I. INTRODUCTION

This Discrimination and Harassment Complaint Process (“Complaint Process”) is to be followed when a complaint of discrimination or harassment alleges conduct by University employees, including student employees, and individuals who do business with the University, in violation of the University’s Policy Prohibiting Discrimination and Harassment (the “Policy”).¹ The University prohibits discrimination and harassment based on membership in certain enumerated protected classes, including 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. 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.

This Complaint Process identifies individuals responsible for receiving, reporting, and handling complaints that fall under the Policy, and the steps to be followed regarding such complaints.

II. REPORTING A COMPLAINT: RESPONSIBILITY FOR RECEIVING AND REPORTING COMPLAINTS

Any member of the University community who believes that he or she has been subject to conduct that violates the Policy is encouraged to initiate a report with the individual responsible for receiving, reporting and handling his or her specific complaint, as set forth below.

- A complaint against a University employee, including a student employee acting in that capacity, or an individual who does business with the university, should be reported to the Director of the Office of Employment Equity (“Director”).² The Director also serves as the Title IX Coordinator for complaints alleging that an employee and/or third party doing business with the University has committed an act of sexual misconduct, such as a sexual

¹ See Policy 60.1.12, the Policy Prohibiting Discrimination and Harassment, which is available at http://policies.rutgers.edu/sites/policies/files/60.1.12%20-%20current.pdf.

² The Director of the Office of Employment Equity (“Director”) supervises the operation of the Policy, the University’s Workplace Violence Policy (Policy 60.1.13) and the Conscientious Employee Protection Policy (Policy 60.1.16), as well as this Complaint Process.

The Director and the Office staff also are a resource for all members of the university community with regard to questions involving harassment and discrimination, and will arrange education and training regarding the Policy and the Complaint Process. The Office may be contacted at 848-932-3973 or at employmentequity@hr.rutgers.edu.
assault, sexual harassment, sexual exploitation, stalking, or relationship violence. Therefore, such complaints should also be directed to the Director and will be investigated pursuant to this Complaint Process.

- A complaint against a student arising out of his or her conduct as a student should be reported to the Office of Student Conduct. A complaint alleging that a student has committed a sexual assault, sexual harassment, sexual exploitation, stalking, relationship violence, or other form of sexual misconduct, may also be submitted to the Title IX Coordinator, Office of Student Affairs.

If an administrator, supervisor, or faculty member receives a complaint of discrimination or harassment from a member of the University community, he or she has an affirmative duty to receive the complaint and promptly report it to the appropriate university employee or office as described above (unless he or she has been designated as a confidential resource, discussed below). Administrators, supervisors, and faculty members should not investigate complaints they receive, nor evaluate whether the complaint rises to the level of a University policy violation. Upon receipt of the complaint, the appropriate office set forth above will review it and, if appropriate, commence an investigation.

Any individual who believes that he or she has been the victim of a crime (including, but not limited to sexual violence) also has a right, and is encouraged, to report the incident to the appropriate law enforcement agency. Questions about law enforcement assistance may be directed to the Chief of the Rutgers University Police Department (“RUPD”) on each campus, or local RUPD Captain.

An individual who wishes to discuss a possible violation of the Policy, but who does not wish to have OEE or the applicable Title IX Coordinator involved, may consult with a confidential resource. Confidential resources include medical, mental health and religious professionals, Violence

3 Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in educational programs or activities that receive Federal financial assistance. Rutgers is subject to Title IX, which provides: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Title IX also may relate to sexual violence and/or harassment on the basis of sex. Title IX is applicable to employees as well as students. The Title IX Coordinator at the Office of Employment Equity can be reached at 848-932-3973 or employmentequity@hr.rutgers.edu. For additional information, see the Title IX Policy for Employees, available at http://policies.rutgers.edu/sites/policies/files/60.1.18%20-%20current.pdf and additional information about Title IX at http://compliance.rutgers.edu/discrimination/title-ix-compliance.

4 Such complaints are addressed by Policy 10.2.11, Code of Student Conduct. Contact information for the Office of Student Conduct is 732-932-9414, or conduct@rci.rutgers.edu.

5 A Title IX Coordinator can be reached on each campus:
   New Brunswick: 848-932-2406
   Newark: 973-353-5541
   Camden: 856-225-6422
   RBHS: 973-972-0777
Prevention and Victim Advocates, and their off-campus counterparts. A report to a confidential resource will not be referred to the OEE or Title IX Coordinator and will not commence an investigation or disciplinary action under the policy.

Students with additional questions about confidentiality and confidential resources are encouraged to consult their local Title IX Coordinator.

III. PROCESS THROUGH THE OFFICE OF EMPLOYMENT EQUITY
Because discrimination and harassment may involve a wide range of behaviors, the way in which a given case is best handled may vary. There are a number of options available to those who believe that they have been subjected to discrimination or harassment. An individual may contact the Office of Employment Equity to discuss options available to him or her. These options will depend on a number of factors, including the seriousness of the offense, the amount of evidence presented, the degree of confidentiality sought, and the outcome desired by the individual. The Director, or his or her designee, will provide guidance and assistance to an individual interested in alternative options to a formal complaint and investigation process.

A complainant may also discuss with the Director any interim measures that he or she feels are necessary during the pendency of OEE’s resolution process (as set forth below). Where the complainant is a student, the Director will work with the local Title IX Coordinator and/or Office of Student Conduct to ensure that appropriate interim measures are taken. Where the complainant is an employee, the Director will work with the complainant’s supervisor, dean, vice president or chancellor (as appropriate) to determine what, if any, interim measures are necessary during the pendency of OEE’s resolution process.

A complainant may select an informal or formal resolution process, as described below. An informal resolution process (“informal resolution”) focuses on stopping the discriminatory or harassing behavior without a formal investigation. A formal resolution process (“formal resolution”) involves an investigation. Depending on the circumstances, both informal and formal resolution processes may be utilized.

A complaint, whether initiated through the informal or formal resolution process, must be submitted promptly to the Office of Employment Equity, but no later than 24 months after the incident which gave rise to the complaint. The use of the informal resolution process shall not extend the time limit for initiating a formal complaint.

A. INFORMAL RESOLUTION
The Director, or his or her designee, will provide guidance to a complainant interested in informal resolution. There are various methods available to attempt informal resolution, and the method or methods chosen should be tailored to the particular circumstances. Methods may include, but are not limited to: coaching the complainant on how to directly address a situation; assisting the complainant and department with the resolution of a real or perceived problem, such as by mediating

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6 This time limit may be extended by appeal at the discretion of the Director of the Office of Employment Equity.
a resolution within the department or by aiding in the modification of a situation in which the offensive conduct occurred; and/or arranging a meeting with the alleged offender to discuss the requirements of the Policy. The utilization of the informal resolution process is not a precondition for initiating the formal resolution process.

B. FORMAL RESOLUTION

1. Initiation of Complaint
The formal complaint process is initiated by submitting a signed, written complaint to the Office of Employment Equity. Upon receipt and review of a complaint, the Director may request additional information from the complainant if it is unclear whether the complainant’s allegations raise an issue of a violation of the Policy. If additional information is received and the Director determines that the allegations do not raise an issue of violation of the Policy, the Director will so advise the complainant and close the case.

If the Director requests additional information from a complainant, and the complainant does not submit additional information, the Director will cease processing the complaint and will inform the complainant that the case has been closed, and that he or she may resubmit the written complaint with the supplemental information at a later date if he or she wishes to proceed with a complaint at that time. The complaint must be resubmitted within 24 months of the alleged events and/or conduct which is the subject of the complaint.

If the Director accepts the complaint as drafted, he or she will notify the complainant that the case has been assigned for investigation and simultaneously send a copy of the complaint to the respondent and the chancellor, dean, or vice president of the respondent’s department, as applicable.

2. Investigation and Findings
The Director will instruct an Investigations Specialist in the Office of Employment Equity, or other designee, to investigate the complaint. The investigator will work as expeditiously as possible to conduct a full and fair investigation. 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.

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7 Mediation will never be used to resolve complaints of sexual misconduct.

8 The individual instituting the complaint (the “complainant”) is encouraged to use the Discrimination and Harassment Complaint Form that may be obtained from the University Human Resources website: http://uhr.rutgers.edu/policies-resources/forms. The complaint is to be submitted to the Office of Employment Equity, 57 US Highway 1, ASB II – Cook Campus, New Brunswick, New Jersey 08901. The fax number is 732-932-0049.

9 The “respondent” is the individual whose conduct is the subject of the complaint.
The Director will review the report of the investigator. If the Director finds that the investigation is 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 will make a determination as to whether the respondent violated the Policy. At this time, the Director shall forward a copy of the investigation report, along with his or her letter of determination, to the parties and the chancellor, dean, or vice president involved, as applicable.

3. Appeal of the Decision
Both parties are afforded one appeal of the finding, which must be directed to the Associate Vice President for Labor Relations (“Associate Vice President”). The parties are given ten (10) working days from the date of the decision letter to submit an appeal in writing. Failure to submit an appeal to the Associate Vice President by the appropriate deadline will render the decision final and conclude the process. The parties only can appeal on the following grounds:

   a. **Unsupported Conclusion:** The decision made by the Director is not supported by the facts of the case.
   b. **Procedural Error:** The investigation was conducted unfairly and not in conformity with prescribed procedures. The error committed must be determined to have substantially impacted the fairness of the investigation process.
   c. **New Information:** There is new information available that was not available when the investigation was pending that is sufficient to alter the original decision.

The Associate Vice President will review all information and make one of the following determinations:

   a. Affirm the finding.
   b. Overturn the finding.
   c. Remand the case for subsequent investigation.

At this time, the Associate Vice President of Labor Relations shall notify the parties and the chancellor, dean, or vice president involved of his or her decision in writing.

4. Corrective and/or Disciplinary Action
If the Director reaches a determination that the respondent violated the Policy, and the respondent has either opted not to appeal or the Director’s determination has been affirmed on appeal, the chancellor, dean, or vice president will determine the appropriate corrective action. Disciplinary action, up to and including termination, may be taken against an employee who is found to have violated the Policy.

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10 The Director has the discretion to redact the names of witnesses in order to maintain confidentiality.
Corrective and disciplinary actions will be determined on a case-by-case basis. Prior violations of the Policy as well as prior disciplinary action may be considered in determining the appropriate corrective and disciplinary action for a respondent who is found to have violated the Policy. The Director of the Office of Employment Equity will be available to consult with the chancellor, dean, or vice president regarding possible corrective and disciplinary actions, but does not make the final decision on the action to be imposed. Possible corrective and disciplinary actions include, but are not limited to:

- Participation in education sessions on discrimination or harassment;
- A written reprimand or written warning;
- Reassignment of teaching or other responsibilities;
- Suspension without pay; or
- Termination\(^1\)

The chancellor, dean, or vice president shall notify the complainant of any corrective or disciplinary action against the respondent that involves or concerns the complainant, for example, any directive that the respondent is prohibited from initiating contact with the complainant. The chancellor, dean, or vice president shall also notify the respondent of the appropriate corrective action that will be taken, inclusive of any disciplinary action, including termination.

If the corrective action involves discipline or termination, the respondent may exercise rights he or she has pursuant to applicable collective negotiations agreements or university policies. A respondent whose employment with the University is governed by a collective negotiations agreement may be entitled to grieve certain disciplinary actions, depending on the terms of the applicable collective negotiations agreement. Complainants with questions about the procedures that will be followed in such cases may consult with their respective bargaining unit.

Employees not covered by such agreements or policies may appeal the discipline or termination to the head of the department in which the employee works. A determination that the Policy was violated, including corrective and disciplinary actions taken in response, will be documented in an employee’s personnel file.

The University may take any other appropriate corrective action to prevent recurrence of discrimination and harassment and to correct its effects on the complainant and others. The Director may make appropriate inquiries to ascertain the effectiveness of any corrective or disciplinary action. Whatever the outcome of the investigation, a complainant may request ongoing or additional accommodations

\(^1\) Nothing in this Policy is intended to abrogate any rights accorded staff or faculty under university policies pertaining to corrective and disciplinary actions.
and the Director, in consultation with the respondent’s supervisor, vice president, dean and/or chancellor (or student affairs officer where the complainant is a student) will determine whether such measures are appropriate.

C. INDEPENDENT UNIVERSITY ACTION
The University reserves the right to investigate allegations of discrimination or harassment in appropriate circumstances, at the discretion of the Director, even in the absence of a formal written complaint filed by a complainant pursuant to the Complaint Process. In such cases, the University will follow the Complaint Process set forth in Section III.B above, but the University will serve as the complainant.

IV. CONFIDENTIALITY
The OEE respects the confidentiality of all parties and limits disclosure of complaints to only those who have a need to know the facts and the parties to a complaint. Reporting and disclosure requirements required by law may present limitations to such confidentiality. Nonetheless, the university will treat all parties with equal care, respect, and dignity and will make every effort to preserve the privacy of all parties involved. Anyone with questions about the degree to which OEE can guarantee confidentiality is encouraged to consult with the Director.

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. If a complainant refuses to cooperate with an investigation, or asks that his or her identity not be revealed to the respondent or witnesses, the Office of Employment Equity in its discretion will investigate to the extent possible based on the information provided, but its ability to respond may be limited.

OEE expects that all parties and witnesses involved in an investigation respect the confidentiality of the investigation as well. Any manager, supervisor or other employee who violates confidentiality as to a complaint of discrimination and harassment will be subject to appropriate sanctions. Please contact the Office of Employment Equity with any questions regarding confidentiality.

V. RETALIATION
The university prohibits retaliation against individuals who, in good faith, assert their right to bring a complaint of discrimination or harassment as defined in the Policy, participate in a discrimination or harassment investigation, or protest the alleged discrimination, harassment, or retaliation. Retaliation is an offense that is separate from the original complaint of discrimination or harassment, and it will be considered independent 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 for investigation under the aforementioned procedures.

VI. FALSE ALLEGATIONS
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 of discrimination or
harassment 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 discrimination or harassment is not alone evidence of the intent to file a false complaint.

VII. RECORDKEEPING
Notice of all verbal and written reports of discrimination and harassment must be forwarded to the Director by the administrator, supervisor, or faculty member 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. The information also will be used to document the incidence of complaints of discrimination and harassment in the University community.

VIII. SUPPORT PERSONS
The complainant and the respondent are permitted to have one support person present for any meetings they attend with investigators at the Office of Employment Equity to discuss a pending complaint filed by or against them, as applicable. A support person may include a union representative, a friend, a family member, or an attorney. However, support persons are not permitted to participate in the investigation process. They may sit in on meetings with the investigator but they are not permitted to comment and/or ask questions during those meetings. The only exception would occur in instances in which the complainant or the respondent requires the services of a translator in order to communicate effectively with the investigator.