

**RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY**  
**DISCRIMINATION COMPLAINT PROCESS**

**I. INTRODUCTION**

This Discrimination Complaint Process (“Complaint Process”) is to be followed whenever a complaint (as described below) is made that alleges discriminatory conduct that may be in violation of the university’s Policy Prohibiting Discrimination and Harassment (“Policy”).<sup>1</sup> The Policy prohibits discrimination based upon certain enumerated protected categories. These categories are race, religion, color, national origin, ancestry, age, sex, sexual orientation, gender identity and expression, disability, 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. The purpose of the Complaint Process is to describe the steps to be followed for reporting and handling complaints of discrimination.

**II. REPORTING INSTANCES OF DISCRIMINATION**

Members of the university community who believe they have been discriminated against in violation of the Policy are encouraged to report it immediately to a University Adviser (“Adviser”) or to the Director of the Office of Employment Equity.<sup>2</sup> Complaints against employees, or against students in their role as employees, may be resolved through the process outlined below.<sup>3</sup> In appropriate circumstances, the University Police should be consulted. Questions about police assistance and involvement may be directed to the Chief of Police on each campus.

**III. COMPLAINT PROCESS**

An employee or applicant for employment who believes that he/she has been discriminated against in violation of the Policy may file a complaint. A complaint is to be promptly submitted to the

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<sup>1</sup> Policy 60.1.12. Also note that a separate process, the Harassment Complaint Process, exists for complaints of harassment.

<sup>2</sup> Advisers, who are employees trained in the Complaint Process, are also available to provide information about the Policy and the Complaint Process. The Director of the Office of Employment Equity is the staff employee who is responsible for supervising the operation of the Policy and the Complaint Process. The Director 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.

<sup>3</sup> Complaints against students arising out of their conduct as students will not be handled by this process. Rather, they are addressed by other university processes that address student conduct, including the University Student Life Policy against Verbal Assault, Defamation and Harassment, and the University Code of Student Conduct. Assistance may be obtained from the Office of Student Judicial Affairs at 732-932-9414 or <http://judicialaffairs.rutgers.edu>.

Office of Employment Equity, but no later than within one year of the incident which led the complainant to believe that he or she was subjected to discrimination in violation of the Policy.<sup>4</sup>

### 1. Initiation of Complaint

A complaint is initiated when the employee or applicant for employment submits a completed and signed Discrimination Complaint Form to the Office of Employment Equity.<sup>5</sup> A complainant may request that an Adviser provide assistance with completing the complaint.

Following receipt of a valid complaint, the Director of the Office of Employment Equity shall evaluate the complaint to determine whether the allegations articulate a violation of the Policy, and the Director shall have the discretion to conduct a preliminary fact-finding investigation in that regard. If the complaint does not raise an issue of a violation of the Policy, the Director shall dismiss the complaint and notify the complainant.

If, after evaluating the complaint, the Director of the Office of Employment Equity determines that the allegations in the complaint raise an issue of violation of the Policy, 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 Adviser to assist him/her during the complaint process.

### 2. Investigation and Findings

If the Director of the Office of Employment Equity 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 of the Office of Employment Equity 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,<sup>6</sup> 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.

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<sup>4</sup> As used in this document, "complainant" refers to a person who makes a complaint of discrimination and "respondent" refers to a person who has been accused of discrimination.

<sup>5</sup> The Discrimination Complaint Form may be obtained from the University Human Resources website: <http://uhr.rutgers.edu/GetAForm.htm>. The complaint is to be submitted to the Office of Employment Equity, 57 U.S. Highway 1, ASB II – Cook Campus, New Brunswick, New Jersey 08901. The fax number is 732-932-0049.

<sup>6</sup> The Director has the discretion to redact the names of witnesses in order to maintain confidentiality.

The Director of the Office of Employment Equity will then make a determination as to whether the respondent's conduct that is complained of violated the Policy. If the Director determines that a respondent has not violated the Policy, 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 determines that the respondent has violated the Policy, the Director will send a memorandum of determination to the appropriate chancellor, dean, vice president, or student employee's supervisor<sup>7</sup>, and will send a copy of the memorandum of determination to the complainant and the respondent.

### 3. Corrective and/or Disciplinary Action

If the determination reached is that the respondent violated the Policy, the appropriate chancellor, dean, vice president, or student employee's supervisor will then determine the appropriate corrective action. Disciplinary action, up to and including discharge, may be taken against an employee who violated the Policy.

Corrective and disciplinary actions will be determined on a case-by-case basis. The Director of the Office of Employment Equity will be available to consult with the chancellor, dean, vice president, or student employee's supervisor regarding possible corrective and disciplinary actions which may include, but are not limited to:

- Participation in education sessions on discrimination;
- A written reprimand;
- Reassignment of teaching or other responsibilities;
- Suspension without pay; or
- Termination, dismissal<sup>8</sup>

The chancellor, dean, vice-president, or student employee's supervisor shall notify the complainant of the determination that the Policy was violated. The chancellor, dean, vice-president, or student employee's supervisor shall also notify the respondent of the determination that the respondent violated the Policy, and advise the respondent of the appropriate corrective action that will be taken, including of any disciplinary action, including termination, that affects the respondent.

If the action taken results in discipline or termination, the respondent may exercise rights the respondent may have in accordance with applicable collective negotiations agreements or university policies. Student employees who are not covered by such agreements or policies may appeal the discipline or termination to the head of the department in which the student works.

## IV. INDEPENDENT UNIVERSITY ACTION

The university reserves the right to investigate allegations of discrimination in appropriate circumstances even in the absence of a complaint of discrimination filed pursuant to the Complaint Process.

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<sup>7</sup> The Director has the discretion to designate other management or supervisory personnel to assume the responsibility assigned herein to the "student employee's supervisor".

<sup>8</sup> Nothing in this Policy is intended to abrogate any rights accorded faculty under the university dismissal regulations.

**V. CONFIDENTIALITY**

The university shall maintain confidentiality to the extent possible. 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 members of the university community.

**VI. RETALIATION**

Retaliatory conduct against any individual who has filed a complaint of discrimination, who has reported witnessing discrimination, who has participated in the discrimination complaint process, or who has been the subject of an investigation or the subject of a complaint of discrimination and found not to have engaged in discrimination is also a violation of the Policy 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 the Office of Employment Equity.

**VII. 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 discrimination may meet with the Director of the Office of Employment Equity or an Adviser to discuss the allegations. The filing of a complaint that does not result in a finding of prohibited discrimination is not alone evidence of the intent to file a false complaint.

**VIII. RECORD KEEPING**

Notice of all reports of discrimination must be forwarded to the Director of the Office of Employment Equity by the Adviser or management or supervisory personnel receiving the complaint. The Director will keep a record of all 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 discrimination in the university community.

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