

Rice University Policy 830

Policy on Discrimination and Harassment

Commented [KJL1]:
New Title

I. General Policy

Discrimination and harassment, including sexual harassment, are prohibited by Rice University because they violate the values of our community and are unacceptable in our University community. Rice University is a diverse community guided by the values of responsibility, integrity, community, and excellence. These values can only thrive in an environment that is free from discrimination and harassment.

Rice expects all members of the University community to:

- i. Be respectful of everyone and demonstrate civility toward all, regardless of position or office.
- ii. Refrain from discrimination against any individual or group.
- iii. Consider how our words and acts might injure others, and seek to eliminate personal biases, preferences, and preconceived stereotypes.
- iv. Make accommodations for persons with disabilities and be ready to assist them.
- v. Be inclusive and accepting of others who make up our diverse population.
- vi. Respect the freedom of expression, as well as the privacy, of others.

As articulated in Policy 815, Equal Opportunity / Non-Discrimination / Affirmative Action Policy, Rice University does not discriminate, and does not permit discrimination, against individuals on the basis of race, color, religion, sex (including pregnancy), sexual orientation, gender identity and expression, national or ethnic origin, genetic information, ancestry, age, disability, veteran status, or other protected categories under the law. In addition, Rice University does not permit harassment against individuals on these same bases. Moreover, harassing behavior not based on any of the above discriminatory factors that creates a hostile educational or workplace environment also is unacceptable and subject to corrective action.

This policy articulates the University's commitment to providing a learning, living, and working environment that is free from discrimination and harassment.

II. Roles and Responsibilities

There are several offices that can be resources for reporting or seeking information regarding harassment or sexual misconduct. The central authority is the office of Access, Equity and Equal Opportunity (AEEO), but members of the Rice community have a number of options.

- i. The **Executive Director of Institutional Equity, Equal Employment Opportunity, Affirmative Action and Title IX** is the primary University official who interprets and implements the principles of this policy. Further, this individual is designated as the university's primary Equal Employment Opportunity official and Title IX Coordinator. This individual is assisted by **Deputy Title IX Coordinators**.
- ii. **Faculty**. In situations that involve faculty, the Provost's Office also plays an important role in implementing this policy.
- iii. **Staff**. In situations that involve staff, the Human Resources Office plays an important role in implementing this policy.

- iv. **Students.** In situations that involve students, the Office of Sexual Violence Prevention and Title IX Support, Rice's Deputy Title IX Coordinators, and Student Judicial Programs also play an important role in implementing this policy. See also Rice's Title IX Policies.

III. Definitions

Discrimination. Discrimination occurs when a student or employee is denied equal opportunity and suffers unfavorable or disparate treatment because of that individual's protected class; i.e., their race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national or ethnic origin, genetic information, ancestry, age, disability, veteran status, or protected categories under the law. Discrimination may also occur when an educational or employment policy or practice has a disproportionately adverse impact on protected class members.

Commented [KJL2]: New definition

Harassment. Harassment is unwelcome conduct (whether physical, verbal, written, or via technology) that is based on a protected class. Moreover, harassing behavior not based on any of the above discriminatory factors that creates a hostile educational or workplace environment also is unacceptable and subject to corrective action.

Harassment has the purpose or potential effect of unreasonably interfering with an individual's work performance or educational participation. Harassment violates this policy and is subject to disciplinary action when 1) enduring the offensive conduct becomes a condition of continuing in or receiving benefits in one's employment or educational program, or 2) the conduct is severe or pervasive enough to create a work or educational environment that a reasonable person would consider intimidating, hostile, or abusive.

Examples that could satisfy this standard include, but are not limited to: epithets or slurs, negative stereotyping, threatening, intimidating or hostile acts, bullying, denigrating jokes and display or circulation (including through e-mail) of written or graphic material that are based on protected class and occurring within the learning, living, or working environment.

Bullying is a single significant act or a pattern of acts of harassing behavior that is severe or pervasive enough to create a work or educational environment that a reasonable person would consider intimidating, hostile, or abusive or has the effect of physically harming an individual, damaging an individual's property or placing the individual in reasonable fear of harm to the individual's person or damage to the individual's property. It includes cyberbullying, which is bullying done through an electronic communication device, including through the use of e-mail, text messaging, social media or the Internet.

Hate speech is any act of harassment that incites imminent criminal activity or consists of specific threats of violence targeted against a person or group of people. Hate speech does not cover speech that is otherwise considered protected speech or expression.

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Sexual Harassment encompasses unwelcome sexual advances, requests for sexual favors, and other verbal or physical behavior of a sexual or gendered nature. It can include such behaviors as unwanted touching or unwelcome conduct (whether physical, verbal, written, or via technology) of a sexual or gendered nature. Sexual harassment occurs when:

Commented [KJL4]:
Rewritten - This is intended to cover Title VII, but be broader to cover all types of sex based prohibited behaviors. Also must conform to definition in HB1735

- A. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment; or
- B. submission to or rejection of such conduct by an individual is used as the basis for educational or employment decisions affecting that individual; or

- C. such conduct is reasonably regarded as offensive and has the purpose or effect of interfering with an individual's work performance or educational participation, or creating an intimidating, hostile, or offensive educational or working environment.

Note: Employees and students must also be aware that sexual harassment may also be subject to Policy 828, which has a different definition of sexual harassment and different procedures for adjudication (based on the legal requirements of Title IX).

Commented [KJL5]: Important note, that Policy 828 also covers Sexual Harassment, as required by Title IX.

Complainant means the person who believes they have been subjected to harassment, sexual harassment, sexual assault, dating violence, or stalking.

Respondent. A person who has been accused of violating this policy.

IV. Elaboration of Policy

A. Applicability

This policy applies to all faculty, staff, and students of Rice University, including people with temporary appointments. It also applies to all campus visitors, volunteers, and vendors and contractors doing business with Rice. It is intended to apply to our University activities and community, whether on or off university property, to the extent allowable by law.

B. Individual Responsibility to Report

In addition to adopting high standards for our own conduct, when members of the Rice community observe, or have knowledge of, behavior that violates this policy, we all have a responsibility to report such behavior to the Office of AEEO, the Office of Sexual Violence Prevention and Title IX Support, Deputy Title IX Coordinators, or other authorities on campus.

- i. All faculty and staff who receive information, directly or indirectly, regarding harassment, sexual harassment, sexual assault, dating violence, or stalking by or against a University student or employee must promptly report the incident to AEEO or a Deputy Title IX Coordinator. Generally, reports should be made within 24 hours of receiving the information. When making a report, faculty and staff should communicate all relevant information, including whether the alleged complainant has expressed a desire for confidentiality.
- ii. This mandatory reporting obligation not only covers incidents that occur on campus, but also incidents that occur off-campus where there is a connection to the employment or educational activities of Rice University (e.g., sexual harassment during field work or a student organization trip, or at a work conference).
- iii. Faculty and staff making such reports in good faith are protected from retaliation (See Policy 813. *Whistleblower Protection and Non Retaliation*). Failure by faculty and staff to promptly comply with their mandatory reporting obligation may itself be a basis for disciplinary action, up to and including termination of employment.
- iv. University employees serving in a privileged, licensed professional capacity (e.g. therapists and medical providers) are considered "Confidential Employees" for purposes of the University's Title IX Policy. Confidential Employees must communicate to AEEO or a Deputy Title IX Coordinator the type of incident reported to them, but absent a request by the Complainant, should not report information that would violate the Complainant's expectation of privacy, except as required by law.

Individuals may satisfy their obligation to report information in one of the following ways:

- Filling out an information form at <https://aeo.rice.edu/sexual-harassment>
- Emailing a Title IX Coordinator. A list of individuals is available at <https://safe.rice.edu/contact-us> (or you may email titleix@rice.edu)
- Calling the Title IX Coordinator at 713-348-4350
- Submitting a report to the anonymous reporting hotline at 1-866-294-4633 or online at www.rice.edu/ethics.

Faculty and staff are not required to report an incident in which they were the victim of sexual harassment, sexual assault, dating violence, or stalking, though the University strongly encourages them to utilize the available reporting mechanisms and resources.

C. Problem Resolution Principles

Reporting Mechanisms and Resources. The University provides a variety of options and services for members of the Rice community to access information and services, explore alternatives, and report problems (e.g., websites, multiple offices and responsible officials, anonymous hotline, translation and interpretation services).

Confidentiality. All discussions will be treated as confidential by all university officials, to the extent allowed by the law. While the University will treat the matter with discretion and try to observe a Complainant's wishes regarding confidentiality, the University may have an obligation to investigate and take action in order to provide a safe and non-discriminatory environment and may need to follow appropriate processes should the University consider taking action against a respondent.

Timeframe. The University urges individuals to report a violation of this policy as soon as possible to maximize the University's ability to respond promptly and effectively. While a complaint should be brought within a reasonable time after the occurrence of a claimed violation, there is no time limit on filing a complaint.

Medical Treatment. The University urges individuals who have experienced sexual assault or dating violence to seek immediate medical attention to preserve evidence that may assist in proving that a criminal offense occurred and that may be helpful in obtaining a protective order.

Law Enforcement. Individuals may choose whether to report the crime to law enforcement. Upon request, the Title IX Coordinator or a Deputy Title IX Coordinator will assist in reporting the crime to law enforcement. If the Complainant makes a report to the police agency having jurisdiction over the alleged conduct, that police agency (very often RUPD) will conduct a law enforcement investigation under the agency's investigation procedures. At RUPD, this will involve providing the Complainant an explanation of the options available and ascertaining the complainant's wishes on how to proceed. If the Complainant declines to report the crime to law enforcement, the Complainant may still request that the University proceed with resolving the complaint according to the procedures set forth in this policy.

Protection Against Retaliation. The University prohibits retaliation in any form against a person for reporting suspected or actual wrongful conduct in good faith, including any conduct believed to violate this policy. The University will take all appropriate and necessary action to punish retaliation against persons making such reports. See also University Policy 813, *Whistleblower Protection*.

False, Malicious Accusations. Individuals making allegations found to be both false and in bad faith will be subject to disciplinary action.

Cooperation. It is expected that all parties involved will cooperate fully with an investigation by the University or law enforcement agencies into violations of this policy.

Recordkeeping. The Director of AEEO will retain appropriate records for all university cases, both informal and formal, securely in their files. All other university officials who resolve complaints directly under section E.2 below shall document the resolution by sending a memorandum to the Director of AEEO.

Administrative Reports. Once every three months, the Director of AEEO will issue a report to the President detailing number and types of violations reported, number of ongoing investigations, and general descriptions of adjudication and actions taken. Once during each fall and spring semester, the President will issue a report to the Board of Trustees detailing the number of reports received pursuant to this policy, the number of investigations conducted as a result of those reports, the disposition of any disciplinary processes arising from those reports, the number of those reports for which the University determined not to initiate a disciplinary process, and any disciplinary actions taken for violations of this policy. The President's report may not identify any person, and will balance individual needs and legal requirements for confidentiality and privacy with the desire to provide accountability and transparency. A report containing this data will also be posted on the university website.

Required Government Reporting. The University may be required to report allegations, administrative actions, or findings and determinations to law enforcement or government agencies.

D. Options for Problem Resolution

The University recognizes that the appropriate procedure or approach for resolving situations depends on the nature of the situation and the wishes of the parties (including the University). This policy provides several possibilities for dealing with harassment (including sexual harassment), sexual assault, dating violence, and stalking. These options are not mutually exclusive, and do not preclude reporting to civil or criminal authorities outside the University.

- i. *Consultation.* Anyone may seek advice, information, or counseling on matters related to harassment, sexual assault, dating violence, and stalking. When Complainants come forward with a complaint, their rights regarding confidentiality will be explained. Persons who are uncertain about whether they are experiencing harassment or other conduct prohibited by this policy, or have observed harassment or other conduct prohibited by this policy, are encouraged to talk with:
 - a. the **Director of AEEO** or the **Deputy Title IX Coordinators** if the claim is raised by faculty, staff, campus visitors, volunteers, or vendors and contractors doing business with Rice;
 - b. the **Office of Sexual Violence Prevention and Title IX Support**, the **Deputy Title IX Coordinators**, or **Title IX Navigators** listed in Rice's Title IX Policy if the claim is raised by a student; and
 - c. deans, department chairs, heads of administrative departments, Human Resources (the **Associate Vice-President** or the **Director for Employee Relations**), **College Magisters**, or the **Faculty Ombudsperson**, as additional resources.

These consultations allow the Complainant to gain information and advice about options available under this policy. To the extent legally possible, information disclosed through this consultation process will not become the subject of University action, unless the Complainant decides to pursue a resolution of the matter or the University believes it has an obligation to act.

- ii. *Informal Problem Resolution.* This stage of complaint resolution is intended to allow the University to conduct sufficient fact-finding to assess harassing behavior and to permit an initial response aimed at stopping the behavior. If the University considers the situation eligible for a

resolution without additional investigation (which at a minimum must include the Respondent agreeing to cease the allegedly harassing behavior and the Complainant agreeing to this informal process and the particular resolution), the matter can be closed at this point without formal disciplinary action taken against the Respondent. If the Respondent engages in further or unrelated harassing conduct, the University may reopen the case and can consider the prior incident in assessing further actions toward the respondent.

- iii. *Mediation.* Mediation may also be used to provide a forum in which a Complainant and Respondent attempt to reach an agreeable resolution through a discussion facilitated by a university official selected by AEEO, the Provost's Office, or the Human Resources Office. Mediation occurs only when all parties voluntarily agree to participate. It is non-binding until such time as a mutually agreeable resolution is reached and signed by the parties. Depending on the facts and circumstances, mediation may not be appropriate in serious cases.
- iv. *Investigation with Potential Disciplinary Action.* Another option is a formal University investigation and a determination of whether the prohibition against harassment and sexual misconduct has been violated, along with potential disciplinary action.
 - a. Complainants alleging a violation of this policy by faculty, staff, campus visitors, volunteers, or vendors and contractors doing business with Rice may bring their complaint to the Office of AEEO. The Director of AEEO will a) inform the Respondent against whom the claim is made of the allegation details and the identity of the Complainant when the identity is necessary for the Respondent's response, and b) investigate the allegation. After concluding the investigation, the Director will prepare a written report and disclose the findings to the Complainant, the Respondent, and the Respondent's supervisor (in the case of a faculty member, to the Dean, the Provost, or the President, as appropriate). The Director will also ensure that the prescribed actions to remedy the situation are put into effect or undertaken by University personnel as defined in Section II of this policy.
 - i. In the event of a finding against a campus visitor, volunteer, vendor or contractor doing business with Rice, the relevant University department with oversight over the respondent will be notified so that appropriate action may be taken.
 - ii. In the event of a finding against a staff member, Human Resources and the respondent's supervisor will pursue appropriate steps, including disciplinary actions up to and including termination.
 - iii. In the event of a finding against a faculty member, the dean and the Provost will discuss what actions should be undertaken as a result of the findings. The President may also determine whether to initiate proceedings under Policy No. 201, Section 8, to consider dismissal of, or a severe sanction against, the accused faculty member. If such a course is pursued, the procedures outlined in Policy No. 201 and the "Procedure for Investigating Accusations Warranting Severe Sanctions, Including Dismissal, Against Faculty Members" will be followed.
 - iv. Should all parties agree, the Director of AEEO may also implement a resolution of the complaint acceptable to both parties at any stage of the investigation.
 - b. If a complaint is against a student, the complaint should be brought to the **Director of Student Judicial Programs**, the **Office of Sexual Violence Prevention and Title IX Support**, or the **Deputy Title IX Coordinators**. The procedures for handling a harassment complaint against a student are governed by Rice's Code of Student Conduct and, where applicable, Rice's Title IX Policy. More information about these procedures is available on the University's website at <https://safe.rice.edu/>

- c. If a complaint is against the Director of AEEO or against a member of the Director's staff, the complaint is filed with the President who will appoint an investigator to provide a report of findings. The President will then make a determination of the merits of the complaint and determine appropriate action.
- d. If a complaint is against a senior administrator (Provost, Dean, Vice President, Vice Provost, Institute Director, Athletic Director), the complaint is filed with the President who will appoint an investigator to provide a report of findings. The President will then make a determination of the merits of the complaint and determine appropriate action.
- e. If a complaint is against the President or a member of the Board of Trustees, the complaint is filed with the chairperson of the Board of Trustees who will appoint an investigator to provide a report of findings. The Board of Trustees will then make a determination of the merits of the complaint and determine appropriate action.
- f. If a complaint is against the chairperson of the Board of Trustees, the complaint is filed with the chairperson of Audit Committee of the Board of Trustees who will appoint an investigator to provide a report of findings. The Board of Trustees will then make a determination of the merits of the complaint and determine appropriate action.
- g. *Supportive Measures.* Regardless of the stage of the problem resolution process, the university may take supportive measures (e.g., workplace relocation or class modification), when appropriate, to protect the parties involved and the University community. Supportive measures may be requested by either party. Supportive measures will be decided on a case by case basis, considering the rights and obligations of all parties.

E. Academic Freedom

This policy is not intended to impede the basic tenets of academic freedom and is generally not applicable to statements or materials made in an education setting that are germane to classroom subject matter, research, or academic debate.

F. Training

The University will provide appropriate training for faculty, staff, and students concerning this policy and the duty to report information.

V. Cross References to Related Policies

- i. Rice University Standards of Ethical Conduct
- ii. Rice Code of Student Conduct
- iii. Policy 815: Equal Opportunity / Non-Discrimination / Affirmative Action Policy
- iv. Policy 813: Whistleblower Protection
- v. Policy 828: Sexual Misconduct Policy for Faculty, Staff and Students
- vi. Policy 829: Consensual Sexual or Romantic Relationships in the Educational or Workplace Environment

VI. Responsible Official & Key Offices to Contact Regarding Policy

Responsible Official: Vice President for Administration

Other Key Offices: Provost; AEE0; Human Resources; The Office of Sexual Violence Prevention and Title IX Support; Title IX Coordinator and Deputy Coordinators; General Counsel; Faculty Ombudsperson

VII. Links to Additional Information

Resources including contact information, frequently asked questions (FAQs), and the reporting form may be found at <https://aeo.rice.edu/sexual-harassment>

Policy History

Revised: _____, 2020 (in conjunction with the issuance of Policy 828); September 13, 2019; 2001

Clerical Change: July 21, 2020 (update web links); October 9, 2019 (Correct typo, headings and spacing)