

PROCEDURES for Policy on Nondiscrimination

Effective Date: June 2, 2021

Policy # 01.002.1

Introduction

The University's Nondiscrimination Policy prohibits students, employees, contractors, affiliates, volunteers, and visitors from engaging in discrimination and harassment based on an individual's race, color, creed, national or ethnic origin, gender, gender identity or expression, religion, disability, age, sexual orientation, genetic information, marital status, citizenship status, veteran status, and any other legally protected characteristic. This prohibition applies to all programs and activities—including admissions and all employment actions, including but not limited to recruiting, hiring, promotion, demotion, compensation, transfers and benefits. The University will investigate all complaints made under this Policy and, if necessary, take action to prevent the recurrence of prohibited discrimination, harassment, or retaliation and remedy its effects.

These procedures, as amended from time to time, have been established to ensure compliance with the Nondiscrimination Policy and are intended to be consistent and compliant with the procedural and substantive provisions of appropriate state and federal law and regulations.

Questions regarding these procedures should be directed to the Director of the Office of Affirmative Action, Equal Opportunity, and Title IX at (401) 874-2442.

Procedure or Standard

I. Applicability

- A. All faculty, staff, and URI students must comply with these procedures to help foster an inclusive and safe academic and work environment. These procedures apply to the perpetration of prohibited discrimination or harassment by one member of the University's community (faculty, staff, student, affiliate, or volunteer) against another. These procedures may also apply where one of the involved or affected parties is a visitor or a contractor performing work on behalf of the University.
- B. These procedures cover the process for investigating and adjudicating complaints of discrimination or discriminatory behavior by any employee: faculty, staff, or administrator.
- C. The process for investigating and adjudicating complaints of discrimination or discriminatory harassment by students is detailed in the **Student Code of Conduct**, also known as **Community Standards**, as outlined in the Student Handbook. Further information about the Student Code of Conduct can be provided by the URI Office of Community Standards.
- D. Complaints of discrimination or harassment by graduate assistants in their role as instructors follow the process outlined in these procedures. In contrast, complaints against them in their role as students follow the process outlined in the Student Code of Conduct.
- E. A complaint may also be filed against University affiliates, vendors, and other contractors. In these instances, the Office of Affirmative Action shall determine, in its discretion, the appropriate response and action.
- F. The provisions of applicable collective bargaining agreements may provide additional mechanisms for addressing discrimination allegations.

II. Reporting Prohibited Discrimination

If any University faculty, staff, student, volunteer, visitor, affiliate, or contractor, believes their rights (and/or the rights of others) have been violated and wish further information, advice, or assistance in filing a complaint, they should contact:

Office of Affirmative Action / Deputy Title IX Coordinator
201 Carlotti Administration Building
Kingston, Rhode Island 02881
Phone: (401) 874-2442
TTY - via RI Relay at 1-800-745-5555

All individuals shall be informed regarding their right to seek redress through the following outside agencies:

Office of Civil Rights, Region I
US Department of Education
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Tel.: (617) 289-0111
Fax: (617) 289-0150
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

United States Equal Employment Opportunity Commission
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: 1-800-669-4000
Fax: 617-565-3196
<http://www.eeoc.gov/field/boston/index.cfm>

Rhode Island Commission for Human Rights
180 Westminster Street, 3rd Floor
Providence, Rhode Island 02903
Tel: 401-222-2661 // 401-222-2664
Fax: 401-222-2616
<http://www.richr.ri.gov/>

III. Key Definitions and Interpretive Principles

- A. Discrimination refers to actions that may deny a member (or in some complaints, a potential member) of the community employment, promotion, transfer, access to academic courses, housing, or other University benefits and entitlements due to a member's protected status.
- B. Sexual harassment under Title VII of the Civil Rights Act of 1964 is defined as unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature when:
 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

3. Such conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

In determining whether a hostile environment exists, the University will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. A person's adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

- C. Discrimination or harassment need not be intentional. The intent of the alleged person to have committed such behavior may not be relevant to determining whether a violation has occurred. The relevant determination is whether a reasonable person similarly situated could have reasonably considered the alleged conduct to be harassment.
- D. Acts that do not necessarily involve conduct of harassment but are based on sex or gender-stereotyping, and which may include physical aggression, intimidation, hostility, humiliation, insulting, and hazing may also be considered harassment.
- E. Verbal or physical conduct directed at the Complainant's protected class status is considered in the determination of discrimination or harassment. The University will consider the totality of the complaint and its circumstances, the private or public environment of the behavior, the intensity or severity of the actions, the pattern of behavior, and the power relationship, if any, between the parties.
- F. A single incident that creates a distracting, uncomfortable atmosphere may not constitute discrimination or harassment. However, even isolated or sporadic acts may constitute severe harassment. A series of individual incidents can have the cumulative effect of becoming pervasively harassing behavior.
- G. Unreasonable interference with an individual's participation in University life may be signified by responses such as:
 1. Avoiding areas of the campus where the behavior in question typically takes place;
 2. Academic performance or work assignments becoming more difficult because of the behavior in question, including absenteeism; or
 3. Leaving a job, a class, or the University itself because of the behavior in question.
- H. In determining whether discrimination or harassment exists, the University will evaluate the evidence from a reasonable person's reaction and perspective under the circumstances presented. The standard of evidence to be used to determine responsibility is the ***preponderance of the evidence standard***. If there are any questions, contact the Director of Affirmative Action.

IV. Relationship to the Sexual Misconduct Policy

Complaints involving Sexual Misconduct, as defined by the [Sexual Misconduct Policy](#), shall be addressed exclusively through that policy and its accompanying procedures. This non-discrimination procedure addresses all other forms of discrimination, including sexual harassment, that does not rise to the level of sexual misconduct as defined in the Sexual Misconduct Policy.

V. Complaints Against Students

If an employee files a complaint against a student, the Affirmative Action Officer will determine which office will proceed with the complaint's processing. Proceedings involving student-to-student complaints will be adjudicated through the Dean of Students Office and must comply with the procedural guidelines contained in the University's Student Handbook.

VI. Filing Deadlines

To provide adequate opportunity for a prompt investigation that enables access to the most current evidence, the parties are encouraged to file complaints as soon as possible. All complaints under this procedure must be filed within **one (1) year** after the last alleged discriminatory act. The University's ability to respond to complaints filed beyond this time is limited. However, complaints involving allegations of continuing unlawful discrimination, harassment, or retaliation may be thoroughly investigated, including occurrences beyond the one-year time frame, so long as the last act of alleged discrimination occurred within the prescribed filing deadline of **one (1) year**.

VII. Advisors and supporters

All parties meeting with the Affirmative Action Officer may be accompanied by an individual of their choice (who may be an attorney) for support and/or advice. This individual: may not address or question the investigator, other parties, or witnesses; may not present evidence or make arguments; and shall not have any role other than to accompany and communicate with the party requesting support.

VIII. Discrimination Against Groups

Complaints involving unlawful discrimination, including harassment or retaliation, against a group or class of individuals, reflecting an apparent pattern and practice of discrimination, will be appropriately acted upon by the Affirmative Action Officer regardless of whether there is an identified Complainant.

IX. Criminal Violations

If a complaint reported to the Office of Affirmative Action involves potential criminal violations, the Affirmative Action Officer shall forward a report of the complaint to the campus police and/or local police.

In complaints involving allegations of sexual violence or other crimes, Complainants will also be informed of their right to file a complaint with the Title IX Coordinator, campus police, or local law enforcement authorities. However, regardless of whether a Complainant files a complaint with local law enforcement authorities, and irrespective of any investigations or other actions taken by local law enforcement, the University will continue to have an obligation to undertake and duly complete its internal complaint and investigation procedure.

X. Retaliation Prohibited

Retaliation against any Complainant, Respondent, or witness is prohibited and shall be treated as a separate violation of the Policy. Specifically, no officer, employee, or agent of the University shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual who files a complaint or participates in any investigation or proceeding brought according to this procedure.

There shall be no disciplinary action, retaliation, or reprisal for bringing a complaint in good faith. Individuals shall not, however, knowingly make false charges of discrimination, harassment, or retaliation.

XI. Modification of Procedure

This procedure constitutes the University's general complaint process to be followed by the University to address and resolve unlawful discrimination, harassment, and retaliation. The University shall have the right to reasonably alter and/or deviate from the procedural guidelines contained herein when it is warranted by either the circumstances of a complaint or required by applicable state and federal laws and regulations. The University shall also have the right to authorize and appoint a designee to serve in the Affirmative Action Officer's capacity to execute these procedures.

The parties must be provided timely written notice of any such designation and any substantive deviation from the procedural guidelines.

XII. Response to a Complaint

A. Initial consultation

The Affirmative Action Officer shall meet with the prospective Complainant to discuss the Complainant's concerns, and review the complaint procedure, determine the appropriate jurisdiction, and explain the different methods available to resolve the alleged complaint under these procedures. (See: formal resolution and informal resolution, where applicable).

The purpose of this initial step is to assist prospective Complainants in identifying the source of the concern and provide the Complainant with information concerning the University's resources, policies, and procedures; so that the prospective Complainant might best assess the most appropriate course of action, given their circumstances.

B. Supportive Measures

1. Supportive measures are available to both the Complainant and Respondent and will be offered regardless of whether a formal complaint is filed or not.
2. Services are individualized, i.e., tailored to the unique circumstances of the Complainant and Respondent and are measures designed to restore or preserve access to the University's programs and/or activities, including measures designed to protect all parties' safety or the education work environment, or deter discrimination or harassment. The University will determine the reasonableness, necessity, and scope of any supportive measures, which may include:
 - Employment or Residence Modifications: A reporting party or responding party may request an academic or employment accommodation or a change in residence after a report of discrimination or harassment. An individual who requests assistance in changing their educational or working environment after an incident of discrimination or harassment will receive appropriate and reasonably available accommodations.
 - Interim Separation: Where the report of harassment poses an ongoing risk of harm to the safety or well-being of an individual or members of the campus community, the University may place an individual or organization on interim suspension or impose leave for employment where applicable. Pending resolution of the complaint, the individual or organization may be denied access to campus. When interim suspension or leave is imposed, the University will make reasonable efforts to complete the investigation and resolution within an expedited time frame.
3. Supportive measures will not be punitive, disciplinary, or unreasonably burdensome against any party.
4. The University will attempt to keep the supportive measures confidential unless doing so will impair the University's ability to provide them.

C. Procedural options

If it is determined that the Office of Affirmative Action shall retain responsibility for the complaint, the Affirmative Action Officer will ascertain from the Complainant which of the resolution options described below – information or formal – they prefer to utilize.

D. Confidentiality

When a procedural option is selected, the Complainant will also be asked to decide on confidentiality. The University will make all reasonable efforts to honor confidentiality requests, to the extent permitted by law. However, it must be understood that while some concerns or complaints can be resolved without disclosing one's identity, often successful resolution cannot be achieved under such circumstances. Further, individuals who are directly accused of unlawful and discriminatory behavior and who, as a result, may be subject to disciplinary action, are entitled to a copy of the formal complaint and a summary of the charges against them so that they may prepare a proper defense.

Any member of the Board of Trustees, students or employees of the University who participates in a formal or informal proceeding under this policy or otherwise gains knowledge thereof shall treat all information acquired, whether written or oral, as confidential, however, the parties to a proceeding may share such information with their advisors, advocates and representatives.

XIII. Grievance Process

A. Informal Resolution Process

At any time after the parties are provided written notice of the complaint and before the completion of any appeal, the parties may voluntarily consent, with Director and Assistant Director of Affirmative Action approval, to engage in mediation, facilitated resolution, or other forms of dispute resolution, where the goal is to enter into a final resolution resolving the allegations raised in the complaint by agreement of the parties.

The specific manner of an informal resolution process will be determined by the parties and the Director or Assistant Director of Affirmative Action, in consultation together.

Step 1: Notifying the parties

Before commencing the informal resolution process, the Affirmative Action Office will transmit a written notice to the parties that:

- (a) Describes the parameters and requirements of the informal resolution process;
- (b) Identifies the individual responsible for facilitating the informal resolution (who may be the Affirmative Action Officer, another University official, or a suitable third-party);
- (c) Explains the effect participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the complaint; and
- (d) Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

Step 2: Agreement to the Informal process

- (a) After receiving the written notice specified in Step 1 above, each party must voluntarily provide written agreement to the Affirmative Action Officer before the informal resolution may commence;
- (b) While the informal resolution process is pending, the investigation process that would otherwise occur is stayed, and all related deadlines are suspended. A party may withdraw their consent

to participate in the informal resolution process at any time before a resolution has been finalized;

- (c) If the parties do not resolve through the informal resolution process, the Complainant may choose to proceed with the formal investigation and adjudication process outlined in these procedures.

Step 3: Resolution or Next Steps

- (a) Through discussion with the Complainant and the Respondent separately or together, the Director or Assistant Director of the Office of Affirmative Action may be able to resolve the matter to the satisfaction of all persons involved. If the parties reach a resolution through the informal resolution process, and the Affirmative Action Officer agrees that the resolution is not clearly unreasonable, the Affirmative Action Officer will reduce the terms of the agreed resolution to writing and present the resolution to the parties for their written signature. Once both parties sign the resolution, the resolution is final. The allegations addressed by the signed solution are considered resolved. They will not be subject to further investigation, adjudication, remediation, or discipline by the University, except as provided in the resolution itself, absent a showing that a party induced the solution by fraud, misrepresentation, or other misconduct or were required to avoid a manifest injustice to either party or the University. Informal resolution reached, according to this section, is not subject to appeal.
- (b) Absent extension by the Office of Affirmative Action, any informal resolution process must be completed within thirty (30) calendar days. If an informal resolution process does not result in a resolution within thirty (30) calendar days, and absent an extension, abeyance, or other contrary rulings by the Affirmative Action Officer, the informal resolution process will be deemed terminated, and the complaint will be resolved pursuant to the investigation procedures. The Affirmative Action Officer may adjust any time periods or deadlines in the investigation process that were suspended due to the informal resolution. A copy of the resolution should be kept in a file to be in the Office of Affirmative Action, Equal Opportunity, and Diversity unless the resolution specifies otherwise.

B. Formal Resolution Process

Any person(s) who believes they have been the victim of discrimination, harassment, retaliation, sexual harassment, or who witnesses acts of discrimination, harassment, retaliation, sexual harassment against others may file a formal complaint with the Office of Affirmative Action. Utilizing the informal process is not a prerequisite. A formal review consists of investigating, fact-finding, determining whether sufficient credible evidence exists to support the allegation(s), and issuing written findings. The formal investigation and related proceedings, which are described below, shall provide a prompt, fair, and impartial investigation and resolution of the allegations.

Step 1: Complainant's Written Statement

Usually, a signed incident complaint form containing a written statement of allegations initiates the formal process. To enable the Investigator to most effectively investigate the complaint, the written statement of allegations should contain a detailed description of the conduct being complained about, the name(s) of the alleged offender(s), the name(s) of the alleged victim(s), the names of any alleged witnesses, and the name of the person filing the complaint. The Affirmative Action Officer will aid anyone for whom completing the complaint form is difficult or impractical. The person or persons filing the complaint and the alleged victim of discrimination shall be referred to hereinafter as the Complainant. Anonymous complaints, and complaints filed by individuals who request confidentiality, will be investigated by the University to the extent possible pursuant to the procedures set forth herein.

Step 2: Notifying the Respondent

The person or persons identified as the alleged offender(s) shall be referred to hereinafter as the Respondent. Once the complaint has been filed, the Affirmative Action Officer will notify the

Respondent(s) with a written letter to inform of its existence and provide him/her/ them with a copy of the signed complaint.

Step 3: Respondent's Written Response

The Respondent(s) will be provided an opportunity to file a formal response. The formal response shall be filed with the Affirmative Action Officer by the Respondent(s) within twenty (20) calendar days from the date the Respondent(s) received the signed complaint.

If a Respondent fails to timely file a formal response and/or elect(s) not to participate in the formal resolution process, the complaint will proceed and be investigated without the involvement of the Respondent.

If during the investigation; the Complainant indicates a desire to *withdraw* his/her complaint, the Complainant shall sign a written statement of withdrawal containing the reasons. Therefore, the complaint may be closed at the Affirmative Action Officer's discretion. However, the Affirmative Action Officer may continue to conduct the investigation and take action to address the issues raised by the Complainant regardless of the Complainant's wishes.

Step 4: Investigation Process

The Affirmative Action Officer or designee will act as an investigator. The investigator is neutral, objective and does not act as an advocate for either party. The investigator is authorized to contact all persons who may have information relevant to the complaint and shall have access to all relevant University records. The investigator shall also collect and evaluate other available documents and information relevant to the complaint and investigation (e.g., email communications, social media posts, photographs), as appropriate. The investigator shall maintain a record of the investigation, including any interviews, which shall be retained as an official Office of Affirmative Action record.

The parties are not restricted from discussing the allegations under investigation or gathering and presenting relevant evidence to the Investigator.

A party whose participation is invited or expected at an investigative interview or meeting will be provided written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Step 5: Preliminary Investigation Report

At the conclusion of the investigation, the investigator will prepare a preliminary written report. The preliminary report will contain a summary of the alleged conduct in violation of Policy; summary of the response to the allegations; summary of the scope of the investigation; summary of the relevant exculpatory and inculpatory evidence; and a summary of material facts on which the parties agree and disagree.

The report will include copies of all relevant evidence received and considered during the investigation. Both parties will be provided a copy of the preliminary report and have three (3) business days to respond to it in writing.

In their responses, the parties may ask clarifying questions, seek clarifying information, clarify information previously shared, offer additional comments, suggest additional witnesses, or identify any other relevant information or evidence to assure the thoroughness and sufficiency of the investigation. The Complainant and the Respondent may also request that the investigator ask clarifying questions of the other party, provided the questions are directly relevant to the complaint. If, after receiving the written responses from the Complainant and the Respondent regarding the Preliminary Investigation Report, the investigator(s) determines that no further inquiry is required, the investigation will be deemed complete and final. If, in the sole discretion of the investigator(s), further inquiry is necessary, the investigator(s) will follow up on the information and ask any clarifying questions of the parties and witnesses before finalizing and completing the investigation. Any additional relevant information received and/or answers to clarifying questions will be included in the final investigative report.

Step 6: Final Investigative Report

A final investigative report shall be prepared, which sets forth the Affirmative Action Officer or designee's findings and the basis and rationale for his/her conclusion(s). Unless otherwise indicated in the report, the report's date shall be considered the date upon which the results of the investigation become final. In making his/her findings, the Affirmative Action Officer or designee shall utilize the evidentiary standard of "preponderance of the evidence." The final investigative report will normally be issued to the parties within ninety (90) days after the complaint is filed. When more than ninety (90) days is needed to complete the investigation, the Affirmative Action Officer or designee shall notify the parties and proceed as expeditiously as possible. In cases involving employees, a copy of the final investigative report is provided to the Assistant Vice President for Human Resources.

Step 7: Appeals and Actions on Appeals

Either party (Complainant or Respondent) may appeal the Affirmative Action Officer's findings. Such appeals shall be filed with the University's President. The appeal may be conducted by the President or the President's designee. Parties wishing to file an appeal must do so in writing within ten (10) days after receiving the Affirmative Action Officer's final letter. The appeal process will not involve the reinvestigation of the complaint. Appeals must raise specific issues related to the Affirmative Action Officer's findings. Appeal decisions (which shall include a statement of the rationale for the decision) shall be rendered within thirty (30) days after the request for appeal is received unless extended for good cause as reasonably determined by the Appeals Officer. Copies of the appeal decision shall be simultaneously provided to the parties and the Affirmative Action Officer. In cases involving employees, a copy of appeal decision is provided to the Assistant Vice President for Human Resources.

Step 8: Disciplinary Action

When the investigative findings of the Affirmative Action Officer or designee (together with the appeal decision in cases in which there is an appeal) result in a finding of discrimination, harassment or retaliation by an employee, the findings are forwarded to the appropriate Vice President or Provost, who, in consultation with the Office of Human Resources, shall render a written determination (which includes a statement of the rationale for the determination) regarding the appropriate disciplinary or corrective action, if any, and provide a copy of the written determination to the Respondent.

Disciplinary action of faculty or union represented staff will follow the procedural requirements of applicable collective bargaining agreements and any applicable statutory and judicial mandates. The Assistant Vice President of Human Resources or Provost will be responsible for the implementation of all such disciplinary/corrective action measures. A record of the outcome of each complaint will remain a part of the permanent file of the complaint maintained by the Office of Affirmative Action.

Findings of discrimination, harassment or retaliation by non-employees will be referred to the appropriate authority for sanctions.

XIV. Record Keeping

A confidential record of any complaint, informal or formal, including any resolution or disciplinary actions, will be filed in the Office of Affirmative Action and retained for seven (7) years, providing there are not recurring incidents, in which case the records will be retained seven years from the last incident.

Special procedures are required if suspension without pay or termination is contemplated for a Respondent who is a member of the faculty collective bargaining unit (see collective bargaining agreement).

Exceptions

None