

ROWAN UNIVERSITY POLICY

Title: *Policy Prohibiting Discrimination in the Workplace*

Subject: *Equity and Diversity*

Policy No: *OED: 2015:01*

Applies: *University-wide*

Issuing Authority: *President*

Responsible Officer: *Assistant Vice President, Equity & Diversity/Chief Equity Compliance Officer*

Adopted: *12/16/1999*

Last Revision: *06/18/2018*

Last Reviewed: *11/21/2014*

I. Purpose

Rowan University is committed to providing every Rowan University employee and prospective Rowan employee with a work environment free from prohibited discrimination or harassment.

II. Accountability

Supervisors and Managers are responsible for maintaining a discrimination and harassment free work environment. The Office of Equity & Diversity of Rowan University is responsible for the promotion and implementation of this policy, as well as responding to any and all complaints.

III. Applicability

The New Jersey State Policy Prohibiting Discrimination in the Workplace is applicable to all Rowan University employees and prospective employees.

IV. Definitions

1. *Workplace Discrimination:* any employment practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in the policy below or as provided under applicable law. It is also a violation of this policy to use derogatory or demeaning references regarding the protected categories listed in the policy below or as provided under applicable law.

2. *Sexual Harassment*: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

3, *Third Party Harassment*: - unwelcome behavior involving any of the protected categories referred to in the policy below that is not directed at an individual but exists in the workplace and interferes with an individual's ability to do his or her job.

4. *Retaliation*: adverse employment consequences based upon that employee bringing forth a complaint, providing information for an investigation, testifying in any proceeding under this policy, or engaging in any other protected activity under this policy or under applicable law.

V. References

1. [N.J.A.C. 4A:7 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION](#)

2. New Jersey Policy Prohibiting Discrimination In The Workplace

3. New Jersey - Model Procedures For Internal Complaints

VI. Policy

1. Protected Categories

- a. Rowan University is committed to providing every employee and prospective employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability (NJAC 4A:7-3.1).
- b. To achieve the goal of maintaining a work environment free from discrimination and harassment, Rowan University strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the University reserves the right to take either disciplinary action, if appropriate, or other corrective action, to address any

unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

2. Applicability (As a New Jersey State institution, Rowan University is covered under the state legislation prohibiting discrimination in the workplace as described under NJAC 4A:7-3.)

- a. Prohibited discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. Thus, this policy applies to all employees and applicants for employment at Rowan University. The University will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, or persons doing business with the University, including vendors and third party consultants. This policy also applies to both conduct that occurs in the workplace and conduct that occurs at any location which can be reasonably regarded as an extension of the workplace (any field location, any off-site business-related social function, or any facility where Rowan University business is being conducted and discussed).
- b. This policy also applies to third party harassment. Third party harassment, or hostile environment harassment, is unwelcome behavior involving any of the protected categories referred to in (a) above that is not directed at an individual but exists in the workplace and interferes with an individual's ability to do his or her job. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

3. Prohibited Conduct

- a. Defined
 - i. It is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in I(a) above. This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions, and career development.
 - ii. It is also a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in I(a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.
- b. Examples of behaviors that may constitute a violation of this policy include, but are not limited to:
 - o Discriminating against an individual with regard to terms and conditions of employment because of being in one or more of the protected categories referred to in I(a) above;
 - o Treating an individual differently because of the individual's race, color, national origin or other protected category, or because an individual has the physical,

- cultural or linguistic characteristics of a racial, religious, or other protected category;
- Treating an individual differently because of marriage to, civil union to, domestic partnership with, or association with persons of a racial, religious or other protected category; or due to the individual's membership in or association with an organization identified with the interests of a certain racial, religious or other protected category; or because an individual's name, domestic partner's name, or spouse's name is associated with a certain racial, religious or other protected category;
 - Calling an individual by an unwanted nickname that refers to one or more of the above protected categories, or telling jokes pertaining to one or more protected categories;
 - Using derogatory references with regard to any of the protected categories in any communication;
 - Engaging in threatening, intimidating, or hostile acts toward another individual in the workplace because that individual belongs to, or is associated with, any of the protected categories; or
 - Displaying or distributing material (including electronic communications) in the workplace that contains derogatory or demeaning language or images pertaining to any of the protected categories.

4. Sexual Harassment

- a. It is a violation of this policy to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
- b. Examples of prohibited behaviors that may constitute sexual harassment and are therefore a violation of this policy include, but are not limited to:
 - Generalized gender-based remarks and comments;
 - Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement;

- Verbal, written or electronic sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, text messages, invitations, gestures or inappropriate comments about a person's clothing;
- Visual contact, such as leering or staring at another's body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver;
- Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention;
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluation or promotional opportunity; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

5. Employee Responsibilities

- a. Any employee who believes that she or he has been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/harassment is encouraged to promptly report the incident(s) to a supervisor or directly to the Office of Equity and Diversity, 256 Bunce Hall.
- b. All employees are expected to cooperate with investigations undertaken pursuant to VI below. Failure to cooperate in an investigation may result in administrative and/or disciplinary action, up to and including termination of employment.

6. Supervisor Responsibilities

- Supervisors shall make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the Office of Equity and Diversity. A supervisor's failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For purposes of this section and in the Rowan University Procedures for Processing Internal Discrimination Complaints, a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader).

7. Dissemination

- Each State agency shall annually distribute the policy described in this section, or a summarized notice of it, to all of its employees, including part-time and seasonal employees. The policy can be accessed on the Rowan University website www.rowan.edu/equity or a hardcopy can be obtained from the Office of Equity and

Diversity in Linden Hall. Rowan University will distribute the policy to vendors/contractors with whom it has a direct relationship.

8. Complaint Process

- a. Rowan University shall follow the Procedures for Processing Internal Discrimination Complaints with regard to reporting, investigating, and where appropriate, remediating claims of discrimination/harassment (See N.J.A.C. 4A:7-3.2). The Office of Equity and Diversity is for receiving complaints of discrimination/harassment, investigating such complaints, and recommending appropriate remediation of such complaints. In addition to the Assistant Vice President of Equity and Diversity, the Supervisory Program Coordinator of Equity and Diversity has been designated to also receive complaints of discrimination in the workplace.
- b. All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations shall be conducted in a prompt, thorough and impartial manner. The results of the investigation shall be forwarded to the Rowan University Chief of Staff to make a final decision as to whether a violation of the policy has been substantiated.
- c. Where a violation of this policy is found to have occurred, Rowan University shall take prompt and appropriate remedial action to stop the behavior and deter its reoccurrence. The University shall also have the authority to take prompt and appropriate remedial action, such as moving two employees apart, before a final determination has been made regarding whether a violation of this policy has occurred.
- d. The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.
- e. Rowan University shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate.

9. Prohibition Against Retaliation

- a. Retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by this policy. No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.
- b. Following are examples of prohibited actions taken against an employee because the employee has engaged in activity protected by this subsection:
 - o Termination of an employee;
 - o Failing to promote an employee;
 - o Altering an employee's work assignment for reasons other than legitimate business reasons;

- Imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons; or
- Ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees).

10. False Accusations and Information

- An employee who knowingly makes a false accusation of prohibited discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, may be subjected to administrative and/or disciplinary action, up to and including termination of employment. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

11. Confidentiality

- All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. All persons interviewed, including witnesses, shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in administrative and/or disciplinary action, up to and including termination of employment.

12. Administrative and/or Disciplinary Action

- Any employee found to have violated any portion or portions of this policy may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to: referral for training, referral for counseling, written or verbal reprimand, suspension, reassignment, demotion or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

13. Training

- Rowan University shall provide all new employees with training on the policy and procedures set forth in this section within a reasonable period of time after each new employee's appointment date. Refresher training shall be provided to all employees, including supervisors, within a reasonable period of time. The University shall also

provide supervisors with training on a regular basis regarding their obligations and duties under the policy and regarding procedures set forth in this section.

VII. Procedures for Internal Discrimination Complaints

1. Adapted from the New Jersey Model Procedures for Internal Complaints Alleging Discrimination in the Workplace, NJAC 4A:7-3.2, Issued: December 16, 1999
 - Revised: June 3, 2005
 - Revised: August 20, 2007
 - Revised: October 15, 2009
 - Revised: March 24, 2010
 - Revised: February 8, 2011
 - Revised: November 15, 2011
 - Revised February 28, 2013

2. Rowan University will follow the procedures below in the receipt and investigation of discrimination complaints.
 - a. All employees and applicants for employment have the right and are encouraged to immediately report suspected violations of the Rowan University Policy Prohibiting Discrimination in the Workplace, (As adapted from N.J.A.C. 4A:7-3.1).
 - b. Complaints of prohibited discrimination/harassment can be reported to **Frankie Lucas**, Title IX/EEO Investigator and Acting EEO/AA Officer, or to any supervisory employee of Rowan University. Complaints may also be reported to the Supervisory Program Coordinator in the Office of Equity and Diversity.
 - c. Every effort should be made to report complaints promptly. Delays in reporting may not only hinder a proper investigation, but may also unnecessarily subject the victim to continued prohibited conduct.
 - d. Supervisory employees shall immediately report all alleged violations of the Rowan University Policy Prohibiting Discrimination in the Workplace to **Frankie Lucas**, as Acting EEO/AA Officer. Such a report shall include both alleged violations reported to a supervisor, and those alleged violations directly observed by the supervisor.
 - e. If reporting a complaint to any of the persons set forth in paragraphs 2 through 4 above presents a conflict of interest, the complaint may be filed directly with the Division of EEO/AA, P.O. Box 315, Trenton, NJ 08625. An example of such a conflict would be where the individual against whom the complaint is made is involved in the intake, investigative or decision making process.
 - f. In order to facilitate a prompt, thorough and impartial investigation, all complainants are encouraged to submit a Division of EEO/AA Discrimination Complaint Processing Form. An investigation may be conducted whether or not the form is completed.
 - g. Rowan University shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate. A copy of all complaints (regardless of the format in which submitted) must be submitted to the Civil Service Commission, Division of

EEO/AA, by the University's EEO/AA Officer, along with a copy of the acknowledgement letter(s) sent to the person(s) who filed the complaint and, if applicable, the complaint notification letter sent to the person(s) against whom the complaint has been filed. If a written complaint has not been filed, the EEO/AA Officer must submit to the Division of EEO/AA a brief summary of the allegations that have been made. Copies of complaints filed with the New Jersey Division on Civil Rights, the U.S. Equal Employment Opportunity Commission, or in court also must be submitted to the Division of EEO/AA.

- h. During the initial intake of a complaint, the EEO/AA Officer or authorized designee will obtain information regarding the complaint, and determine if interim corrective measures are necessary to prevent continued violations of the Rowan University Policy Prohibiting Discrimination in the Workplace.
- i. At the EEO/AA Officer's discretion, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place.
- j. An investigatory report will be prepared by the EEO/AA Officer or his or her designee when the investigation is completed. The report will include, at a minimum:
 - o A summary of the complaint;
 - o A summary of the parties' positions;
 - o A summary of the facts developed through the investigation; and
 - o An analysis of the allegations and the facts.
 - o The investigatory report will be submitted to the President's designee, **Joanne Connor, Chief of Staff** who will issue a final letter of determination to the parties.
- k. The Chief of Staff will review the investigatory report issued by the EEO/AA Officer or authorized designee, and make a determination as to whether the allegation of a violation of the Rowan University Policy Prohibiting Discrimination in the Workplace has been substantiated. If a violation has occurred, the Chief of Staff will determine the appropriate corrective measures necessary to immediately remedy the violation.
- l. The Chief of Staff will issue a final letter of determination to both the complainant(s) and the person, against whom the complaint was filed, setting forth the results of the investigation and the right of appeal to the Civil Service Commission, as set forth in Paragraphs 13 and 14, below. To the extent possible, the privacy of all parties involved in the process shall be maintained in the final letter of determination. The Civil Service Commission, Division of EEO/AA shall be furnished with a copy of the final letter of determination.
 - i. The letter shall include, at a minimum:
 - A brief summary of the parties' positions;
 - A brief summary of the facts developed during the investigation; and
 - An explanation of the determination, which shall include whether:
 - The allegations were either substantiated or not substantiated; and
 - A violation of the Rowan University Policy Prohibition Discrimination in the Workplace did or did not occur.

- ii. The investigation of a complaint shall be completed and a final letter of determination shall be issued no later than 120 business days after the initial intake of the complaint referred to in paragraph 8, above, is completed.
- iii. The time for completion of the investigation and issuance of the final letter of determination may be extended by Rowan University for up to 60 additional days in cases involving exceptional circumstances. The University shall provide the Division of EEO/AA and all parties with written notice of any extension and shall include in the notice an explanation of the exceptional circumstances supporting the extension.

m. A complainant who is in the career, unclassified or senior executive service, or who is an applicant for employment, who disagrees with the determination of the Chief of Staff, may submit a written appeal to the New Jersey Civil Service Commission ("NJCSC"), Division of Merit System Practices and Labor Relations, Written Record Appeals Unit, P.O. Box 312, Trenton, NJ 08625-0312, postmarked or delivered within 20 days of the receipt of the determination from the Chief of Staff. The appeal shall be in writing and include all materials presented by the complainant at the University level, the final letter of determination, the reason for the appeal and the specific relief requested. Please be advised that there is a \$20 fee for appeals. Please include a check or money order along with the appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee, to the Civil Service Commission PO Box 312, Trenton, NJ 08625.

- i. Employees filing appeals which raise issues for which there is another specific appeal procedure must utilize those procedures. The Civil Service Commission Chair may require any appeal, which raises issues of alleged discrimination and other issues, such as examination appeals, to be processed using the procedures set forth in this section or a combination of procedures as the Chair deems appropriate. See N.J.A.C. 4A:2-1.7.
- ii. The Civil Service Commission shall decide the appeal on a review of the written record or such other proceeding as it deems appropriate. See N.J.A.C. 4A:2-1.1(d).
- iii. The appellant shall have the burden of proof in all discrimination appeals brought before the Civil Service Commission.

n. In a case where a violation has been substantiated, and no disciplinary action recommended, the party(ies) against whom the complaint was filed may appeal the determination to the Civil Service Commission at the address indicated in Paragraph 13 above, within 20 days of receipt of the final letter of determination by the Chief of Staff.

- i. The burden of proof shall be on the appellant.
- ii. The appeal shall be in writing and include the final letter of determination, the reason for the appeal, and the specific relief requested.
- iii. If disciplinary action has been recommended in the final letter of determination, the party(ies) charged may appeal using the procedures set forth in N.J.A.C. 4A:2-2 and 3.

o. The Division of EEO/AA shall be placed on notice of, and given the opportunity to submit comments on, appeals filed with the Civil Service Commission of decisions on discrimination

complaints, regardless of whether or not the complaint was initially filed directly with the Division of EEO/AA.

p. Any employee or applicant for employment can file a complaint directly with external agencies that investigate discrimination/harassment charges in addition to utilizing this internal procedure. The time frames for filing complaints with external agencies indicated below are provided for informational purposes only. An individual should contact the specific agency to obtain exact time frames for filing a complaint. The deadlines run from the date of the last incident of alleged discrimination/harassment, not from the date that the final letter of determination is issued by the Chief of Staff.

VIII. Complaints May be Filed with the Following External Agencies

Division on Civil Rights

N. J. Department of Law & Public Safety (Within 180 days for violation of the discriminatory act)

Trenton Regional Office
140 East Front Street
6th Floor, P.O. Box 090
Trenton NJ 08625-0090
(609) 292-4605

Newark Regional Office
31 Clinton Street, 3rd floor
P.O. Box 46001
Newark, NJ 07102
(973) 648-2700
Atlantic City Office
26 Pennsylvania Avenue
3rd Floor

Atlantic City, NJ 08401
(609) 441-3100

Camden Regional Office
One Port Center, 4th Floor
2 Riverside Drive, Suite 402
Camden, NJ 08103
(856) 614-2550

**United States Equal Employment Opportunity
Commission (EEOC)
(Within 300 days of the discriminatory act)
National Call Center – 1 800-669-4000**

Newark Area Office
One Newark Center, 21st Floor
Raymond Blvd at McCarter Highway (Rt.21)
Newark, New Jersey 07102-5233
(973) 645-4684

The Newark Area Office has jurisdiction over the State of New Jersey Counties of Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren.

Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
(215) 440-2600

The Philadelphia District Office has jurisdiction over the State of New Jersey Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem.