

**RUTGERS ROBERT WOOD JOHNSON MEDICAL SCHOOL
NEW BRUNSWICK, NEW JERSEY**

GRADUATE MEDICAL EDUCATION MANUAL

POLICY#: VIII. 3
SECTION: HUMAN RESOURCES/ADMINISTRATION POLICIES
SUBJECT: PROHIBITING SEXUAL AND OTHER TYPES OF HARASSMENT

I. PURPOSE

This policy outlines the RUTGERS Robert Wood Johnson Medical School prohibition of any form of harassment and the procedures and mechanisms to resolve allegations of harassment including sexual harassment and sexual assault.

II. ACCOUNTABILITY

Under the direction of the President, the Associate Vice President for Affirmative Action and Equal Employment Opportunity (AA/EEO) through the Senior Vice Presidents shall ensure compliance with this policy. The Associate Vice President for Affirmative Action and Equal Employment Opportunity in conjunction with the Deans and Vice Presidents shall implement this policy.

III. APPLICABILITY

This policy applies to all full-time, part-time, permanent and temporary employees, faculty, staff and residents, applicants for employment, students, volunteers, patients, vendors, contractors, subcontractors and all parties engaged in business and educational relationships with the University.

IV. DEFINITIONS – SEE EXHIBIT C..

V. POLICY

The RUTGERS Robert Wood Johnson Medical School is committed to creating and maintaining a working and learning environment for all faculty, staff, and students that is free of objectionable, disrespectful, and harassing conduct or communication. The University prohibits sexual harassment and harassment on the basis of race, national origin, religion, disability, age, gender, sexual orientation and other impermissible factors in all educational, research, healthcare delivery and service components and has established procedures to address and resolve allegations of harassment.

The University views all forms of illegal harassment and all attempts to commit such acts as a serious offense and will impose disciplinary action up to and including but not limited to expulsion, required withdrawal, suspension or termination. Unlawful harassment will not be tolerated and allegations involving such behavior will be investigated in accordance with this policy.

The University regards sexual assault as a serious form of sexual harassment. Such conduct may result in civil or criminal prosecution by the State, as well as disciplinary action by the University. Allegations of sexual assault may be submitted pursuant to this policy for administrative resolution. The University is committed to maintaining an environment free from sexual assault and all other forms of violence. The University complies with and fully supports New Jersey's Campus Sexual Assault Victim's Bill of Rights, a copy of which is included as Exhibit D.

Information on rights and resources available to assist victims in coping with sexual assaults, whether at the time of an emergency or thereafter, is compiled and available in any office of Public Safety, Human Resources, AA/EEO, Ombudsperson, as well as from various offices of the Deans.

The Department of Public Safety is designated as the primary resource of protection and assistance for those who are sexually assaulted. Students are strongly encouraged, but not required, to report immediately any incident to the Department of Public Safety for assistance and investigation. In accordance with state statute RUTGERS Robert Wood Johnson Medical School police officers are authorized and prepared to enforce the criminal statutes of New Jersey, to make appropriate referrals for prosecution, and to assist victims in reaching appropriate sources of medical and personal help.

Any employee who has observed or is aware of an incident of sexual harassment or assault is required to immediately report the incident to the Office of AA/EEO or the Department of Public Safety for investigation.

A. Consensual Relationships:

1. Although the University acknowledges that consensual relationships are within the realm of individual privacy, it is necessary to advise that these relationships, particularly those occurring between supervisors and staff members, residents and students, or faculty members, especially where there is authority influence and responsibility for the staff member or student, can lead to circumstances which can be interpreted as sexual harassment.
2. Consensual relationships can also be viewed as causing a hostile or offensive work environment when other faculty, staff members, residents or students believe that the person(s) involved in the relationship(s) is/are receiving favorable treatment in employment or educational decisions and actions. Please refer to the **Rutgers Biomedical and Health Sciences Policy** (00-01-25-50:00), Students Rights, Responsibilities and Disciplinary Procedures and **RBHS Policy** (00-01-10-05:00), Code of Ethics: General Conduct.
3. The University prohibits any consensual relationship among faculty members and students, supervisors, staff members, or residents, when one individual has authority, influence, or responsibility with regard to the other. Persons engaging in such conduct may be subject to disciplinary action, if the conduct results in an offensive or hostile environment or interferes with the proper functioning of the University or any of its components or constituents.
4. An individual with supervisory or educational responsibility for an employee, resident, faculty member or student must inform his or her superior of the consensual relationship, so that the University can take action to change the reporting relationship between the two people. Failure to give proper notice to the supervisor's immediate superior may

result in denial of legal representation and indemnification by the State in the event that a lawsuit is filed in connection with the relationship.

B. Harassment Hearing Committee:

A Harassment Hearing Committee shall be established to hear appeals of findings of the AA/EEO Office under Step 2 Section C. It shall consist of five (5) members. The composition of the committee shall include the Senior Vice President for Administration and Finance or designee, the Senior Vice President for Academic Affairs or designee, and a University attorney designated by the Vice President for Legal Management. The remaining committee members shall be selected by the Chair and shall include one representative from the constituency of the person(s) alleging harassment and one from the constituency of the person being accused, as may be required, but not from the same school or unit. The President shall designate the Chair. Committee members are responsible for notifying the Chair if there are any personal and/or professional conflicts of interest that make service on a particular committee inadvisable. Upon request by either party, the Chair of the Committee shall determine whether a particular Committee member should not serve because of an actual or perceived conflict of interest.

Any member of the Committee who is a witness or the subject of a complaint or in possession of evidence concerning any claim of harassment that is the subject of an investigation pursuant to this policy and procedure, shall be disqualified from participation as a member of the Committee for that complaint. The Chair will designate a replacement Committee member unless he or she is disqualified pursuant to this paragraph. In that case, the President or the Chair of the Board of Trustees shall designate the replacement.

C. Complaint Resolution Procedures:

Any University person covered by this policy who feels subjected to or has witnessed sexual harassment or other illegal harassment, as outlined in the policy should immediately, and no later than (30) days after the conduct, report to the University AA/EEO office (EXHIBIT A) as follows:

1. Any person covered by this policy shall report the conduct to the Office of AA/EEO, except that students may choose to report the conduct to the Office of the Dean or a designee of the School. Should the allegations involve personnel in either of said Offices or involve said personnel's supervisory chain of authority, the matter shall be referred directly to the University's President.
2. The Office of AA/EEO shall immediately commence investigation of the alleged conduct through Step 1 below. The AA/EEO Office may commence investigation at the Step 2 – Formal Investigation for more serious allegations or at the request of the accuser or accused.

If the Office of the Dean of Student Affairs, the Dean or his/her designee*, receives the complaint, it may:

- a. discuss the allegations with all involved parties and attempt to reach resolution among the parties; or
- b. immediately refer the case to the Office of AA/EEO.

If the first option (a) is chosen, the Office of the Dean of Student Affairs must notify the Office of AA/EEO of the outcome. If the Office of the Dean of Student Affairs is unable to reach resolution among the parties, it will then forward the matter to the Office of AA/EEO.

*School Ombudspersons are a resource to help guide and assist students and housestaff in evaluating options for resolving problems. Because of their unique, informal problem-solving role, Ombudspersons shall not participate in the official complaint process.

Step 1: Informal Resolution

This process is designed to address harassment allegations being investigated by the Office of AA/EEO prior to a formal investigation and to seek resolution by agreement of all principal parties.

The informal resolution process includes the following:

1. Interviews of the parties regarding the allegations, or
2. Discussion with both parties of a resolution to which each agree, or
3. If both parties agree to resolution at this informal step, the Office of AA/EEO will conclude its review and close its file.

Informal resolution shall be completed within (30) calendar days from filing of the complaint. From receipt of accusation to informal resolution, a period of thirty (30) calendar days is the time limit for Step 1, applicable to all parties to the allegation. The time limit may be extended by agreement of all parties. Absent resolution or mutual agreement to extend the time limit, the allegation will be forwarded to Step 2 of the procedure.

Step 2: Formal Investigation

1. Failing informal resolution at Step 1, within the time limits as set out above, or at the request of the either party, Step 2 shall proceed as follows:
2. The Office of AA/EEO shall review the record established at Step 1 and investigate the allegation(s) further as warranted. This investigation may include but it is not limited to:
 - a. re-interview of the parties as warranted;
 - b. discussion with witnesses; and

- c. gathering of any other information deemed relevant.
3. It is anticipated that Step 2 will be completed within (60) calendar days. Absent resolution within (60) calendar days, the matter will be forwarded to Step 3.
4. At the conclusion of Step 2, the Office of AA/EEO shall render its findings and forward any recommendations to the appropriate supervisor or Dean's office.

The Office of AA/EEO may consult with the Office of Human Resources or the Office of Legal Management at any time. The parties shall be informed of the AA/EEO Office findings.

If the allegation involves a student as a party, the Office of the Dean of Student Affairs or Dean as appropriate shall be informed, if inappropriate conduct has been found. If the allegation involves a faculty member, as a party, the Dean shall be informed, if inappropriate conduct has been found. The appropriate Senior Vice President shall direct the appropriate supervisor to implement the recommended discipline, if any.

Step 3: Appeal

Harassment Hearing Committee

If either party is dissatisfied with the resolution of a complaint at Step 2 Formal Investigation, he or she may appeal to the Harassment Hearing Committee by submitting a written appeal to the Office of AA/EEO within fourteen (14) days of that office's findings made in the previous step. The Committee shall be convened within fourteen (14) calendar days of the appeal to consider the matter. The Committee may conduct such interviews and inquiries as it deems appropriate which may include consultation as to appropriate sanctions with the Office of Human Resources, the Office of Legal Management and the Office of AA/EEO. All Committee members, witnesses and other participants in the appeal hearing shall maintain confidentiality to the extent possible of the Committee's deliberations.

The Committee will render its determination including sanctions, if any, within fourteen (14) days of convening. The Committee's determination will be forwarded to the Office of AA/EEO who shall inform the parties, and the appropriate University Senior Vice President. The Senior Vice President shall ensure implementation of sanctions if any. If the allegation involves a student as a party, the Office of the Dean of Student Affairs shall be informed. If the allegation involves a faculty member as a party, the Dean shall be informed.

D. Sanctions:

Sanctions may include, by way of illustration but not limitation, directed counseling and/or mandatory education and training, warning, reprimand, probation, suspension, termination or expulsion. Sanctions shall be implemented

fully and in a timely manner. An AA/EEO Officer will monitor that the sanctions have been implemented.

E. Withdrawal of Allegation(s):

If the party making the allegation decides to withdraw the allegation(s) of harassment at any time during any step in the procedure, the withdrawal must be in writing and specify voluntary retraction of the complaint. This action will not necessarily preclude further investigation, findings or sanctions.

F. Recordkeeping:

The Office of AA/EEO will maintain a record of all complaints, which have been processed by the Office of AA/EEO. This information will be used to monitor complaint activity and to document the incidents and corrective actions taken by the University. Records of informal complaints handled by the Office of the Dean of Student Affairs shall be maintained in that office and reported to the Office of AA/EEO.

G. False Complaints and Refusal to Cooperate:

The intentional filing of a false complaint is a violation of this policy and may subject such person to discipline. Refusal to cooperate with/or participate in an investigation is a violation of this policy and may subject such person to discipline, except for refusal to participate by victims of sexual assaults. Anyone who believes that he/she has been the subject of a false complaint of harassment may meet with the Office of AA/EEO to discuss the allegations. If evidence of an intentional false complaint has been found, the AA/EEO Office shall recommend appropriate sanctions.

This provision is not intended to discourage complaints where an individual believes in good faith that harassment has occurred.

H. Retaliation:

The University prohibits retaliation against staff, faculty, students, or residents who have filed complaints or cooperated in an investigation or proceeding designed to foster the implementation of this policy. No form of interference, coercion, reprisal or retaliation will be tolerated especially in the form of lower grades, evaluations, or recommendations. Retaliation is a separate and distinct offense under this policy. Any person found to have retaliated against anyone will be subject to disciplinary action, up to and including termination or expulsion.

I. Confidentiality:

All participants in the complaint, investigation and appeal proceedings are expected to maintain confidentiality, except if disclosure is required by law, or when lack of disclosure impedes a full and fair investigation of the complaint or pursuit of an appeal.

J. Education:

Education on the prevention and recognition of any type of unlawful harassment will be required for all employees, including supervisory and managerial personnel, residents and students. Materials compiled to inform the University community of victim's rights and resources in case of sexual assault shall be distributed by the Department of Human Resources to each new employee at the time of orientation and by special publication issued annually to each member of the University community.

K. Legal Representation:

No attorneys, representing either party will be permitted to participate in the above complaint procedures.

L. Exceptions:

The Office of AA/EEO may make any exceptions to this policy in individual cases.

VI. EXHIBITS

- A. AA/EEO Campus Offices
- B. Internal Complaint Form (form available at Campus AA/EEO office)
- C. Definitions
- D. New Jersey's Campus Sexual Assault Victim's Bill of Rights

President
EXHIBIT A

AA/EEO Campus Offices

Newark
65 Bergen Street, Suite 1214
Stanley S. Bergen Jr., Bldg.
University Heights
Newark, N.J. 07107-3001
(973) 972-4855

Piscataway/New Brunswick
Liberty Plaza
335 George Street, 3rd Floor, Room 3300
New Brunswick, N.J. 08903
(732) 235-9394

Camden/Stratford

Primary Care Center
40 East Laurel Road, Suite 241
Stratford, N.J. 08084
(609) 566-7119

EXHIBIT B

Complaint Form - (form available at Campus AA/EEO office)

EXHIBIT C

Definitions

- A. **Harassment** is defined as any conduct directed toward an individual or group based upon one or more of the following categories or traits: race, religion, color, national origin, ancestry, age, sex, sexual orientation, disability, marital or veteran status that is sufficiently severe or pervasive to alter an individual's employment conditions, educational environment or participation in a University activity and that creates an intimidating, offensive or hostile environment for employment, education, or participation in a University activity.
- B. **Sexual Harassment** - unwelcome or unwanted sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when it takes the form of:
1. **Quid Pro Quo Sexual Harassment**
 - a. submission to or rejection of such sexual conduct is made implicitly or explicitly a term or condition of an individual's employment, study, or participation in University-sponsored activities; or
 - b. submission to or rejection of such sexual conduct is used as the basis for decisions affecting individuals' study, employment, or participation in University-sponsored activities.
 2. **Hostile Environment Sexual Harassment**

Such verbal or physical conduct or images that have the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile, offensive academic or working environment.
 3. **Third Party Sexual Harassment**

Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employers may be liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.
 4. **Examples of behavior which may be considered sexual harassment include, but are not limited to:**
 - a. direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion or grades;
 - b. direct propositions of a sexual nature;
 - c. sexually explicit and demeaning statements, questions, jokes or teasing;

- d. unnecessary touching, patting, hugging or brushing against a person's body or invading a person's space;
 - e. remarks of a sexual nature regarding a person's clothing, body, sexual activity, previous sexual experience, or sexual orientation or speculation about sexual experiences;
 - f. repeated requests for dates or social interaction made through verbal requests, notes, telephone calls, facsimiles, e-mail, etc.;
 - g. visual displays of sexually explicit materials or inappropriate sexual images in the workplace or academic setting; and
 - h. attempted or actual incidents of sexual assault.
- C. Consensual Relationships - shall include marriage, cohabitation, engagement, dating and other ongoing relationships of an intimate or close personal nature which passes beyond a platonic relationship.
- D. Sexual Assault - refers to nonconsensual sexual contact. It may involve the threat or use of force, violence or intimidation. It may involve sexual contact with a person who is unable to consent due to incapacity or impairment. Any nonconsensual sexual touching may be considered sexual assault.

EXHIBIT D

New Jersey's Campus Sexual Assault Victim's Bill of Rights

The following Rights shall be accorded to victims of sexual assault that occur:

on the campus of any public or independent institution of higher education in the state of New Jersey, and where the victim or alleged perpetrator is a student at that institution, and/or when the victim is a student in an off-campus sexual assault.

Human Dignity Rights:

to be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy to have any allegations of sexual assault treated seriously; the right to be treated with dignity; to be free from any suggestion that victims are responsible for the commission of crimes against them; to be free from any pressure from campus personnel to report crimes if the victim does not wish to do so; report crimes as lesser offenses than the victim perceives the crime to be; refrain from reporting crimes; and refrain from reporting crimes to avoid unwanted personal publicity.

Rights to Resources On and Off Campus:

to be notified of existing campus and community based medical, counseling, mental health and student services for victims of sexual assault whether or not the crime is formally reported to campus or civil authorities to have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling to be informed of and assisted in exercising any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy; and any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

Campus Judicial Rights:

to be afforded the same access to legal assistance as the accused;

to be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused; and

to be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

Legal Rights:

to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;

to receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities; and

to receive full, prompt and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

Campus Intervention Rights:

to require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants to be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

Statutory Mandates:

Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation.

Each campus shall make every reasonable effort to ensure that every student at that institution receives a copy of this document.

Nothing in this act, or in any "Campus Assault Victim's Bill of Rights" developed in accordance with the provisions of this act, shall be construed to preclude or in any way restrict any public or independent institution of higher education in the State from reporting any suspected crime or offense to the appropriate law enforcement authorities.

Rutgers Biomedical and Health Sciences Policy Code: 00-01-35-25:00

Adopted: 2/24/81

Amended: 02/04/02

Approved by GMEC on 2/23/99, 09/14/10