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Executive Summary

Introduction

The University of Rochester is committed to providing a safe environment for the University community to work, learn, live, and socialize together without fear of sexual assault, harassment, or discrimination. The purpose of this report is to educate the University community about what the University does to prevent discrimination and harassment in the academic environment and in the workplace and how the University responds to reports of it. The information in this report focuses on the University’s Policy against Discrimination and Harassment (PADH), which prohibits all types of discrimination and harassment based on membership in a protected class.

The University’s PADH specifically prohibits discrimination or harassment because of an individual or a group’s personal traits, characteristics, and/or beliefs, referred to in the Policy as protected status or protected class. What qualifies as a protected class is determined by applicable federal, state, and local laws. Protected statuses include age, color, disability, domestic violence status, ethnicity, gender identity, gender expression, genetic information, marital status, familial status or an individual’s reproductive health decision making, military/veteran status, national origin, race (including hair style), religion/creed (including religious attire and facial hair), sex, sexual orientation, citizenship status, criminal conviction status, or “any other status protected by law.” The PADH also specifically prohibits retaliation against anyone who complains of or opposes perceived discrimination or harassment as defined in the policy.

The PADH applies to faculty, staff, residents, fellows, postdoctoral appointees, student employees, interns (paid or unpaid), volunteers, and all visitors (including patients, contractors, and vendors) to any University campus, facility, and/or property and to University-sponsored activities and events, whether on University premises or not. The PADH does not apply to complaints brought against students or to any complaint that otherwise meets the jurisdictional requirements of Title IX.

Upcoming Revisions to the PADH

The PADH currently mirrors the legal definitions of discrimination and harassment in the workplace and academic environment. This does not mean that all conduct that falls short of meeting this legal standard is acceptable or appropriate. Conduct that may not violate this Policy may still fall short of the values expressed in our vision and values statement: Meliora, Equity, Leadership, Integrity, Openness, Respect, and Accountability. The University can and does take steps to address conduct that could, if continued, meet the legal definition of discrimination or harassment. The University also can and does take action to address misconduct that does not violate the PADH but is otherwise significant enough to merit disciplinary action.

In November 2020, President Sarah C. Mangelsdorf charged leaders of the Office of Equity and Inclusion, Office of Human Resources, and Office of Counsel to revise the University’s PADH, particularly regarding several key issues. Since the issuance of the president’s charge, a small working group from these offices (the Writing Group) has been consulting with a larger group...
of University stakeholders (the Advisory Group) regarding major policy decisions, including: (1) whether and how to reconcile the differing standards for hostile work environment harassment that apply to employees (anything more than a “petty slight or trivial inconvenience”) with the standard applied to students under federal law (now “severe and pervasive” under Title IX; “severe or pervasive” under other statutes; (2) whether or not to continue permitting complainants and witnesses to remain anonymous, when allowed by applicable law, throughout the investigation and, if implicated, the disciplinary process; and (3) whether to create a new decision-making process consisting of a panel of decision makers, and what that process specifically will look like. The revised PADH is expected to be presented to the Board of Trustees in the summer of 2021.

Trends

The University has seen a steady increase in complaints of harassment and discrimination based on a protected class over the past several years. This increase in reporting is consistent with national trends as higher education institutions have placed greater emphasis on developing educational programs designed to help individuals identify inappropriate behavior and seek support to address it. Similarly, as the University has dedicated more resources to educational efforts regarding these topics, members of the University community have been better prepared to seek out resources when needed. Continued growth in the willingness of our community to raise concerns and take advantage of the University’s internal process is a positive sign.

Conclusion

The Office of Equity and Inclusion’s addition of an assistant vice president for civil rights compliance indicates the University’s commitment to providing strategic, proactive, preventive programming and processes in the area of civil rights compliance and harassment/discrimination response. The University continues to partner with internal and external resources to develop and provide training and support to investigators and advisors and is planning to provide similar training to PADH decision makers, all in furtherance of its efforts to ensure fair, thorough, and impartial processes for all individuals involved.

The University remains committed to revising and creating materials geared toward understanding our policies and procedures and highlighting how to access important resources. This includes creating additional materials explaining the reporting obligations of faculty and staff found in different policies and procedures, including the PADH, the Title IX Policy, the Standards of Student Conduct, and the Student Sexual Misconduct Policy.
1. Discrimination and Harassment: Prevention and Response across the University

The University of Rochester is committed to providing a safe environment for the campus community to work, learn, live, and socialize together without fear of sexual assault, harassment, or discrimination. The purpose of this report is to educate the University community about what the University does to prevent discrimination and harassment in the academic environment and in the workplace and how the University responds to reports of it.

The information in this report focuses on the University’s Policy against Discrimination and Harassment (PADH), which prohibits all types of discrimination and harassment based on membership in a protected class. Student behavior is separately governed by the Standards of Student Conduct, which also prohibits discrimination or harassment based on membership in a protected class, and by the Student Sexual Misconduct Policy.

The University issued a separate report regarding sexual misconduct prevention and response, which focuses on educating the University community about what the University does to prevent sexual misconduct and to respond to reports of sexual misconduct against students. That report discusses the work of the Title IX coordinator and includes data on reports received by the Title IX coordinator.

1.1 The University’s Policy against Discrimination and Harassment

The University’s PADH specifically prohibits discrimination or harassment because of an individual or a group’s personal traits, characteristics, and/or beliefs, referred to in the Policy as protected status or protected class. What qualifies as a protected class is determined by applicable federal, state, and local laws. Protected statuses include age, color, disability, domestic violence status, ethnicity, gender identity, gender expression, genetic information, marital status, familial status or an individual’s reproductive health.
decision making, military/veteran status, national origin, race (including hair style), religion/creed (including religious attire and facial hair), sex, sexual orientation, citizenship status, criminal conviction status, or “any other status protected by law.” The PADH also specifically prohibits retaliation against anyone who complains of or opposes perceived discrimination or harassment as defined in the policy.

The PADH applies to faculty, staff, residents, fellows, postdoctoral appointees, student employees, interns (paid or unpaid), volunteers, and all visitors (including patients, contractors, and vendors) to any University campus, facility, and/or property and to University-sponsored activities and events, whether on University premises or not.

Student complaints against faculty, staff, or vendors are handled under this Policy. However, the PADH is not intended to be used for complaints against students, with the exception of student employees. For student complaints, the Standards of Student Conduct or the Student Sexual Misconduct Policy and related procedures may apply.

The PADH currently mirrors the legal definitions of discrimination and harassment in the workplace and academic environment. This does not mean that all conduct that falls short of meeting this legal standard is acceptable or appropriate. Conduct that may not violate this Policy may still fall short of the values expressed in our vision and values statement: Meliora, Equity, Leadership, Integrity, Openness, Respect, and Accountability.

The University can and does take steps to address conduct that could, if continued, meet the legal definition of discrimination or harassment. The University also can and does take action to address misconduct that does not violate the PADH but is otherwise significant enough to merit disciplinary action.

In November 2020, President Sarah C. Mangelsdorf charged leaders of the Office of Equity and Inclusion, Office of Human Resources, and Office of Counsel to revise the University’s PADH, particularly regarding several key issues. Since the issuance of the president’s charge, a small working group from these offices (the Writing Group) has been consulting with a larger group of University stakeholders (the Advisory Group) regarding major policy decisions, including: (1) whether and how to reconcile the differing standards for hostile work environment harassment that apply to employees (anything more than a “petty slight or trivial inconvenience”) with the standard applied to students under federal law (now “severe and pervasive” under Title IX; “severe or pervasive” under other statutes; (2) whether or not to continue permitting complainants and witnesses to remain anonymous, when allowed by applicable law, throughout the investigation and, if implicated, the disciplinary process; and (3) whether to create a new decision-making process consisting of a panel of decision makers, and what that process specifically will look like. The revised PADH is expected to be presented to University leaders and the Board of Trustees in the summer of 2021.
1.2 Education and Awareness Programs

Diversity, inclusion, and equity education and training are an essential part of building awareness and a cohesive work environment and are offered throughout the calendar year.

These skill-building opportunities are designed to inspire sensitivity and increase awareness. The University developed a Diversity Learning Series, which launched in the summer of 2018. This series includes mandatory training and focuses on unconscious bias, sexual harassment and discrimination, and Title IX.

In addition to this mandatory training, the University offers online curriculum for self-study through MyPath and ongoing in-person training opportunities.

Education and awareness programs are further outlined in the Annual Report on Sexual Misconduct Prevention and Response.

1.3 Reporting and Response

Complaints arising under the PADH may be made to the Office of Equity and Inclusion or verbally or in writing to an individual's department chair, dean, director, or immediate supervisor; the Office of Human Resources; any University Ombuds; or the Office of Counsel. Individuals who receive a complaint as discussed above are obligated to report it to the Office of Equity and Inclusion promptly. Complaints to the Office of Equity and Inclusion should be made through an online written report.

Reports of potential sexual misconduct against faculty or staff made to the Title IX coordinator will be addressed under the PADH, as will reports of potential discrimination or harassment against faculty or staff made through Bias-Related Incident Reports, unless the alleged behavior meets the threshold requirements of the federal Title IX regulations, in which case the University Title IX Policy and procedures apply.

All members of the University community are encouraged to report discrimination, harassment, or retaliation. Management and supervisory personnel, faculty members, Human Resources Business Partners, employees in the Office of Counsel, and employees in the Office of Equity and Inclusion, who see or learn of perceived discrimination, harassment, or retaliation in the workplace must report these concerns.

In the student context, Responsible University Officials and Responsible Employees have separate reporting obligations outlined in the Standards of Student Conduct and the Student Sexual Misconduct Policy.
1.4 Accommodations and Interim Measures

In addressing incidents of potential harassment, discrimination, or retaliation, the University may take temporary protective measures to protect individuals where the working, learning, patient care, or living environment appears to require it. Temporary protective measures can include placing persons on temporary leaves of absences; exclusion from programs and facilities; altering working, learning, patient care, or living arrangements; or imposing other conditions in the University environment as warranted.

The University can also issue Active Avoidance Orders (AAO), which limit contact between two or more individuals. An AAO is not considered disciplinary action and may be imposed prior to a formal investigation.

1.5 Complaint Process

All complaints about discrimination, harassment, or retaliation require some degree of investigation and may require witness interviews and an investigatory report. However, the University prioritizes alternative resolutions to complaints in situations that can be expeditiously resolved via education, mediation, restorative practices, or other alternative means.

The process for investigations resulting in an investigatory report is outlined in the PADH and includes interviews with the complainant, the respondent, and witnesses with knowledge of the conduct alleged. When the investigation is complete, a written report is prepared by the investigator and sent to the decision maker. A list of these decision makers can be found in Appendix B of the PADH.
2. Data on Reports, Investigations, and Outcomes

This report contains data regarding complaints of discrimination, harassment, or retaliation between June 1, 2018, and May 31, 2020. The data included in this report contain all complaints of discrimination, harassment, or retaliation, regardless of whether the complaint was resolved by the investigative process or through an alternative resolution. The data also include any written complaints made under the PADH, even if those complaints did not allege any discrimination or harassment based on membership in a protected class or did not allege any retaliation because a person complained of or opposed perceived discrimination or harassment as defined in the PADH. In addition, the data include any complaint forwarded to the Office of Equity and Inclusion, even if the complaint could not be investigated because the complaint or the complainant did not provide sufficient information to either identify the respondent or investigate the complaint.

2.1 Affiliation of Complainants

In academic year 2018–2019 (between June 1, 2018, and May 31, 2019), there was a total of 62 complaints. In academic year 2019–2020 (between June 1, 2019, and May 31, 2020), there was a total of 146 complaints. The majority of these complaints were made by staff members.

Figure 1. Affiliation of Complainants
2.2 Affiliation of Respondents

Of the complaints where a respondent could be identified, most often the respondent was a staff member (44% in 2018–2019 and 58% in 2019–2020). In 2018–2019, out of 62 respondents, 24 were faculty members, and in 2019–2020, out of 146 respondents, 38 were faculty members. See below charts for a complete breakdown of respondent affiliations.

Figure 2. Affiliation of Respondents

2.3 Nature of Allegations

Complainants at times identify membership in more than one protected class as part of their complaint or may also include a complaint of retaliation. Other complainants do not identify any protected class as part of their complaint.

Claims of sex-based discrimination can include complaints of sexual harassment, sexual assault, gender identity/expression discrimination, sexual orientation discrimination, and pregnancy discrimination. Not all complainants alleging sex-based discrimination are brought by complainants who identify as female.

Where a complainant indicates more than one basis for the complaint, all of those bases are separately reported here. The bases identified by complainants are also reported regardless of whether the allegations or the investigation support it.
2.4 Complaint Outcomes

Of the 62 complaints received in 2018–2019, 13 investigations resulted in investigatory reports, and, of those, four respondents were found responsible for violating the PADH. Regardless of whether a complaint was resolved by investigation and investigatory report or by an alternative resolution, in 2018–2019 in 10 cases, the respondent received additional training or education regarding appropriate conduct in the workplace and/or academic environment, and in 14 matters, the respondent received some form of discipline, ranging from mandatory training to termination of employment.

Of the 146 complaints received in 2019–2020, 24 investigations resulted in investigatory reports, and of those, seven respondents were found responsible for violating the PADH. Regardless of whether a complaint was resolved by investigation and investigatory report or by an alternative resolution, in 2018–2019 in 10 cases, the respondent received additional training or education, and in 14 matters, the respondent received some form of discipline, ranging from mandatory training to termination of employment.
3. Trends

The University has seen a significant overall increase in complaints of discrimination or harassment (146 complaints in 2019–2020, compared to 62 complaints in 2018–2019 and 59 complaints in 2017). Sex- and race-based complaints continue to be the most prevalent. In 2019–2020, 53% of the complaints were regarding sex-based discrimination, and 26% were regarding race-based discrimination. In 2018–2019, 62% of the complaints were regarding sex-based discrimination, and 19% were regarding race-based discrimination.

This increase in complaints may be influenced by the dialogue regarding discrimination and harassment at the state and national levels as well as the important dialogue occurring within the University. Continued growth in the willingness of our community to report and place trust in the University to resolve these concerns is a positive sign.

4. Conclusion and Goals

The University is committed to preventing and addressing discrimination and harassment in the workplace and academic environment.

The Office of Equity and Inclusion’s addition of an assistant vice president for civil rights compliance signifies the University’s commitment to providing strategic, proactive, preventive programming and processes in the area of civil rights compliance and harassment/discrimination response. The University continues to partner with internal and external resources to develop and provide training and support to investigators and advisors and is planning to provide similar training to PADH decision makers, all in furtherance of its efforts to ensure fair, thorough, and impartial processes for all individuals involved.

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