Violations of the University's Anti-Harassment and Non-Discrimination Policy

Complaints alleging that an employee or (non-student) third party on campus violated the Policy, whether filed by an employee, a student, or a third party on campus, shall be reported to the Affirmative Action Officer/Title IX Coordinator and handled by the Affirmative Action Officer or his/her designee (The Investigator). Complaints should be filed with the Affirmative Action Officer/Title IX Coordinator, (609-895-5683, Moore Library room 108), in writing as promptly as possible. The Affirmative Action Officer (or Investigator) will notify the relevant division head and the president of the union (if the alleged harasser is a bargaining unit member) as soon as possible after receiving the complaint and provide the accused, the complainant, the relevant division head and the union president (when appropriate) with a copy of the complaint and this policy.

Scope of Investigation of Complaints of Employee Violations of the University's Anti-Harassment and Non-Discrimination Policy

The Investigator assigned to a complaint will initiate an investigation by notifying the accused that a complaint has been filed against him or her and inform him/her of the nature of the complaint, providing a written copy of the complaint to the accused. The Investigator shall explain to both parties the avenues for informal and formal action, including a description of the process and the relevant avenues of redress to the complainant and the accused and provide them a written summary of the process. The Investigator shall have the authority to take all reasonable and prudent interim measures to protect both parties pending completion of the investigation and during the informal or formal procedures to resolve the complaint.

Informal Procedures for Employee Violations of the University's Anti-Harassment and Non-Discrimination Policy

The informal procedures are designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow for this, informal procedures will be initiated as soon as possible and within five

(5) work days of the filing of the complaint, absent any unusual circumstances. The Investigator may determine that a complaint is not appropriate for informal resolution. Informal mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis. Upon the consent of all parties to the complaint, the Investigator, with relevant supervisors when appropriate, will seek an outcome through mediation to be conducted by University staff or an external professional engaged by the University. Any resolution through mediation also must be mutually agreed upon by all parties to the complaint. In certain circumstances, the Investigator may use the services of an Employee Assistance Program counselor to assist in resolving an informal complaint. If the accused is represented by a bargaining agent, the accused may have that agent present at any interview with the Investigator. Both the complainant and the accused have the right to bypass or end the informal complaint process at any time in order to begin the formal stage of the complaint process.

Records arising from informal procedures will not be used for any purpose other than those described above unless a complaint subsequently results in a formal hearing or otherwise becomes part of a legal action. Since informal level records represent allegations not supported by formal findings of fact, they will be maintained in a confidential manner separate from any other records for four years. They will be destroyed after that period if no further allegations or formal complaints have been received concerning the same individual. Such records shall not be used as evidence of guilt or innocence in any investigation or hearing involving a future complaint involving the same accused. The accused shall be entitled to include a response to documents contained in the confidential personnel or student file(s), as the case may be.

Formal Procedures for Employee Violations of the University's Anti-Harassment and Non-Discrimination Policy

If the allegation of harassment has not been resolved as a result of the informal procedures or is of the kind in the Investigator's opinion that contraindicates informal efforts, or if either the complainant or the accused request to begin the formal state of the complaint process, a formal investigation will be initiated.

The accused will be afforded fourteen (14) calendar days from the date that the formal investigation was initiated to provide a written response to the allegations. A copy of any response will be provided to the complainant.

The investigation of all formal complaints shall include interviews of the (1) complainant, (2) the accused, and (3) any witnesses and other persons who are identified as possibly having some information related to the alleged incidents, and who agree to be interviewed. The parties will have the opportunity to present witnesses and other evidence for consideration.

The Investigator will investigate the complaint and report the results, conclusions and recommended actions if any to the appropriate vice-president/division head. A summary of the report shall also be provided to the complainant and the accused. After consideration, the vice-president/division head will initiate disciplinary action as soon as reasonably practicable, when in his/her judgment it is appropriate, and will attempt to take whatever steps are necessary to prevent recurrence of the offending behavior and to correct its discriminatory effects on the complainant and others, if appropriate. The accused, the complainant, and the union president (when appropriate) will be informed of the final decision and any actions to be taken. All investigations shall be conducted as expeditiously as possible and normally shall be completed within thirty (30) work days after receipt of the complaint, except where the complainant agrees that a longer period of time would be appropriate or circumstances require it. Weekends, days when the University has scheduled a recess, or emergency or other closings shall not be counted. With limited exceptions, the same process will apply during the University's summer recess.

The accused shall be entitled to include a response to allegations, investigative findings, and documents included in the confidential personnel or student file(s), as the case may be. Implementation of, and challenge to, any disciplinary action will be handled according to applicable procedures, as provided by the relevant collective bargaining agreement and/or University Employee Handbook.

Reporting and Investigating Complaints of Student Violations of the University's Anti-Harassment and Non-Discrimination Policy

Campus Sexual Assault Victim's Bill of Rights

In addition to the procedures set forth in this Policy (both informal and formal), any student who believes he/she has been the victim of sexual assault, sexual misconduct or sexual harassment should feel free to avail himself/herself of all remedies and complaint mechanisms set out in the Campus Sexual Assault Victim's Bill of Rights. The Campus Sexual Assault Victim's Bill of Rights is found in *The Source* at www.rider.edu/thefsource.

Definition of Consent

For purposes of this Policy, consent is an understandable exchange of affirmative words or actions that indicate a willingness to participate in mutually agreed upon sexually explicit touching or sexual penetration. Consent is active, not passive, and must be informed and freely and actively given.

It is incumbent upon each individual involved in the activity to either obtain or give consent prior to any sexual activity, and again, prior to sexual penetration. If at anytime during the sexual interaction any confusion or ambiguity should arise on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify, verbally, the other's willingness to continue.

- A verbal "no," even if it may sound indecisive or insincere, constitutes lack of consent.
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent.
- It is expected that, after consent has been established, a person who changes his/her mind during the sexual activity will communicate through words or actions, his/her decision to no longer proceed.
- Past consent to sexual activity does not imply future ongoing consent, and the fact that two persons are in an on-going relationship shall not preclude the possibility that sexual misconduct or sexual assault might occur within that relationship.
- A person who is asleep or mentally or physically incapacitated, either through the effect of drugs or alcohol, or for any other reason, is not capable of giving valid consent and consent is not valid if a reasonable person would understand that such a person is incapable of giving consent.
- A person's use of alcohol, other drugs, and/or other intoxicants shall not diminish a person's responsibility to obtain informed and freely given consent.

University Resources for Confidential Discussions of Student Violations of the University's Anti-Harassment and Non-Discrimination Policy

Any student who believes the Policy may have been violated is free to discuss the matter, in confidence, with the University's Counseling Center, a University Chaplain, or the University Health Center. In cases of alleged unlawful discrimination or harassment (including, but not limited to, sexual assault, sexual misconduct and sexual harassment as defined above) a student may wish first to discuss the matter in confidence with the University's Counseling Center, a University Chaplain, or the University Health Center.

Where to Report Complaints of Student Violations

Complaints alleging that a student violated the Policy, whether made by an employee, student or a third party on campus, should be reported to the Associate Vice President for Human Resources (Moore Library, Room 108, 609-895-5683), who is the University's Affirmative Action Officer, its Title IX Coordinator and the designated coordinator for compliance with this Policy. The Associate Vice President for Human Resources also is the resource available to anyone seeking additional information on this Policy.

Alternatively, complaints may be reported to the Associate Vice President for Student Affairs (Bart Luedeke Center, Room 110, 609-896-5101) or to the Department of Public Safety (West House, Lawrenceville campus; Bristol Chapel basement, Princeton campus; both campuses: 609-896-5029). In matters involving students, the Department of Public Safety shall prepare an incident report for complaints that sets forth the allegations concerning the Policy violation.

It is the responsibility of the complainant to report a complaint in a timely manner in cases where the University's jurisdiction over the accused might otherwise be lost. Prompt reporting of such incidents makes investigation of the incident more effective and enhances the ability of the University to take action on a complaint.

Notification of Available Resources

Once a complaint about a student violation of the Policy is made, either by way of an incident report prepared by the Department of Public Safety or by some other means, Student Affairs or Public Safety staff will provide the complainant and, where possible, the accused student with a general understanding of the Policy and available support and immediate interventions (e.g. referrals to the police, hospital, Student Health Center, SART, Women's Space, academic counseling, etc.).

Interim Measures

The Associate Vice President for Student Affairs (or his/her designee) shall have the authority to take all reasonable and prudent interim measures to protect the complainant, the accused student, and all third party witnesses pending completion of any of the procedures outlined in the Policy.

The Associate Vice President for Student Affairs (or his/her designee) may issue a no-contact order if deemed appropriate. The order may include a directive that the complainant and accused student refrain from contacting each other through direct, indirect, electronic or other means or engage in any disruptive conduct pending resolution of the complaint. The Associate Vice President for Student Affairs (or his/her designee) may also take any further protective action he/she deems appropriate, in his/her sole discretion, concerning the interaction of the complainant and accused student pending resolution of the complaint. Violation(s) of the orders, directives, and/or protective actions of the Associate Vice President for Student Affairs (or his/her designee) shall constitute related offenses as outlined in the Student Code of Conduct.

Investigating Complaints of Student Violations of the University's Anti-Harassment and Non-Discrimination Policy

The University has established the following informal and formal procedures to address cases of alleged discrimination or harassment by a student, whether on grounds of sex or other proscribed criteria.

Informal Procedures for Investigating Complaints of Student Violations of the University's Anti-Harassment and Non-Discrimination Policy (Mediation)

Mediation is a voluntary process intended to allow the parties involved in an alleged complaint of discrimination or harassment to discuss their respective understandings of the incident with each other through the assistance of a trained mediator. Mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation is only offered as an option if both the complainant and the accused student are students at Rider University. (If either student is less than 18 years of age, the University may require that the minor student's parent consent in writing to the student's participation in the Mediation.)

Confidentiality of the Mediation Process

In order to promote honest, direct communication and a resolution through mediation, information disclosed in Mediation must remain confidential, except where disclosure may be required as set forth in this Policy, under law or as may be authorized by the Associate Vice President for Student Affairs (or his/her designee) in connection with responsibilities of the University.

Mediation Process

The mediation process will proceed as follows:

Initiating Mediation

1. **Initiating Mediation:** In cases where Mediation is appropriate, the Associate Vice President for Student Affairs (or his/her designee) will discuss with the parties whether or not they are willing to participate in Mediation. In addition, the mediation process can be initiated any time prior to the formal adjudication of the case. Both parties must agree to the Mediation in writing.

2. **Assignment of a Mediator:** Once both parties have agreed to Mediation in writing, the Associate Vice President for Student Affairs (or his/her designee) will appoint a mediator (the “Mediator”) who will mediate the case. The Mediator will be appointed within fourteen (14) work days of the parties’ agreement to participate in Mediation. The Mediator will contact the parties to set the date, time, and location of the mediation session(s).

Mediation Procedures

1. **Persons Participating:** Typically only the Mediator and the parties will be participants in the mediation session(s). However, either party may request and the Mediator in his/her sole discretion may permit each party to have a support person present. The extent of the participation of support person(s) in the mediation is subject to the sole discretion of the Mediator.
2. **Mediation Process:** During the mediation process, the Mediator normally will: (1) ask the parties to give their versions of the incident, including both factual information and their feelings; (2) identify key issues; (3) seek the agreement of both parties on the issues; (4) facilitate discussion; and (5) work with both parties to develop a written document that will include a statement of agreement. No offers of apology or concessions are required to be made during the mediation.

Mediation Outcomes

1. **Mediation Resolution:** Any statement of resolution by mediation shall be incorporated into an agreement (the “Mediation Agreement”), which shall be signed by both parties, the Mediator, and shall be approved by the Associate Vice President for Student Affairs (or his/her designee) before it takes effect. Any activity or behavior, or prohibition thereof, to which either party has agreed in the mediation shall be included in the Mediation Agreement. Since a party’s entry into a Mediation Agreement is voluntary, there is no right to appeal by either party from the terms of the Mediation Agreement once it has been signed by the parties, the Mediator, and approved by the Associate Vice President for Student Affairs (or his/her designee). The approval of the Mediation Agreement by the Associate Vice President for Student Affairs (or his/her designee) shall constitute a directive of the Associate Vice President for Student Affairs requiring both parties to fully comply with all the terms of the Mediation Agreement. The Mediation Agreement will be kept on file at the Office of the Associate Vice President for Student Affairs. If either party believes the terms of the Mediation Agreement have not been met by the other party, he/she may contact the Associate Vice

President for Student Affairs, who shall ask the Mediator or other designated person to investigate the allegation of noncompliance. The Associate Vice President for Student Affairs (or his/her designee) may take such action as he/she deems appropriate in response to the investigation of noncompliance with the Mediation Agreement, or at his/her sole discretion, the matter may be referred to an Investigator, followed by a hearing before a Board, if such further investigation and/or sanctions are warranted.

2. **Non-Resolution and Referral to Formal Adjudication:** If either party is dissatisfied with the mediation process at any time prior to the signing of a Mediation Agreement, that party may request that the mediation process cease. In such a case, absent an express determination to the contrary by the Associate Vice President for Student Affairs (whose discretion in such determination shall be exclusive and final), Formal Adjudication may only be pursued if the request is initiated within one (1) calendar year of the termination of the mediation process provided, however, that for good cause shown as determined in the sole discretion of the Associate Vice President for Student Affairs, this period of time may be extended. In the event that Formal Adjudication occurs after some part of the mediation process has taken place but prior to any resolution at mediation, only the complaint form will be forwarded by the Associate Vice President for Student Affairs (or his/her designee) to the assigned Investigator.

Formal Procedures for Investigating Complaints of Student Violations of the University's Anti-Harassment and Non-Discrimination Policy

If the discrimination or harassment complaint has not been addressed as a result of mediation or is of the kind that cannot be addressed through mediation, or if either the complainant or the accused student requests referral to Formal Adjudication as described above, a formal investigation will be initiated by the Associate Vice President for Student Affairs (or his/her designee) as the first step in the Formal Adjudication process.

All investigations shall be conducted as expeditiously as possible and normally shall be completed within thirty (30) work days after receipt of the complaint, except where the complainant agrees that a longer period of time would be appropriate or circumstances require it, including when mediation is being conducted. Holidays, days when the University has scheduled a recess, or emergency or other closings shall not be counted. With limited exceptions, the same process will apply during the University's summer recess.

Confidentiality of the Investigation

In order to comply with laws and regulations protecting education records of students and to provide an orderly process for the determination and consideration of relevant evidence without undue intimidation or pressure, the investigation findings are confidential. Investigation findings may not be disclosed except as described below or as required or authorized by law or as may be authorized by the Associate Vice President for Student Affairs (or his/her designee) in connection with responsibilities of the University.

Investigation Process

The investigation process shall proceed as follows:

Investigator Assignment and Conduct

1. **Assignment of Investigator:** The Associate Vice President for Student Affairs (or his/her designee) will assign the matter to an investigator or investigators (the “Investigator”). The Investigator will be a trained member of the University staff.
2. **Conduct of the Investigator:** The Investigator will fully and impartially investigate the complaint. The Investigator may not privately discuss the facts or merits of the case with the parties or with anyone acting on behalf of either parties. The Associate Vice President for Student Affairs (or his/her designee) will provide the Investigator with a written copy of the complaint and any other supporting material.

Investigation Procedures

1. **Initiation of the Investigation:** The Investigator will initiate an investigation by notifying the accused student that a complaint has been filed, informing the accused student of the nature of the complaint, and providing the accused student with a written copy of the complaint. The Investigator will explain the process and the relevant avenues of redress to the complainant and the accused student and provide them a written summary of the process. The accused student will be afforded fourteen (14) calendar days in which to provide a written response to the complaint, a copy of which will be provided to the complainant. During this fourteen (14) calendar day period, the investigation may proceed forward.

2. **Interviews:** The investigation shall include interviews of (1) the complainant, (2) the accused student, and (3) any witnesses and other persons who are identified as possibly having some information related to the alleged incidents, and who agree to be interviewed, and a review of relevant documentation and other evidence.

Investigation Outcomes

1. **Investigation Report:** The Investigator will prepare a written report (the “Investigation Report”) summarizing the factual findings of the investigation. The Investigation Report will be distributed to the complainant, the accused student, and the Assistant Vice President for Student Affairs (or a designee appointed by the Associate Vice President for Student Affairs). If a Board hearing is held, the Board will also be provided with a copy of the Investigation Report. The accused student may respond in writing to the Investigation Report within ten (10) work days of the delivery date of the Investigation Report. Any response will be delivered to the Assistant Vice President for Student Affairs (or the designee) for his/her review.
2. **Determination of Charges:** The Assistant Vice President for Student Affairs (or the designee) shall review the Investigation Report and any response, consult with the Investigator, and make a determination of whether sufficient facts exist to warrant a Formal Hearing. The Assistant Vice President for Student Affairs (or the designee) also will determine what charges (e.g., “Discrimination,” “Sexual Assault,” “Sexual Misconduct,” or other forms of “Sexual Harassment” or other “Harassment”), if any, will be referred for a Formal Hearing. That determination will be communicated in writing to the complainant and the accused student in the form of the Notice of Charges or other written communication as appropriate.

A complainant whose request for Formal Adjudication is denied may appeal that denial to the Associate Vice President for Human Resources (who also serves as the University’s Title IX officer) within five (5) work days. The Associate Vice President for Human Resources will then review the complaint and the Investigation Report and all other available case material. The decision of the Associate Vice President for Human Resources on the appeal shall be final and not the subject of further appeal.

3. **Notice of Charges:** If a Formal Hearing is deemed necessary, the Office of Community Standards will commence the hearing process by providing written notice to the accused student (“Notice of Charges”) stating: (1) the nature of the complaint; (2) the offense alleged (including references, as

applicable, to the Standards of Conduct allegedly violated); (3) the name of the complainant; (4) the date, time and place of the Formal Hearing; (5) the date, time, and place of the pre-hearing meeting at which preliminary matters will be discussed as outlined in the “Pre-Hearing Meeting(s) and Determination of Witnesses” section below; and (6) the names of the Board members (the “Board”), including the presiding chair. The Notice of Charges shall be mailed to the accused student’s current local address on record with the University and shall be considered effective three (3) calendar days after such mailing or otherwise when actually received by the accused student, whichever occurs first. The Notice of Charges shall be simultaneously mailed to the complainant’s current local address on record with the University along with the date, time, and place of a separate pre-hearing meeting at which preliminary matters will be discussed.

4. **Request to Terminate the Investigation:** Upon mutual consent, the complainant and the accused student may seek to terminate a formal investigation, but the Associate Vice President for Student Affairs (or his/her designee), in consultation with the Investigator, may nevertheless determine, in his/her judgment and discretion, that the interests of the University community require the continuation of the formal investigation.

Formal Hearing before the Student Anti-Discrimination/Harassment/ Sexual Assault/Sexual Misconduct Board

A Formal Hearing before the Student Anti-Discrimination/Harassment/Sexual Assault/Sexual Misconduct Board (the “Board”) is the formal adjudication of a complaint of discrimination/ harassment (including, but not limited to, sexual assault, sexual misconduct, or sexual harassment).

The Formal Hearing must take place not more than fourteen (14) work days after delivery of the Notice of Charges to the accused student, unless the Board Chair, in his/her sole discretion, allows for a longer period of time.

If a complaint is filed within sixty (60) calendar days of the accused student’s intended graduation, during a University recess or Summer Session, or in other circumstances where the Associate Vice President for Student Affairs (or his/her designee) determines that the complaint cannot otherwise be resolved in a timely manner, procedural options may be limited. In particular, a Formal Hearing under these circumstances may instead take the form of an administrative hearing by a designated Student Affairs employee appointed by the Associate Vice President for Student Affairs (or his/her designee).

Confidentiality of the Formal Hearing Process

In order to comply with laws and regulations protecting education records of students and to provide an orderly process for the presentation and consideration of relevant evidence without undue intimidation or pressure, the hearing process before the Board is confidential and is closed to the public. Documents prepared in anticipation of the hearing (such as the Investigation Report, the Notice of Charges, or any written pre-hearing submissions), documents, testimony, or other evidence introduced at the hearing; or any transcript of the hearing itself, may not be disclosed except as required or authorized by law or as may be authorized by the Associate Vice President for Student Affairs (or his/her designee) in connection with responsibilities of the University.

Hearing Process

The hearing process shall proceed as follows:

Composition and Purpose of the Board

1. **Composition of the Board:** The Board will be composed of three (3) trained, professional staff members of the University community appointed by the Associate Vice President for Student Affairs (or his/her designee). Board members will have an understanding of contemporary student life and discrimination/harassment and sexual harassment issues (including but not limited to sexual assault and sexual misconduct) in the university community. The Associate Vice President for Student Affairs (or his/her designee) shall designate one Board member to serve as the presiding chair of the Board (the “Board Chair”).
2. **Challenge of Board Member:** A party wishing to challenge the participation of any Board member shall notify the Board Chair and the Associate Vice President for Student Affairs in writing, stating the reason(s) for the party’s objection. Such a challenge must be made in writing and delivered to the Board Chair and the Associate Vice President for Student Affairs at the Office of the Associate Vice President for Student Affairs, 2083 Lawrenceville Road, Lawrenceville, New Jersey 08648-3099, BLC 110, within seven (7) calendar days of the mailing of the Notice of Charges to the accused student and the complainant in the manner set forth in the Notice of Charges section. Except with respect to challenges to the participation of the Board Chair, the Board Chair shall determine whether the challenge has merit and reserves sole discretion to make changes in the Board’s composition at all times. In the event of a challenge to the participation of the Board Chair, the Associate Vice President for Student Affairs (or his/her designee) shall determine

whether the challenge has merit and reserves sole discretion to appoint another Board member or other person as the Board Chair for a given hearing.

3. **Conduct of the Board:** The Board will seek to encourage an open exchange of information within the rules of confidentiality articulated in these procedures. While the Board's procedures are designed to ensure due process for the parties involved, the Board is not bound by the rules of criminal or civil procedures that govern judicial proceedings in court. Board members will serve as impartial fact finders and not as advocates for either the complainant or the accused student. Once an individual has been named to the Board, he/she may not privately discuss the facts or merits of the case with the parties or with anyone acting on behalf of either parties. The Board Chair will provide Board members with a copy of the Notice of Charges, the Investigation Report, the incident report, and written statements, list of witnesses and documents or other evidence submitted by the parties in advance of the hearing date.

Pre-Hearing Procedures

1. **Pre-Hearing Submissions:** No less than seven (7) calendar days prior to the hearing date, the parties shall provide the Board Chair with brief written statements describing their positions, a list of witnesses they propose to call, and copies of documents and a description of any other evidence they propose to present at the hearing. The Board Chair shall provide a copy of such written statements and documents to the other party as set forth below. In the absence of good cause as determined by the Board Chair in his/her sole discretion, parties may not introduce witnesses, documents, or other evidence at the hearing that were not timely provided to the Board Chair as set forth above. The parties are also responsible for securing the attendance of their proposed witnesses at the hearing.
2. **Pre-Hearing Meeting(s) and Determination of Witnesses:** The Board Chair will seek to schedule one or more pre-hearing meeting(s) with the parties, either jointly or separately at the sole discretion of the Board Chair, no less than three (3) calendar days prior to the hearing date. At the meeting(s), the Board Chair will review hearing procedures with the parties. The Board Chair will also review the list of proposed witnesses to assist the parties in eliminating redundant testimony. At the pre-hearing meeting(s), the Board Chair will provide each party with a copy of the written statement, list of witnesses, and identification or copies of documents or other evidence submitted by the other party.

Hearing Procedures

1. **Hearing Moderator:** The Associate Vice President for Student Affairs (or his/her designee) may designate an administrator to act as a hearing moderator to be present at a hearing to control the hearing and ensure the hearing follows procedural guidelines. The moderator will be impartial and has no interest or input in the outcome of the hearing.
2. **Persons Participating:** Typically, the parties (and where appropriate private attorneys), the Board members and a moderator shall be the only parties present at the hearing. Either party may request of the Board Chair that a parent or other support person be present at the hearing. Permission for a support person to be present is granted at the sole discretion of the Board Chair. The support person may not be an active participant in the hearing. Should either the complainant or the accused student fail to appear at the scheduled hearing, the Board Chair may postpone the proceedings or the Board may proceed and determine the complaint on the basis of the evidence presented, provided the absent party was duly notified in advance of the scheduled hearing date as outlined above.
3. **Recording:** The Board Chair will arrange for the hearing to be audio-recorded and may arrange for the preparation of any transcript of the recording that he/she deems appropriate or which a party requests (upon prompt payment by the requester of the transcription fee).
4. **Attorneys:** Typically, attorneys will not be allowed to be present at the hearing before the Board on behalf of either party. In cases where criminal charges are pending, the accused student may have an attorney present during the hearing for the sole purpose of advising the accused student on how best to respond to certain questions in order to protect rights in the public court proceedings. If the accused student's attorney is present, the complainant may have an attorney present and the University may have its attorney present. Attorneys are not permitted to examine witnesses or otherwise directly participate in the hearing on behalf of either party. Moreover, attorneys will not receive notices, which might be sent to the complainant or the accused student.
4. **Conduct of the Hearing:** The hearing before the Board will not follow a courtroom model. The Board Chair will determine the order of the witnesses and resolve any questions of procedure arising during the hearing. Absent extraordinary circumstances, the Investigator will not testify at the hearing unless approved by the Board Chair upon finding that the Investigator may

have material information that cannot otherwise be provided to the Board. The parties will not be expected to repeat undisputed details or non-material circumstances that would merely duplicate the written materials. The Board, in its discretion, may seek to have other persons speak at the hearing. Only the Board Chair and the Board may question the individual parties and any witnesses. However, both parties may ask the Board Chair to pose additional questions or inquire further into specific matters by submitting these requests in writing. If necessary, a brief recess may be granted to allow both parties an opportunity to prepare and submit such requests. The Board Chair is empowered to disallow any questions that are irrelevant or redundant. After all witnesses have been questioned, each party may make a closing statement and request a short recess to prepare his/her statement(s). If the Board determines that unresolved issues exist that would be clarified by the presentation of additional evidence, the Board Chair may recess the Board hearing and reconvene it for the presentation of additional evidence in a timely manner. A recess may not be based on the failure of witnesses to appear without good cause or on the proposed introduction of documents or other evidence that should have been presented at the pre-hearing meeting(s).

5. **Testimony by the Accused:** The accused student shall have the right not to testify at the hearing; however, the exercise of that right shall not preclude the Board from proceeding and determining responsibility on the basis of the facts and circumstances presented.
6. **Impact Statement:** During the hearing, the complainant may present the Board with a statement recommending a sanction (“Impact Statement”). The accused student will be provided an opportunity to respond to the Impact Statement. The Board shall not be bound by these statements in determining responsibility or the sanction. Witnesses other than the parties normally are not permitted at the Impact Statement phase of the hearing; however, the Board Chair reserves the sole discretion to authorize the presence of other persons.

Hearing Outcomes

1. **Standard for Responsibility Finding:** All decisions by the Board will be made by majority vote. The Board shall first determine whether the accused student is responsible for the alleged discrimination/harassment (including, but not limited to, sexual assault, sexual misconduct, or sexual harassment) (the “Responsibility Finding”), and then, if appropriate, determine by majority vote the sanction to be imposed on the accused student (the “Sanction Finding”). A finding of responsibility must be supported by a “preponderance of the evidence.” “Preponderance of the evidence” means that

the University establishes that it is more likely than not that the accused student is responsible for committing the act or acts complained of. If the accused student has been charged with “Sexual Assault,” the Board shall determine whether that charge has been established by a preponderance of the evidence. If the Board determines that there is not a preponderance of the evidence warranting a finding of sexual assault, the Board then shall consider whether sexual misconduct or sexual harassment or other discrimination has been established by a preponderance of the evidence, whether or not such conduct or charge is specifically set forth in the Notice of Charges.

2. **Sanction Findings:** After the Board has made a Responsibility Finding, the Board may impose any sanction that it finds to be fair and proportionate to the violation and in the interests of the University Community, including the accused and the complainant, and that is authorized for violations of the Student Code of Conduct (the “Sanction Finding”), including disciplinary probation, suspension, and expulsion. In determining an appropriate sanction, the Board may consider any record on the part of the accused student of past violations of the Student Code of Conduct, as well as the nature and severity of the violation(s) and any mitigating circumstances. The Board will consider as part of its deliberations whether the accused student poses a continuing risk to the complainant and/or University community. The University expects all cases involving a finding of sexual assault to involve consideration of the sanctions of suspension or expulsion. Any sanction imposed shall be based on a majority vote of the Board. All Sanction Findings shall require a finding that the sanction to be imposed is warranted by a preponderance of the evidence.
3. **Sanction Levels:** In instances involving student violations of the Policy, the charge(s) will correspond with the following sanction ranges, based on the severity of the alleged violation(s):
 - a. Sexual Assault (Level 1 to Level 2)
 - b. Sexual Misconduct (Level 1 to Level 3)
 - c. Sexual Harassment (Level 1 to Level 3)
 - d. Sexual Discrimination (Level 1 to Level 3)

The above-referenced sanction ranges correspond with the sanction levels found in the Student Code of Conduct. For purposes of any sanction finding under this Policy, a preponderance of the evidence standard will be utilized.

4. **Effective Date of Sanction:** Sanctions imposed by the Board shall not be effective until any timely administrative appeal of the decision by the accused student is completed. However, if advisable to protect the welfare of the

complainant or the University community, the Board may include in its Determination Letter that any probation, suspension, or expulsion is effective immediately and shall continue in effect until such time as the Associate Vice President for Student Affairs (or his/her designee) may otherwise determine in his/her sole discretion. The Associate Vice President for Student Affairs (or his/her designee) may suspend the Board's determination pending exhaustion of an appeal, or allow the accused student to attend classes or participate in other University activity(ies) on a supervised or monitored basis. The decision(s) of the Associate Vice President for Student Affairs (or his/her designee) in this regard is in his/her sole discretion and is not appealable.

5. **Determination Letter:** Within ten (10) calendar days following the hearing, or such longer time as the Board Chair may for good cause determine, the Board will issue its decision in writing (the "Determination Letter"). The Determination Letter will be delivered to the complainant and the accused student in the manner set forth in the Notice of Charges section with a copy provided to the Associate Vice President for Student Affairs. The Determination Letter will contain only the following information: (1) the name of the accused student; (2) whether the accused student has been found responsible or not responsible of the charges; and (3) the sanction imposed, if any. University policy neither encourages nor discourages further disclosure of the Determination Letter by either the complainant or the accused student. The University encourages a student who wishes to disclose the Determination Letter to any other person to consult with legal counsel before doing so.
6. **Early Resolution:** The Board Chair may propose a resolution of a complaint and request for Formal Hearing, with the consent of the complainant, at any time in cases where the accused student wishes to acknowledge responsibility for the acts of discrimination/harassment (including, but not limited to, sexual assault, sexual misconduct, or sexual harassment) and agrees to subject himself/herself to a sanction.

Appeal

Either the accused student or the complainant may appeal the Board's decision by notifying the Associate Vice President for Student Affairs in writing of the specific grounds for the appeal within seven (7) calendar days of the date of the Board's decision. The non-appealing party shall have seven (7) calendar days to respond to any written appeal. A non-appealing party is under no obligation to respond to any appeal. All appeals will be reviewed by an appellate panel (the "Appellate Panel") consisting of the Associate Vice President for Student Affairs, the Associate Vice President for Human Resources and another administrator appointed by the Associate Vice President for Student Affairs. The Appellate Panel shall review the record presented to the Board with respect to the grounds for the appeal. The Appellate Panel will overturn a Board's decision if it finds that the Board exceeded the bounds of the rationally available choices given the facts and standards set forth in the Policy. The decision of the Appellate Panel shall be based on a majority vote and that decision shall be final.

For more information...

CONTACT: Human Resources
609-895-5683

The Dean of Students
609-896-5101

Office of Community Standards
609-896-5292

Public Safety
609-896-5029
or in an emergency 609-896-7777



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