

Policy Against Discrimination, Harassment, and Discriminatory Employment/Service Practices

LAST REVISED ON 01/01/2022

Report an issue to the Office of Equity and Inclusion at uofr.us/padh-report (<https://uofr.us/padh-report>).

The Policy Against Discrimination and Harassment (PADH) applies to: Faculty; staff; residents; fellows; postdoctoral appointees; student employees; students⁽¹⁾; interns (paid or unpaid); volunteers; and to 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 University is governed by multiple state and federal laws that prohibit discrimination and harassment based on various protected classes and this policy is intended to comply with all of them. These laws may require that certain complaints filed under this policy be addressed under another University policy (for example, the University's Title IX policy). The University's Office of Equity and Inclusion will assess all complaints made under this policy and determine the most appropriate process for addressing the individual's concerns.

This policy has been translated to the following languages: [বাংলা \(Bengali\)](https://www.rochester.edu/policies/discrimination-harassment/%e0%a6%ac%e0%a6%be%e0%a6%82%e0%a6%b2%e0%a6%be-bengali/) (<https://www.rochester.edu/policies/discrimination-harassment/%e0%a6%ac%e0%a6%be%e0%a6%82%e0%a6%b2%e0%a6%be-bengali/>), [中文 \(Chinese\)](https://www.rochester.edu/policies/discrimination-harassment/%e4%b8%ad%e5%9b%bd%e4%ba%ba-chinese/) (<https://www.rochester.edu/policies/discrimination-harassment/%e4%b8%ad%e5%9b%bd%e4%ba%ba-chinese/>), [Kreyòl ayisyen \(Haitian Creole\)](https://www.rochester.edu/policies/discrimination-harassment/kreyol-ayisyen-haitian-creole/) (<https://www.rochester.edu/policies/discrimination-harassment/kreyol-ayisyen-haitian-creole/>), [Italiano \(Italian\)](https://www.rochester.edu/policies/discrimination-harassment/italiano) ([https://www.rochester.edu/policies/discrimination-harassment-italiano](https://www.rochester.edu/policies/discrimination-harassment/italiano)).

[harassment/italiano-italian/](https://www.rochester.edu/policies/discrimination-harassment/italiano-italian/)), 한국어 (Korean) (<https://www.rochester.edu/policies/discrimination-harassment/%ed%95%9c%ea%b5%ad%ec%96%b4-korean/>), Polski (Polish) (<https://www.rochester.edu/policies/discrimination-harassment/polski-polish/>), Русский (Russian) (<https://www.rochester.edu/policies/discrimination-harassment/%d1%80%d1%83%d1%81%d1%81%d0%ba%d0%b8%d0%b9-russian/>), and Español (Spanish) (<https://www.rochester.edu/policies/discrimination-harassment/espanol-spanish/>).

(1) This Policy is not intended to be used for complaints against students. For complaints against students, the [Standards of Student Conduct \(https://www.rochester.edu/college/cscm/conduct.html\)](https://www.rochester.edu/college/cscm/conduct.html) apply or the [Student Sexual Misconduct Policy \(https://www.rochester.edu/sexualmisconduct/assets/pdf/StudentSexualMisconductPolicy.pdf\)](https://www.rochester.edu/sexualmisconduct/assets/pdf/StudentSexualMisconductPolicy.pdf) and related process applies. See the [Student Conduct website \(http://www.rochester.edu/college/cscm/conduct.html\)](http://www.rochester.edu/college/cscm/conduct.html).

I. Policy and Policy Statements

The University is committed to maintaining a workplace and academic environment free from discrimination and harassment. In support of its Vision and Values and commitment to equality of opportunity (as set forth in [Policy 100: Workplace Values and Equal Opportunity Policy \(https://www.rochester.edu/policies/policy/workplace-values/\)](https://www.rochester.edu/policies/policy/workplace-values/)), the University of Rochester sets forth the following Policy Statements:

A. Anti-Discrimination and Anti-Harassment Statement

The University prohibits discrimination and harassment on the basis of age, color, disability, domestic violence victim status, ethnicity, gender identity or expression including transgender and gender expansive identities, 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, arrest or conviction record, or any other status protected by law (hereafter each of these will be referred to as a “Protected Class”). Discrimination or harassment based on a Protected Class will not be tolerated, and is considered misconduct that will be subject to discipline.

Discrimination or harassment under this Policy does not include unfair or inappropriate behavior not based on a Protected Class; for instance, complaints involving profanity or name calling not related to a Protected Class or issues of nepotism must be addressed through other avenues (e.g., Human Resources, a supervisor, the Ombuds).

Determinations made as to whether or not an individual has violated the PADH based on allegations of behavior that could also constitute criminal acts are made solely for purposes of determining whether this Policy has been violated. The standards for assessing a violation of Policy are not the same as the distinct legal standards required for a finding of criminal liability.

B. Anti-Retaliation Statement

The University prohibits retaliation against any person who complains of or opposes perceived discrimination or harassment, including those who participate in any investigation or complaint under this Policy or other proceeding involving a claim based on a Protected Class. Retaliation will not be tolerated, and is considered misconduct that will be subject to discipline.

C. Title IX Statement

The University complies with Title IX of the Education Amendments of 1972, which prohibits sex discrimination (including sexual harassment and violence based on sex) in the University’s educational programs and activities, as well as retaliation for asserting claims of sex discrimination. Discrimination based on sex will not be tolerated, and is considered misconduct that will be subject to discipline. Inquiries concerning the application of Title IX and sex-based complaints should be referred to the University’s

Title IX Coordinator, titleix@rochester.edu (<mailto:titleix@rochester.edu>). Questions regarding the application of Title IX can be made to the Title IX Coordinator or the U.S. Department of Education's Office of Civil Rights (OCR) at its New York office at [\(646\) 428-3800](tel:6464283800) (<tel:6464283800>) or its national headquarters at [\(800\) 421-3481](tel:8004213481) (<tel:8004213481>); TTY: [\(800\)-877-8339](tel:8008778339) (<tel:8008778339>). [Additional information is available \(https://ag.ny.gov/bureau/civil-rights\)](https://ag.ny.gov/bureau/civil-rights).

II. Relationship to Principles of Academic Freedom and Freedom of Speech

The success of the University of Rochester depends on an environment that fosters vigorous thought and intellectual creativity. It requires an atmosphere in which diverse ideas can be expressed and discussed. The University seeks to provide a setting that respects the contributions of all the individuals composing its community, that encourages intellectual and personal development, and that promotes the free exchange of ideas. This Policy is not intended to inhibit the content of speech, discussion, debate, and dialogue in the classroom, on campus or in any University forum reasonably related to academic activity or political, artistic, and visual arts expression. The University will protect academic freedom and artistic expression in administering this Policy. However, using speech or expression to discriminate against those protected by this Policy or using speech that creates a hostile learning, working or campus living environment for those protected by this Policy is prohibited.

III. Definitions of Terms Referenced in the Policy

The following definitions are intended to provide a better understanding of the meaning of certain terms as used within this Policy:

A. Discrimination

Discrimination involves an adverse action or decision or treating a person or group of people differently *because of* a Protected Class or because of perceived or actual affiliation/association with other individuals in a Protected Class.

B. Harassment

Harassment is a form of discrimination which involves verbal, written, physical or electronic conduct that is:

1. unwelcome;
2. occurs because the person(s) subject to the treatment is a member of a Protected Class when the conduct occurs; and
3. rises above the level of what a reasonable person, who is subject to harassment with the same protected characteristic, would consider more than a petty slight or trivial inconvenience.

Harassment, including sexual harassment, can occur between any individuals regardless of their sex or gender or membership in any Protected Class. Employees, paid or unpaid interns, and non-employees, including independent contractors and those employed by companies contracting to provide services at the University and students, are covered by this Policy to the extent that their actions fall within the University's control or legal responsibility. Under this Policy, harassers can be a superior, subordinate, coworker, faculty member, independent contractor, contract worker, vendor, client, customer, or visitor.

Unlawful harassment is not limited to University property. It can occur while traveling for University business or at University sponsored events or parties. For example, calls, texts, emails, and certain social media usage by employees can constitute unlawful workplace harassment toward another, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Examples of behavior that could be considered Harassment

Behaviors based on a Protected Class which could constitute harassment or lead to complaints of harassment include, but are not limited to:

- Physical violence, threats of physical violence, physical intimidation, or stalking.
- Displays of demeaning material in the workplace, including displays on workplace computers, social media, cell phones, or any other area visible to other members of the University community, such as:
 - Images, pictures, posters, or objects; for example, demeaning cartoons, dolls, or artifacts;
 - Text, graffiti, or written messages of intimidation; such as epithets, slurs or threats.
 - Other behaviors, such as demeaning jokes, derogatory statements, verbal epithets or slurs, or stereotyping activities.
- Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform their job;
- Commenting about an individual's physical characteristics, clothing or lifestyle in a manner that demeans an individual based on their membership in a Protected Class;
- Sabotaging an individual's work because of the individual's membership in a Protected Class; or
- Bullying, yelling, or name-calling because of the individual's membership in a

Protected Class.

SEXUAL HARASSMENT

Sexual harassment is a form of prohibited harassment as defined above. Sexual harassment involves unwelcome sexual advances or requests for sexual favors, or other verbal or physical acts/conduct of a sexual or sex-based nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic success;
2. submission to or rejection of such conduct by an individual is used as the basis for an employment or academic decision affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile, or offensive working or academic environment.

SEXUAL ASSAULT

Sexual assault is sexual harassment which includes any physical sexual act perpetrated against a person's will, where that person does not give clear and voluntary consent or where that person is incapable of giving consent due to drug or alcohol use or due to intellectual or other disability. Sexual assault includes, but is not limited to, rape, sexual battery, sexual coercion (the act of using pressure or force to have sexual contact with someone who has already refused), and any other act of sexual violence.

Examples of behavior that could be considered Sexual Harassment

Behaviors which could constitute sexual harassment or lead to complaints of sexual harassment include, but are not limited to:

- Physical acts of a sexual nature, such as:
- Sexual violence (rape, sexual battery, sexual assault, dating violence, domestic violence, molestation) or attempts to commit sexual violence;
- Unwanted and intentional touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body or clothing.
- Sexual advances or propositions that are unwanted, such as:
- Requests for sexual favors accompanied by implied or overt threats/promises that an individual's refusal or willingness to submit will impact the individual's status, wages, advancement, performance evaluation, promotion, or other benefits or detriments;
- Subtle or obvious pressure for unwelcome sexual activities;
- Sexual flirtations (including leering or ogling, or pressure to engage in social interactions);
- Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality.
- Display of sexual or sexually demeaning material anywhere in the workplace, including but not limited to pictures, posters, calendars, graffiti, objects, text or other materials that are sexually demeaning or pornographic. This includes displays on workplace computers, cell phones, or any other area visible to other members of the University community.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or expression, including transgender and gender expansive identities, either in person or through other means, such as:
- Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job because of the

individual's sex;

- Making comments about an individual's body, clothing or lifestyle that have sexual implications or demean the individual's sexuality or gender;
- Sabotaging an individual's work because of the individual's sex; or
- Bullying, yelling, or name-calling because of the individual's sex.

C. Retaliation

Retaliation is an action taken by the University or a member of the University community that would dissuade a reasonable person from making a complaint or participating in the complaint process. An action is retaliatory if it is taken because the individual has engaged in protected activity. Protected activity can include, but is not limited to: (1) personally complaining of or opposing perceived discrimination or harassment because of a Protected Class; (2) testifying, assisting, or participating in an investigation, proceeding, hearing, or legal action involving a claim of discrimination or harassment based on a Protected Class; or (3) exercising rights under a relevant statute which involves a Protected Class.

Examples of behavior that could be considered Retaliation

Depending on the circumstances, examples of retaliation could include, but are not limited to:

- Making inquiries about whether or not an individual has engaged in protected activity or ostracizing any person who does so;
- Threats of termination, transfers and changes in work location, poor performance reviews, the denial of a promotion or tenure, denial of job benefits, demotion, suspension, or termination;

- An escalation of harassing behavior in response to a complaint;
- Making false reports to governmental authorities (e.g., law enforcement, licensing agencies);
- Threats of deportation, initiating action with immigration authorities; or
- Adverse academic actions against a student could include a reduced grade, negative recommendation, negative comments about the student at academic meetings or conferences, or limiting access to an academic opportunity.

D. Other Terms

“Gender identity or expression” refers to a person’s actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristics, regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender. *A person’s gender-related identity can include identifying with more than one gender, or not identifying with any gender.*

“Complainant” refers to the individual who has made a complaint under this Policy, and “Respondent” refers to the person accused of the conduct alleged to violate this Policy.

IV. Complaint and Investigation Procedures⁽²⁾

Members of the University community are encouraged to report discrimination, harassment or retaliation. This includes members of the University community who feel that they have experienced behavior that violates this Policy or who witness or become aware of conduct that they believe violates this Policy.

Management and supervisory personnel and Human Resources Business Partners who observe, receive, or learn of reports or concerns of discrimination, harassment, or retaliation which fall within this Policy must report those concerns or reports, in accordance with this procedure, upon making such observation or being informed of such a concern.

For purposes of this Policy, compliance with this reporting obligation includes promptly (generally within 48 hours) reporting the concern to the Office of Equity and Inclusion and cooperating with and providing requested information to the Office of Equity and Inclusion. Management and supervisory personnel and Human Resources Business Partners who fail to report and knowingly allow the continuation of behavior that constitutes discrimination, harassment, or retaliation under this Policy will be subject to discipline. Where information is disclosed to University employees while they are serving in a privileged professional capacity (mental health counselors, clergy, medical providers, and rape-crisis counselors), their professional obligations control, and they are not required to report as supervisors under this Policy.

For purposes of this Policy, management and supervisory personnel include:

- Any employee having supervisory responsibility over employees including student employees and faculty members;
- All faculty;
- Diversity & Inclusion Officers;
- Ombuds;
- Principal Investigators on a grant or contract (these employees act in a supervisory capacity over the individuals in the lab or research they lead);
- Individuals who have been designated as a Campus Safety Authority pursuant to the Clery Act; and Deputy Title IX Coordinators
- Individuals who work in any of the following departments/offices:

- Department of Public Safety
- Student Life Offices in each of the University's schools, or
- Department of Residential Life

All complaints or reports involving harassment or discrimination based on a Protected Class or related retaliation will be handled under the processes set forth in this Policy.⁽³⁾

Complaints arising under this Policy may be made to the Office of Equity and Inclusion or verbally or in writing to an individual's department chair, dean, director, immediate supervisor, the Office of Human Resources, any University Ombuds, or the Office of Counsel. The University will work to minimize the number of times an individual will be required to explain the basis of their complaint or their response to a complaint, consistent with best practices. Individuals who receive a complaint as discussed above should not ask probing questions about the concern, but rather should collect such limited information as is sufficient to refer the complaint to the Office of Equity and Inclusion promptly after learning of the concern, regardless of when the alleged conduct occurred. Complaints to the Office of Equity and Inclusion should be made through a written report (https://rochester-gme-advocate.symphlicity.com/public_report/index.php/pid932009?rep_type=1002). An individual may also submit a complaint anonymously. While every effort will be made to protect the privacy of all parties, confidentiality cannot be guaranteed.

Individuals uncertain of their reporting obligations under this Policy should still report the information to the Office of Equity and Inclusion. Examples of situations that might require reporting are included in the definitions of discrimination, harassment, and retaliation found in section III. Questions about making a complaint and what to expect as part of an investigation may be directed to the Office of Equity and Inclusion at PADH@Rochester.edu (<mailto:PADH@Rochester.edu>). Any reports received that do not fall under the scope of this policy will be referred to the appropriate responsible office.

Regardless of the manner of reporting, the University will look into and respond to all good faith concerns and complaints raised under this Policy as expeditiously as possible and take remedial measures as needed. The Office of Equity and Inclusion will rigorously and impartially investigate all complaints brought to its attention and will determine whether an investigative report will be prepared pursuant to the procedures described below. When the University can effectively address a concern without preparing an investigative report, the University will resolve complaints via alternative resolution, including but not limited to disciplinary action, education, mediation, and restorative practices. A complaint may be resolved without an investigative report upon the agreement of both parties or at the direction of the University's Chief Human Resources Officer or the Vice President for Equity and Inclusion, or their designee, based on the unique circumstances of each case.

The University will attempt to complete any investigation within 90-120 days of receipt of the complaint. The Office of Equity and Inclusion will provide regular status updates to the parties during the course of the investigation. Temporary protective measures may be implemented, as deemed appropriate.⁽⁴⁾ The investigation will typically include an interview with the Complainant, the Respondent, interviews of other witnesses with knowledge relevant to the complaint, and, at the investigator's discretion, the gathering of relevant documents.

Investigations conducted under this Policy are strictly internal. However, parties and witnesses may have a support person of their choosing, who is not otherwise a party or a witness, present during any part of their participation in the process. Such persons are permitted to provide support for the Complainant or Respondent, but may not speak on their behalf. Support persons may not intervene or interfere with an interview or any aspect of the investigatory process. At the conclusion of the investigation, the investigator may provide an investigatory report to the chair of a decision-making panel ("Panel Chair") (see [Appendix B](#)). The Panel Chair should typically issue a written determination on behalf of the panel within 15 business days after the receipt of the investigative report to on the outcome of the investigation to the Complainant, the Respondent, and appropriate administrative personnel. The specific procedures and contents of the determination are described more fully in the next section.

(2) If a complaint made pursuant to this Policy also falls under the University Title IX Policy, the investigation and adjudication procedures of the Title IX Policy will be used to resolve the complaint.

(3) Staff and faculty may not use the Human Resources Grievance Procedure (Policy 160) (<https://www.rochester.edu/policies/policy/grievance-procedure/>) and faculty may not use other grievance procedures described in the Faculty Handbook to complain about discrimination/harassment based on a Protected Class or related retaliation.

(4) The University reserves the right to take temporary protective measures to protect individuals where the working, learning, patient care, or living environment appears to require such protective measures. Temporary protective measures include such actions as 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.

V. Determinations, remediation, and corrective measures

Where an investigatory report is completed, it will be forwarded to the appropriate Panel Chair. The Panel Chair (see Chart 1 below) must convene a panel to make a determination as to whether the facts indicated in the investigative report support a finding that this Policy has been violated and, if so, the appropriate sanction. Panel decisions must be approved by affirmative vote of a majority of the members. The panel shall consist of at least one person from Human Resources (either the Vice President for Human Resources or their designee), one person from the Office of Equity and Inclusion (either the Vice President for the Office of Equity and Inclusion or their designee), a senior leader from the School where the complaint arose, and a senior leader from a different School. In addition, if the investigation involves one or more parties who are faculty members, the panel shall also include a faculty member who does not hold an administrative appointment (“administrative appointment” is defined as a position at the rank of associate dean or equivalent or higher). If the investigation involves one or more parties

who are students, the panel shall also include a senior leader with responsibility for student affairs. A senior leader is defined as any individual with a title equivalent to dean (including associate and assistant), vice president (including associate and assistant), provost, director, chief, or chair. The Office of Equity and Inclusion will provide the Panel Chair with a list of individuals who have been appropriately trained to participate on a panel. Personnel who serve on a panel must keep any information revealed in the consultation confidential consistent with University policy.

Determinations regarding violations of this Policy will be made by using the preponderance of the evidence standard. Preponderance of the evidence means that an allegation is more likely true than not true. If a violation of this Policy is found, the panel will identify the appropriate remedial measures consistent with University policy and practice.

Prior to the issuance of a determination letter, the Panel Chair will advise the parties of the individuals who will comprise the decision-making panel. The Panel Chair will then issue a determination letter on behalf of the panel. That determination, sent to the Complainant and to the Respondent, will include a summary of the findings of the investigation and will indicate whether a Respondent has been found to have violated the Policy. Depending on the circumstances, the determination sent to both the Complainant and the Respondent will describe any corrective action to be taken as well as other recommendations based upon the findings.⁽⁵⁾

Neither the Complainant nor the Respondent will receive a copy of the investigatory report. However, following the issuance of the determination, the Complainant and Respondent may review the investigatory report in person or virtually, subject to redaction of personally identifiable information based on laws including but not limited to FERPA and HIPAA.

If the decision-making panel determines that a Respondent is responsible for violating this Policy, the consequences imposed are dependent upon the specific findings and details of the case.

Disciplinary, remedial, or corrective measures imposed can include, as applicable, but are not limited to:

- Termination
- Demotion
- Presentation to the University Committee on Tenure and Privileges for revocation of tenure or abrogation of contract
- Non-renewal of contract
- Reassignment/change in assignment
- Reduction in compensation or withholding a salary increase or other resources
- Revocation or suspension of clinical privileges
- Revocation of administrative duties or assignments
- Documentation of violation and consequences in faculty/employee file
- Mandatory training
- Supervision or ongoing monitoring
- Suspension without pay
- Written discipline
- Reporting a violation of this Policy to the appropriate grant making or licensing authority, if required

A finding that conduct did not violate this Policy does not preclude the University from requiring remedial measures, including but not limited to requiring mandatory training or coaching. A finding that conduct revealed during an investigation 1) violated another University policy or rule or 2) did not violate this Policy but was otherwise significant

enough to warrant disciplinary action, will still allow the University to take disciplinary, remedial or corrective measures even though there was no violation of this Policy. In addition, notwithstanding the resolution of a complaint under this Policy, if conduct is alleged or revealed that may violate another University policy or rule, the University may initiate a separate investigation or review that could result in disciplinary, remedial, or corrective measures directed to that conduct.

(5) In determining corrective action related to faculty, no faculty member's tenure can be revoked or contract abrogated without following the tenure revocation process outlined in the Faculty Handbook.

CHART I

Complaint Against:	Panel Chair will be:
A faculty member or discrimination concerns involving a faculty process	Dean of School where Respondent holds primary appointment or where the challenged process resides
Staff employee in a School or College	Dean of the Respondent's School or College
Staff employee – River Campus Libraries	Vice Provost and Dean of the Library
Staff employee – Laboratory for Laser Energetics	Director of the Laboratory for Laser Energetics
Staff employee – Memorial Art Gallery	Director of the Memorial Art Gallery

Staff employee – Strong Memorial Hospital	Chief Executive Officer of Strong Memorial Hospital (or designee)
Staff employee – Central Administration	Vice President of the Respondent’s division/unit (or designee)
Postdoctoral Fellow or Associate	Equivalent of the Dean of Graduate Studies of the Respondent’s School
Dean of School or College	Provost
Provost, Senior Vice President for Health Sciences, and Medical Center Chief Executive Officer	President
President	Chair, Board of Trustees
Visitor or Vendor (non-hospital)	Senior Vice President for Finance & Administration (or designee)
Patient, Visitor, or Vendor in Strong Memorial Hospital	Chief Executive Officer of Strong Memorial Hospital (or designee)

**In the event that the Panel Chair is not clear from the above chart, the matter will be referred to the Provost to identify a Panel Chair.

**In cases where the complaint is against the relevant Panel Chair or in cases where the Panel Chair was involved in the decision or matter which is the subject of the complaint, there may be a conflict of interest and an alternative administrator without a conflict may be appointed by the Provost or President. The Complainant will be made aware of who

the Panel Chair will be at the time of filing the complaint and, as soon as their names are available, the names of the members of the panel, and may request an alternate Panel Chair or panel member where such conflict exists.

VI. Appeals

Any party to an investigation resulting in a determination by a panel may appeal the decision within 15 business days of the date of the determination letter. Appeals are not for the purpose of having a second investigation or review of all facts but are limited to considering (1) evidence not previously available to the Investigator or the Official (or designee); (2) material defects in the process leading to the decision; or (3) severity or appropriateness of the imposed corrective action. Appeals must be submitted in writing to the appropriate senior officer or administrator, i.e., the Chief of Staff to the President, or their designee, where the accused is a staff member, visitor or patient; the Provost where the accused is a faculty member; and the President where the accused is an officer.

Upon receipt of the appeal, the senior officer or administrator will convene a three-person review panel, which will include the senior officer or administrator and one member each from Human Resources and the Office of Equity and Inclusion to review the appeal. The appeal review panel membership may not contain any individuals who served on the decision-making panel associated with the determination being appealed. The senior officer or administrator should typically communicate the decision of the review panel to the appellant no later than 15 business days after receipt of the appeal. The decision of the appeal review panel shall be final.

VII. Confidentiality

The University will take reasonable steps to protect the privacy of Complainants, Respondents, and witnesses. Complainants, Respondents, witnesses, and support persons will be notified that disclosing information about the complaint or investigation has the potential to compromise the integrity of the investigation, might affect perceptions

and memories of events and, in certain circumstances, might be construed as retaliation against a participant in the investigation. Retaliation of any kind is, in itself, a violation of this Policy. The parties remain free to share their own experiences, though, to avoid the possibility of compromising the confidentiality of the investigation, during the course of the investigation itself, it is generally advisable to limit the number of people in whom they confide. Depending on the circumstances, the investigator may take steps to protect the integrity of the investigation or to prevent conduct that could be perceived as retaliatory. Other than disclosure of the determination letter sent to the Complainant and the Respondent, the result of an investigation will not be shared with witnesses (except to notify them that the investigation has concluded). However, the President, the Office of Equity and Inclusion, or the Panel Chair in consultation with the Office of Counsel, may disclose the report or other information obtained during the investigation as required by law or regulation or as otherwise appropriate.

These provisions do not prevent the University from engaging in aggregated, anonymized reporting relating to this Policy.

VIII. Recordkeeping

The complete investigative file, including a copy of any determination or appeal decision relating to a complaint under this Policy, along with a copy of remedial action or discipline taken in response to any complaint, shall be maintained in the Office of Equity and Inclusion. No documentation relating to an investigation, including the determination itself, should be placed in any individual's personnel file *unless* that individual has been counseled or disciplined as a consequence of the complaint and investigation. Records of complaints and any remedial action taken must be provided to the Office of Equity and Inclusion.

If a violation of this Policy is not found, but the University takes other disciplinary, remedial or corrective measures based on information learned during the course of an investigation, Human Resources will place the documentation regarding such measures in that individual's personnel file, and may provide a copy to that individual's supervisor, chair, and/or dean, as appropriate.

IX. Additional Notices to Employees Required by New York State

New York State requires that employers provide employees, applicants, contractors, and other persons conducting business with the employer with information regarding legal protections and external remedies regarding claims of sexual harassment. This information is set forth in Appendix B.

While a Complainant does not need a private attorney to file a complaint with a governmental agency or with a court, Complainants may seek the legal advice of an attorney. The Office of Human Resources, the Office of the University Ombuds, the Office of Counsel, the Office of Equity and Inclusion, and the Title IX Coordinator can answer questions about this Policy, but no University employee or representative can provide legal advice to any Complainant, Respondent, or witness.

See also:

- #100 Workplace Values and Equal Opportunity Policy (<https://www.rochester.edu/policies/policy/workplace-values/>)
- #102 Affirmative Action Policy (<https://www.rochester.edu/policies/policy/affirmative-action/>)
- #133 Recruitment and Selection (<https://www.rochester.edu/policies/policy/recruitment-selection/>)
- #154 Corrective Discipline (<https://www.rochester.edu/policies/policy/corrective-discipline/>)
- #160 Grievance Procedure for Staff (<https://www.rochester.edu/policies/policy/grievance-procedure/>)
- Pertinent Handbooks (Faculty, Nursing, Student, Graduate Student, Medical Student, Residents/Fellow Manual, SMD Regulations of the Faculty)

Appendices

Appendix A: Title IX Coordinator and Deputy Coordinators

University Wide	<p>Kate Nearpass, Asst. Vice President for Civil Rights Compliance/Title IX Coordinator</p> <p>153 Wallis Hall, (585) 314-5723 (tel:5853145723) titleX@rochester.edu (mailto:titleX@rochester.edu)</p>
Arts, Sciences and Engineering	<p>Dawn Bruner, Deputy Coordinator 510 Wilson Commons, (585) 275-4085 (tel:5852754085) Dawn.Bruner@rochester.edu (mailto:Dawn.Bruner@rochester.edu)</p>
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Appendix B: Additional Notice to Employees Required by New York State

New York State requires that employers provide employees, applicants, contractors, and other persons conducting business with the employer with information regarding legal protections and external remedies regarding claims of sexual harassment. Reprinted below is language from the New York State Model Sexual Harassment Policy for All Employers in New York State.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the employer but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the employer, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the employer does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 (tel:7187418400) or visit www.dhr.ny.gov (<https://dhr.ny.gov/>).

Contact DHR at (888) 392-3644 (tel:8883923644) or visit <https://dhr.ny.gov/complaint> (<https://dhr.ny.gov/complaint>) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling [\(800\) 669-4000 \(tel:8006694000\)](tel:8006694000); TTY: [\(800\) 669-6820 \(tel:8006696820\)](tel:8006696820), visiting their website at <https://www.eeoc.gov/> (<https://www.eeoc.gov/>) or via email at info@eeoc.gov (<mailto:info@eeoc.gov>).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human

Rights, 40 Rector Street, 10th Floor, New York, New York; call [311 \(tel:311\)](tel:311) or [\(212\) 306-7450 \(tel:2123067450\)](tel:2123067450); or visit <http://www.nyc.gov/html/cchr/html/home/home.shtml> (<http://www.nyc.gov/html/cchr/html/home/home.shtml>).

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

ABOUT THIS POLICY

Policy Number

106

Issuing Authority

University of Rochester

Responsible Officer

Catherine Nearpass

Contact Information

cnearpass@ur.rochester.edu ([mailto: cnearpass@ur.rochester.edu](mailto:cnearpass@ur.rochester.edu))

ADDITIONAL RESOURCES

[Policy Translations \(https://www.rochester.edu/policies/discrimination-harassment/\)](https://www.rochester.edu/policies/discrimination-harassment/)

[PADH Report Form \(https://rochester-gme-advocate.symplicity.com/public_report/index.php/pid818927?rep_type=1002\)](https://rochester-gme-advocate.symplicity.com/public_report/index.php/pid818927?rep_type=1002)

[Title IX Policy \(https://www.rochester.edu/human-resources/wp-content/uploads/2021/01/Title-IX-Policy.pdf\)](https://www.rochester.edu/human-resources/wp-content/uploads/2021/01/Title-IX-Policy.pdf)

[Student Sexual Misconduct Policy \(https://rochester.edu/sexualmisconduct/assets/pdf/StudentSexualMisconductPolicy.pdf\)](https://rochester.edu/sexualmisconduct/assets/pdf/StudentSexualMisconductPolicy.pdf)

[Standards of Student Conduct \(https://www.rochester.edu/college/cscm/assets/pdf/standards-of-student-conduct.pdf\)](https://www.rochester.edu/college/cscm/assets/pdf/standards-of-student-conduct.pdf)

RELATED POLICIES

[Grievance Procedure \(https://www.rochester.edu/policies/policy/grievance-procedure/\)](https://www.rochester.edu/policies/policy/grievance-procedure/)

[Affirmative Action Policy for Minorities, Women, Disabled Individuals, and Protected Veterans \(https://www.rochester.edu/policies/policy/affirmative-action/\)](https://www.rochester.edu/policies/policy/affirmative-action/)

[Recruitment and Selection \(https://www.rochester.edu/policies/policy/recruitment-selection/\)](https://www.rochester.edu/policies/policy/recruitment-selection/)

[Corrective Discipline \(https://www.rochester.edu/policies/policy/corrective-discipline/\)](https://www.rochester.edu/policies/policy/corrective-discipline/)

[Workplace Values and Equal Opportunity Policy \(https://www.rochester.edu/policies/policy/workplace-values/\)](https://www.rochester.edu/policies/policy/workplace-values/)

POLICY KEYWORDS

[Conduct \(https://www.rochester.edu/policies/all/?filter%5Btopics%5D=346\)](https://www.rochester.edu/policies/all/?filter%5Btopics%5D=346)

[Equal Opportunity \(https://www.rochester.edu/policies/all/?filter%5Btopics%5D=396\)](https://www.rochester.edu/policies/all/?filter%5Btopics%5D=396)

[Harassment \(https://www.rochester.edu/policies/all/?filter%5Btopics%5D=1426\)](https://www.rochester.edu/policies/all/?filter%5Btopics%5D=1426)