THE UNIVERSITY OF RHODE ISLAND

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Policy on Nondiscrimination and Retaliation

[20261019 DRAFT]

Policy Title	**Policy on Nondiscrimination and Retaliation**
Policy #	01.002.~~2~~3
Policy Owner	Director, Office of Equal Opportunity
Contact Information	Questions regarding this policy ~~should~~ can be directed to the Director, Office of Equal Opportunity at (401) 874-4929
Approved By	The University of Rhode Island Board of Trustees ~~(September 24, 2021; Administrative Policy Committee approval on June 2, 2021)~~
Effective Date	
Next Review Date	No later than
Who Needs to Know About this Policy	All faculty, staff, students, visitors, and University ~~a~~Affiliates ~~of the University, including University contractors and vendors with a presence on University Property~~.
Definitions	**Complainant**. An individual reporting or claiming to be subjected to conduct that constitutes prohibited discrimination, harassment, or ~~r~~Retaliation. **Complaint.** An oral or written request to the University to investigate and make a determination about conduct that could constitute prohibited discrimination, harassment, or Retaliation. **Covered Individuals.** University ~~e~~Employees, students, volunteers**,** service recipients, program participants, visitors, University ~~a~~Affiliates, and contractors. The term identifies the population whose conduct is regulated by this policy (i.e., potential Respondents) and does not describe the population protected by this policy. **Employee**. Any person employed by the University, including faculty and staff, regardless of the source of funds within the University, including temporary employees and student employees in their employment capacity. The Office of Equal Opportunity will rely on the economic realities test, or the common law agency test, on a case-by-case basis, to determine whether a worker is an employee for the purposes of this policy. **Respondent**. A~~n~~ Covered I~~i~~ndividual who has been reported to be the perpetrator of conduct that could constitute prohibited discrimination, harassment, or ~~r~~Retaliation. **Retaliation.** Conduct that intimidates, threatens, coerces, harasses, or treats differently any individual for the purpose of interfering with any right or privilege secured by this policy or because the person has requested an accommodation or made a report or complaint, testified, assisted, served as a witness, or participated or refused to participate in any manner in an investigation, proceeding, or related

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	resolution process under this policy and associated procedures. Nothing in this definition precludes the University from requiring University personnel to participate as a witness in, or otherwise assist with, an investigation, or proceeding, pursuant to this policy. **University Affiliate:** Any individual who is not a faculty member, staff, or student who otherwise has a formal relationship with the University, including but not limited to visiting scholars, visiting students, research fellows, professional program participants, club sports coaches, and volunteers as well as employees and associates of the URI Foundation, URI Research Foundation, and members of the University of Rhode Island Board of Trustees. Vendors and contractors are not considered University Affiliates, except for those with an ongoing presence on the University campus as regular operations support staff. **University Property**. Property belonging to the State of Rhode Island and held in trust by the University of Rhode Island Board of Trustees; property held by the University of Rhode Island or any of its component units in its own name; and property owned by third parties but assigned to, occupied by, or managed by the University or any of its component units. University Property includes all real property, including without limitation land, buildings and other structures, fences, driveways and walkways, and other permanent improvements and associated infrastructure. **University-Related Activity**. Any activity undertaken by URI faculty, staff, or students, by recognized student groups, or by contractors or agents of URI on behalf of URI, which relate in whole or in part to any academic, research, public service, administrative, or other function or purpose performed under the auspices of URI, or in pursuance of URI employment-related obligations, URI academic or curricular programs, or recognized URI extracurricular activities.
Statutes, Regulations, and Policies Governing or Necessitating This Policy *Defined terms and shorthand references are capitalized throughout.*	U.S. Const. amend. XIV, § 1 (Due Process Clause and Equal Protection Clause) Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and implementing regulations at 34 C.F.R. Part 106. Equal Pay Act of 1963 (EPA), 29 U.S.C. § 206(d), and implementing regulations at 29 C.F.R. Part 1620. Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. §§ 621–634, and implementing regulations at 29 C.F.R. Parts 1614, 1621, 1625, and 1626. Rehabilitation Act of 1973, 29 U.S.C. §§ 793 (Section 503) and 794 (Section 504), and implementing regulations at 34 C.F.R. Part 104 and 41 C.F.R. Part 60-741. Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), 38 U.S.C. § 4212, and implementing regulations at 41 C.F.R. Part 60-300. Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d et seq., and implementing regulations at 34 C.F.R. Part 100. Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. § 2000e et seq., and

	implementing regulations at 29 C.F.R. Parts 1604–1614. Genetic Information Nondiscrimination Act of 2008 (GINA), 42 U.S.C. § 2000ff et seq., and implementing regulations at 29 C.F.R. Parts 1614 and 1635. Age Discrimination Act of 1975, 42 U.S.C. §§ 6101–~~6107, and~~ implementing regulations at 45 C.F.R. Part 91. Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq., and implementing regulations at 28 C.F.R. Parts 35 and 36 and 29 C.F.R. Part 1630. ~~42 USC § 2000e et seq. (Title VII of the Civil Rights Act of 1964 ["Title VII"], as amended)~~ ~~29 USC § 206 (Equal Pay Act (EPA) of 1963, as amended)~~ ~~29 USC §§ 621-634 (Age Discrimination in Employment Act (ADEA) of 1967)~~ ~~29 USC § 793 (Section 503 of the Rehabilitation Act of 1973, as Amended)~~ ~~38 USC Sec. 4212, Sub-Section 402 (Vietnam Era Veterans Readjustment Assistance Act of 1974)~~ ~~20 USC § 1681 et seq. (Title IX of the Education Amendments of 1972)~~ ~~42 USC § 12101 et seq. (The Americans with Disabilities Act (ADA) of 1990)~~ ~~42 USC §2000d et seq. (Title VI of the Civil Rights Act of 1964 ["Title VI"], as amended)~~ ~~42 USC § 20000ff et seq. (Genetic Information Nondiscrimination Act (GINA) of 2008)~~ ~~42 USC secs. 6101-6107 (Age Discrimination Act of 1975)~~ ~~28 CFR Parts 35 and 36~~ ~~29 CFR Parts 1614, 1615, 1620, 1621, 1625, 1626, 1630, 1635 (Section 504 Regulations)~~ ~~34 CFR Part 104~~ ~~34 CFR Part 106~~ ~~36 CFR Part 1194, Appendix D (Electronic and Information Technology Accessibility Standards)~~ ~~45 CFR Part 91~~ ~~Executive Order 11246, as Amended~~ Executive Order 14173 R.I.G.L.~~hode Island General Law~~ § 28-5-7 (Rhode Island Fair Employment Practices Act) ~~Rhode Island General Law-~~.I.G.L. § 42-87-1 (Civil Rights of People with Disabilities) R.~~hode Island General Law-~~I.G.L. §§ 42-112-1 to -2 (Rhode Island Civil Rights Act of

	1990) University of Rhode Island Student Handbook University Manual *Policy on Language Access* ~~University of Rhode Island~~ *Policy on Sexual Misconduct*
Reason for Policy / Purpose	To eliminate, prevent, and address conduct that constitutes prohibited discrimination or ~~r~~Retaliation at the University. This policy describes the prohibited conduct, sets standards by which the University will manage allegations, and defines roles and responsibilities for all parties involved.
Forms Related to this Policy	~~Incident Report Form~~Civil Rights Complaint Form

Policy Statement

~~I. GENERAL~~

The University of Rhode Island is committed to maintaining an educational and working environment free from discrimination, harassment, or Retaliation (collectively, "Prohibited Conduct"). Consistent with this commitment, the University prohibits all forms of illegal discrimination in all University programs and activities. The University prohibits students, ~~e~~Employees, University ~~a~~Affiliates, volunteers, service recipients, program participants, visitors, and contractors (collectively, "Covered Individuals") from engaging in illegal discrimination (including discriminatory harassment) based on an individual's actual or perceived race, color, creed, national or ethnic origin (including language, shared ancestry and ethnic characteristics), ~~gender~~ sex (including sex stereotypes, sex characteristics, pregnancy or related conditions, and gender identity or expression), religion, disability, age, sexual orientation, genetic information, marital status, citizenship status, veteran status, and any other legally protected characteristic (also "Protected Categories"), ~~and from engaging in~~. The University prohibits acts of ~~r~~Retaliation. ~~for another's making a complaint of discrimination or cooperating in an investigation of discrimination.~~

~~This~~ These prohibitions ~~applies~~apply to all programs and activities—including admissions and all employment actions including but not limited to recruiting, hiring, promotion, demotion, compensation, and benefits. The University will investigate, to the fullest extent possible, all complaints made in good faith under this policy that allege the occurrence of behavior or actions by Covered Individuals that might constitute ~~prohibited discrimination~~ Prohibited Conduct, and, when it is determined that ~~prohibited~~ Prohibited ~~discrimination~~Conduct has occurred, take appropriate action, as warranted, to appropriately sanction the responsible individuals, prevent the recurrence of ~~P~~prohibited ~~discrimination~~Conduct, and remedy its effects.

~~II.~~I. B~~ackground~~~~ACKGROUND~~

This policy is intended to be consistent and compliant with the procedural and substantive provisions of appropriate state and federal laws and regulations. The Office of Equal Opportunity, in close consultation with relevant campus stakeholders, is responsible for developing, publishing, and revising (as deemed necessary) ~~from time to time the P~~procedures ~~needed~~ to implement this policy in compliance with applicable laws. Detailed reporting, investigation, and resolution procedures are set forth in the ~~P~~procedures accompanying this policy.

~~III.~~II. Applicability~~PPLICABILITY~~

A. General~~ENERAL~~ Scope

This policy applies to the perpetration of P~~p~~rohibited ~~discrimination or retaliation~~Conduct by Covered Individuals, and applies to conduct that 1) occurs within a University program or activity, whether in a physical or online location; 2) occurs outside of a University program or activity but has the effect of limiting or denying a person's participation in or access to a University program or activity; or 3) otherwise adversely affects the terms, conditions, or privileges of a person's University educational or employment experience.

All Covered Individuals must comply with this policy.

B. Relationship~~ELATIONSHIP TO~~ to ~~THE POLICY ON SEXUAL MISCONDUCT~~ Other~~THER~~ ~~UNIVERSITY~~ University ~~OF~~ of ~~RHODE~~ Rhode ~~ISLAND~~ Island Report~~EPORT~~ or~~OR~~ Support~~UPPORT~~ Processes~~ROCESSES~~

This policy establishes clear jurisdictional boundaries and coordination protocols for the investigation of complaints with concurrent jurisdictions, ensuring both law enforcement and civil rights compliance obligations are fulfilled.

~~Complaints involving sexual misconduct as defined by the Sexual Misconduct Policy will be addressed exclusively through that policy and its accompanying procedures. This nondiscrimination policy addresses all other forms of prohibited discrimination, including sex-based harassment that is not sexual misconduct as defined in the Sexual Misconduct Policy.~~

C. Hate Crimes and Other Criminal Activity

Hate crimes involve criminal offenses against a person or property that are motivated in whole or in part by bias against a protected characteristic as defined by applicable law. The Department of Public Safety has primary investigative jurisdiction over alleged conduct that may constitute a criminal offense, including but not limited to hate crimes. This includes evidence collection, suspect identification, witness interviews, case referral for criminal prosecution, and determinations regarding arrest, detention, or referral to external law enforcement agencies. Criminal and administrative processes are independent.

Following the report of a hate crime, the Office of Equal Opportunity has primary administrative jurisdiction over alleged violations of this policy, including hostile environment claims, administrative investigations, findings, and remedies, independently from criminal outcomes.

The Department of Public Safety and the Office of Equal Opportunity may conduct parallel investigations, provided such actions do not materially compromise criminal evidence and integrity, or due process rights. Both offices shall coordinate to share non-privileged information as appropriate, avoid duplication of investigative steps, and minimize trauma to the parties involved.

Referral Protocol: Upon receipt of a hate crime report, the Department of Public Safety will notify the Office of Equal Opportunity.

D. Policy on Sexual Misconduct

Complaints involving sexual misconduct as defined by Title IX of the Education Amendments of 1972 and the *Policy on Sexual Misconduct* ~~Policy will~~may be addressed exclusively through that policy and its accompanying procedures. The~~is~~ *Policy on ~~n~~Nondiscrimination and Retaliation* ~~policy~~ addresses all other forms of prohibited discrimination, including other sex-based employment discrimination, as defined under Title VII of the Civil

Rights Act of 1964~~sex-based harassment that is not sexual misconduct as defined in the Sexual Misconduct Policy~~.

Where quid pro quo or hostile environment allegations fall under both Title VII and Title IX, the Director of the Office of Equal Opportunity and the Title IX Coordinator will jointly determine the appropriate response, applying this policy and the *Policy on Sexual Misconduct* as applicable. When Title IX jurisdiction is not established during the pre-screening process, the matter will be administered in accordance with this policy.

Referral Protocol: When Title IX jurisdiction is determined during the intake process, a copy of the pre-screening must be made available to the Director of the Office of Equal Opportunity, including relevant facts, applicable standard(s), and definitions. If Title IX jurisdiction is determined during the investigation, the same documentation and notification requirement applies. Jurisdiction evaluations may take place during different stages of the investigation.

E. Community Standards

The Office of Community Standards has primary jurisdiction over complaints identifying a student or student organization as a Respondent. To the degree supportive measures need to be provided to University employees raising a complaint against a student or student organization, the Office of Community Standards will refer the employee to the Office of Equal Opportunity, which is responsible for offering supportive measures.

F. Bias Incidents

Following the required intake and assessment process, the Office of Community, Equity and Diversity~~,~~ and the Dean of Students~~,~~ shall have overall authority over bias incidents that do not rise to the level of a policy violation, but nonetheless impact community climate.

The Office of Equal Opportunity shall have primary jurisdiction over intakes, assessments, and documentation of bias incidents and will determine whether the reported conduct meets the threshold for a formal investigation or supportive measures in accordance with this Policy.

Compliance, accountability, mandatory training, and supportive measures fall under the scope of the Office of Equal Opportunity, while community care and climate improvement are the responsibility of the Office of Community, Equity, and Diversity. Both functions are essential and must operate in a coordinated, but distinct manner.

After the initial jurisdictional determination, bias incidents that do not allege civil rights violations will be referred to the Office of Community, Equity, and Diversity, and/or the Dean of Students, for matters involving students or student organizations.

Referral Protocol: The Office of Community, Equity, and Diversity, and the Dean of Students, shall promptly refer matters where allegations suggest discrimination, harassment, or retaliation, or if facts indicate a potential escalation into a hostile environment. To the degree climate and training interventions are implemented, engagement must be voluntary and non-disciplinary.

G. Consolidation of Complaints

In the event that allegations under this policy involve allegations of violation of other University policies, the University shall have the right, within its sole discretion, to consolidate those other allegations within one investigation.

H. File Transfers and Sharing Information

For any complaint brought under this policy, if the case is dismissed and then transferred to another office for handling, the University shall have the right to transfer all communications and information gathered to the office that will be reviewing and/or handling the complaint.

~~IV.~~III. ~~DEFINITIONS~~Prohibited Conduct

A. D~~iscrimination~~~~ISCRIMINATION~~

Discrimination prohibited under this policy ~~is defined as treating~~ occurs when a person is treated differently because of an actual or perceived Protected Category ~~their membership in a protected class (or a perception that the person is a member of a protected class)~~ in matters of admissions, employment, housing, services, or any other educational programs or activities of the University. Disparate treatment discrimination occurs when there has been an adverse impact on the individual's work or educational environment, individuals outside of the protected class have received more favorable treatment, and there is no legitimate, non-discriminatory reason for the action. ~~Disparate impact discrimination occurs when a University's policy or practice has a disproportionately negative effect on members of a protected class even though the policy or practice is nondiscriminatory on its face, i.e., any discrimination is unintentional but still results in adverse impact.~~

B. D~~iscriminatory Harassment~~~~ISCRIMINATORY HARASSMENT~~

Discriminatory Harassment, which is a form of discrimination, ~~is defined as~~ consists of ~~-~~verbal or physical conduct (including conduct using digital technology) directed toward an individual because of their membership in a ~~protected class~~Protected Category (or a perception that the person is a member of a ~~protected class~~Protected Category) that has the purpose or effect of substantially interfering with the individual's educational or work performance, or creating an intimidating, hostile, or offensive working or academic environment.

A person's subjective belief that behavior is intimidating, hostile, or offensive does not make that behavior harassment. The behavior must create a hostile environment from both a subjective and objective perspective and must be so severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives a member of the community of the ability to participate in or to receive benefits, services, or opportunities from the University's education or employment programs and/or activities. In determining whether a hostile environment exists, the University of Rhode Island examines the context, nature, scope, frequency, duration, and location of incidents as well as the relationships of the persons involved. Examples of harassment can include offensive jokes, slurs, name-calling, intimidation, ridicule, or mockery, or displaying or circulating offensive objects and pictures that are based on a protected class.

C. R~~etaliation~~~~ETALIATION~~

~~Retaliation consists of materially adverse action taken against a person because the person made a good faith report of discrimination or harassment or participated in the investigation of a report of discrimination or harassment (such as by serving as a witness or support person).~~

Retaliation occurs when: 1) a person opposes an unlawful employment practice or participates in a civil rights complaint; 2) the person is subjected to adverse treatment; and 3) there was a causal connection between the protected activity and the adverse action.

Retaliation against any complainant or witness is prohibited and shall be treated as a separate violation under this policy. Furthermore, no member of the University community shall retaliate, intimidate, threaten, coerce, or

otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of law or the University's policies or procedures.

The procedures accompanying this policy summarize protections against Retaliation for individuals filing complaints under the *Policy on Research Misconduct*, the *Policy on Reporting Violations of Law, Regulations, or University Policy and Procedure*, any other University policy, or any laws that prohibit Retaliation. All complaints alleging Retaliation are referred to the Office of Equal Opportunity to investigate.

D. Systemic Pattern or Practice Resulting in a Hostile Environment

In certain circumstances, upon knowledge of a systemic pattern or practice that results in a hostile environment, the University is obligated to take immediate and appropriate action to investigate and remediate the issue, even in the absence of a formal complaint.

The term 'knowledge' means having 1) actual knowledge; or 2) the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances. Actual knowledge typically includes only the information of which the person, or group of persons, whose knowledge is at issue, is consciously aware. Constructive knowledge includes matters that a person is supposed to know or could have found out. A person may have constructive knowledge of something even if that person does not have, and never had, actual knowledge of it.

E. Quid Pro Quo

Quid pro quo discrimination occurs when a Covered Individual conditions a term or benefit of employment, education, or participation in a University program or activity on another individual's submission to (or tolerance of) conduct based on a Protected Category. Quid pro quo includes circumstances in which: 1) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in a University program or activity; or 2) submission to or rejection of such conduct is used as the basis for decisions affecting the individual's employment, academic standing, or participation in a University program or activity.

IV. Prevention Efforts

The Office of Equal Opportunity is committed to preventing Prohibited Conduct through proactive education, training, and outreach efforts. These efforts are designed to promote awareness of nondiscrimination laws, grievance processes available to parties, and to ensure all individuals are treated with dignity and respect without regard to Protected Categories. Visit the Office of Equal Opportunity's website for additional information: https://web.uri.edu/equal-opportunity/education-and-training/.

V. FILING A COMPLAINT

Complaints alleging discrimination, ~~or~~ harassment, or Retaliation in violation of this policy, or questions regarding this policy and its procedures, ~~should~~ may be directed to the following:

University of Rhode Island Office of Equal Opportunity
~~201~~ Suite 1, Carlotti Administration Building
75 Lower College Road
Kingston, RI 02881
Phone: 401-874-4929

Complaints specifically regarding the President, members of the Board of Trustees, the Senior Vice President for Administration and Finance, or employees of the Office of Equal Opportunity or Enterprise Risk ~~should~~Management ~~be~~ are filed with the Office of General Counsel and would be subject to the same procedures.

Complaints involving prohibited discrimination, including harassment or retaliation, against a group or class of individuals that reflects an apparent pattern or practice of discrimination will be investigated and addressed pursuant to this policy by the University regardless of whether there is an identified Complainant.

The provisions of the collective bargaining agreements governing unionized employees may provide additional mechanisms for addressing disciplinary actions resulting from an investigation. ~~allegations of discrimination or harassment.~~

VI. GOOD FAITH REPORTS

The University encourages the good faith reporting of ~~discrimination and harassment~~Prohibited Conduct. However, the University will not allow this policy or the attendant procedures to be abused for improper means. Therefore, if the University's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the false complaint may be subject to discipline, up to and including termination and/or expulsion. Such disciplinary action will not constitute prohibited retaliation. A person makes a bad faith report of Prohibited Conduct ~~discrimination or harassment~~ if, at the time they make the report, they know the report to be false or frivolous.

Further, the University may take disciplinary action against any person who knowingly provides false information during the investigation and resolution of a complaint of ~~discrimination or harassment~~Prohibited Conduct. Such disciplinary action will not constitute prohibited retaliation.

VII. REPORTING OBLIGATION

All members of the University community are strongly encouraged to report ~~discrimination or harassment~~Prohibited Conduct in violation of this policy when they receive a report of such conduct or witness such conduct. The report ~~should be~~is made to the appropriate office listed above and shall~~should~~ include all known relevant details of the alleged ~~discrimination or harassment~~Prohibited Conduct. Employees with supervisory authority over other employees are required to report ~~discrimination or harassmen~~Prohibited Conduct in violation of this policy about which they have information, except mental health counselors, pastoral counselors, psychologists, heath services staff, or other employees with a professional license that requires confidentiality. Failure to report in accordance with this policy may be grounds for discipline, up to and including termination.

VIII. THIRD-PARTY REPORTING

Any individual may make a report of ~~discrimination or harassment~~Prohibited Conduct. The report may be made anonymously and/or without disclosing the identities or protected characteristics of the parties involved. However, the University's ability to respond to a third-party report of ~~discrimination or harassment~~Prohibited Conduct may be limited by the amount of information provided.

IX. FREE SPEECH AND ACADEMIC FREEDOM

The University of Rhode Island is committed to the principles of free expression and critical inquiry undertaken in an atmosphere of civility and mutual respect. Students and Employees are entitled to an education and employment environment that is free of discrimination, harassment, and Retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

On some occasions, certain types of speech may be seen as offensive or even discriminatory. In such cases, the University will weigh carefully whether the speech has crossed a line from speech protected by the First Amendment and academic freedom to speech that constitutes illegal threats or discriminatory harassment, while keeping in mind legal precedents that prohibit or limit the ability of public universities and public agencies from punishing pure speech, even when it is viewed as inappropriate and unwelcome. Even when conduct might be protected, the University may be required to take action.

Exceptions

None

Policy Review and Revisions

(Versions earlier than the first policy number may be paper only)

Policy #	Effective Date	Reason for Change	Changes to Policy
RIOPC P-17 (Sexual Harassment and Sexual Violence Policy) and RIOPC P-18 (Complaint Procedures for Discrimination, Sexual Harassment, and Sexual Violence)	n/a	~~,~~n/a	n/a
01.002.01	June 2. 2021	New policy specific to URI	Fully separate policy form previous OPC policies (P17, P-18). Focuses solely on nondiscrimination.
01.002.02	June 2. 2021	Board of Trustees approval on September 24, 2021	No changes except notation regarding Board of Trustees approval on September 23, 2021
01.002.03		Regularly scheduled review	Clarifies the policy's scope to include retaliation, and incorporates provisions addressing hate crimes and bias incidents.