

## **Procedures for Addressing Allegations of Discrimination, Harassment, and Retaliation**

### **(Student v. Student)**

Title VI of the Civil Rights Act of 1964 provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” As an institution receiving Federal Funding, in accordance with Title VI, Rowan University prohibits discrimination, whether verbal, written, physical or psychological, based upon the following protected categories: race, creed, color, national origin/ethnicity, nationality, ancestry, age, sex/gender, pregnancy, marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, disability or any other protected classification (N.J.A.C. 4A:7-3.1).

Rowan University is committed to creating and maintaining an educational and living environment free from discrimination. If students feel they have been the victim of discrimination, harassment, or retaliation caused by a faculty or staff member, they should refer to the Rowan University Policy Prohibiting Discrimination in the Workplace and Educational Environment.

If students believe they are the victim of discrimination, harassment, or retaliation caused by another student, they should refer to the [Student Code of Conduct](#) (Code). Individuals are strongly encouraged to promptly file a complaint by contacting the Office of Student Equity and Compliance and/or by filling out the [Student Complaint Form for Discrimination/Harassment/Retaliation Complaints](#). Individuals may also file complaints directly with the Office for Civil Rights, United States Department of Education:

New Jersey, New York, Puerto Rico, Virgin Islands Office for Civil Rights New York Office  
U.S. Department of Education  
32 Old Slip, 26th Floor  
New York, NY 10005-2500  
Telephone: 646-428-3800 Fax: 646-428-3843 E-mail: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

Once a complaint of alleged discrimination, harassment, or retaliation by another student is received, the following resolution procedures will be initiated:

1. When a complaint is filed, action will be taken to review the matter within seven (7) business days to determine if there is sufficient information to initiate formal resolution measures. The Associate Vice President/Title IX Coordinator will determine the most appropriate avenue of response, including but not limited to, coordination with other University resources such as the Vice President of Student Life/Dean of Students. Where appropriate, the use of voluntary and informal resolution measures, such as mediation, may be used. Voluntary and informal resolution measures may not be used in cases where the allegations involve violence.

Note: If a report is deemed to be a potential violation of Title IX Sexual Harassment/Sexual Assault Policy or the Student Sexual Misconduct and Harassment Policy, the matter will be referred to the Title IX Coordinator.

2. At the Associate Vice President's discretion, where deemed necessary, a formal resolution procedure will be initiated. The AVP will conduct a comprehensive, impartial investigation. The investigation may include interviewing the parties involved, including witnesses, review of written statements, and the gathering of other relevant information. Investigations will adhere to the following tenets:
  - a. **CONFIDENTIALITY:** The University will endeavor to maintain the confidentiality of reported matters and of individuals involved, except to the extent necessary to carry out the purposes of this policy, including conducting investigations, and where required by law.
  - b. **NOTICE:** Once a formal resolution procedure has been started, the Complainant(s) and Respondent(s) will be notified in writing.
  - c. **ADVISORS:** The Complainant(s) and Respondent(s) have the right to an advisor of their choice during this investigation process. An advisor may be a family member, attorney or other third party. Advisors may be present to support the parties; however, advisors are not permitted to speak on behalf of any party during this process.
  - d. **LENGTH OF INVESTIGATION:** While the length of the process may vary based on the facts, circumstances, and witness availability in each case, every effort will be made to conclude the investigation within sixty (60) days provided doing so does not compromise the University's ability to conduct a fair, impartial, and thorough investigation and adjudicative process.
  - e. **STANDARD OF EVIDENCE:** A finding under this policy will be based on the preponderance of the evidence standard, in other words, a finding will be made if the evidence as a whole shows that is more likely than not that a violation of this policy occurred.
3. Upon completion of an investigation, the AVP will prepare a written investigation report. This report will include a comprehensive description of the evidence gathered during the investigation, the investigator's findings of fact, credibility determinations and whether a policy violation has occurred.
4. The Associate Vice President will issue a determination letter to the Complainant(s) and Respondent(s) stating whether the allegations of discrimination, harassment, or retaliation are substantiated or not substantiated.
  - a. If the allegations are substantiated (i.e., upheld or proven to be factual), the matter will be sent to the Division of Student Life for the imposition of sanctions

(Attachment 7), disciplinary action, and/or educational interventions in accordance with the Student Code of Conduct.

- b. If a party wish(es) to appeal the determination, they may request an appeal under the following circumstances:
  - i. A procedural or substantive error occurred in the process that significantly impacted the outcome of the hearing (e.g., material deviation from university policy; substantial bias; the findings and decision are contrary to the great weight of the evidence);
  - ii. New and significant information has become available which could not have been discovered by a properly diligent person before or during the hearing; or
  - iii. The sanction/disciplinary action imposed is inappropriate in light of the violation.
- c. Appeal requests should be made to the Vice President of Student Life/Dean of Students, or designee, in writing, within five (5) business days of receiving the decision letter. All appeal requests will be reviewed within fifteen (15) business days, and the decision of the Vice President of Student Life/Dean of Students will be final.

### **Adjudication of Complaints**

Once the Associate Vice President refers a matter to the Division of Student Life, the following protocol will be implemented:

1. The Assistant Dean of Student Life or designee will review the complaint and determine whether it should be adjudicated by the student discipline system, and, if so, the appropriate adjudicator will be determined. Matters not referred to the disciplinary system may be adjudicated through educational interventions implemented by the Vice President of Student Life or designee. The review of the complaint may not require meeting with all parties; The Assistant Dean of Student Life or designee will determine what meetings are necessary. For any disciplinary action for which sanctions may be imposed, the Respondent(s) will have his/her/their case heard before one of the following adjudicators:
  - a. *Administrative Hearing Officer* - If the alleged violation is one for which the student/organization could not be suspended or expelled from the University, the complaint will be heard by an Administrative Hearing Officer.
  - b. *Campus Hearing Board* - If the alleged violation is one for which the student/organization could likely be suspended or expelled from the University, the complaint will be heard by the Campus Hearing Board. (Refer to Attachment 5 for additional information concerning the Campus Hearing Board) A hold and a

transcript notation indicating “Pending Discipline” will also be placed on the Respondent’s transcript.

- c. *Special Interim Hearing Board* - If the Campus Hearing Board cannot meet, a Special Interim Hearing Board will be appointed at the discretion of the Office of Community Standards to expedite adjudication of student disciplinary cases under the following conditions:
  - i. An interim suspension has been issued (see Attachment 10), or
  - ii. The case will be adjudicated when the Campus Hearing Board cannot convene (for example, final exam week, vacation periods, or summer school, etc.)
2. The University will determine if the disciplinary hearing takes place in-person or virtually.
3. Notification and Communication
  - a. When it is determined that a complaint will be adjudicated by the student disciplinary system, the Respondent(s) will be notified of the alleged violation in writing (the "Hearing Notice") via a tracked letter sent to the student’s Rowan email address. This is the official method of notification and students are responsible for checking their University email address daily. The Hearing notice will state what portion of the Code was allegedly violated. The student will be notified of the hearing date in the Hearing Notice. The student will receive notice of a hearing at least three (3) business days prior to an Administrative Hearing and five (5) business days prior to a hearing before the Campus Hearing Board or Special Interim Hearing Board.
  - b. If the Respondent(s) or Complainant, if applicable, fails to attend the hearing, except when there is a justifiable reason (serious illness or hospitalization, death of member of immediate family, serious physical emergency, arrest or incarceration, or unavoidable transportation delay), the hearing will proceed, and a finding will be reached *in absentia* based upon the available information. No negative inference will be made from a failure of the Respondent(s) or Complainant to appear, participate or speak during a hearing.
  - c. All participants have the right to select an Advisor of their choosing, including an attorney. Advisors are expected to communicate privately with the student in a non-disruptive manner. Advisors may have no other role in the hearing/case and are not permitted to speak on behalf of the student, ask questions, or appear in lieu of the student/organization. Advisor availability will not be sufficient grounds for postponing a hearing. A hearing will not be cancelled or postponed in the event an Advisor does not attend. If the Advisor is not able to attend, the Respondent(s) or Complainant should arrange for a substitute.

- d. A student who wishes to have an attorney as an Advisor must inform the Office of Community Standards in writing, or electronic mail at least one (1) business day prior to a hearing. If a Complainant, Respondent(s) or other participant informs the University that an attorney will be present at the hearing, the University will decide if legal counsel for the University should also be present.
  - e. Both the Respondent(s) and the Complainant have the right to request witnesses to provide information at the hearing. Witnesses must have personal knowledge of the incident at issue and may serve no other role at the hearing/case. Witnesses may be present at the hearing only at the time they are called to participate. A hearing will not be cancelled or postponed if a scheduled witness does not attend.
  - f. Written statements of witnesses not in attendance due to extraordinary circumstances may be considered by the Hearing Officer or Campus Hearing Board. Character witnesses are considered irrelevant and will not be permitted to participate. A list of witnesses must be submitted to the Office of Community Standards at least one (1) business day prior to the hearing for approval and notification to other parties. The list should include each witness' name and a summary of the information s/he/they is expected to provide.
4. Administrative Agreement/Hearing Waiver
- a. The Respondent(s) and Complainant will be informed if the disciplinary complaint can be resolved by completing an Administrative Agreement/Hearing Waiver. An Administrative Agreement/Hearing Waiver would be completed only when there is acknowledgement of responsibility on the part of the Respondent(s), and agreement, by all parties including the Complainant, and/or victim that the sanction(s) imposed are reasonable and fair.
  - b. Sanction(s) will reflect the severity of the current charge(s) against the student/organization, as well as any previous disciplinary sanctions. All participants will voluntarily waive their rights to have the complaint adjudicated at a disciplinary hearing and appeal. Should the Respondent(s) not accept responsibility for the charges, nor accept the proposed sanction(s), then appearance at the disciplinary hearing is required.
5. Administrative Hearing Officer Procedures
- a. A student/organization may challenge the assignment of a specific hearing officer for reasonable cause. This challenge must be presented in writing to the Office of Community Standards at least one (1) business day prior to the scheduled date of the hearing. Upon reviewing the details of the challenge, the Assistant Dean of Student Life or designee will either uphold the challenge and appoint an alternate hearing officer and arrange a new hearing or deny the challenge.
  - b. Hearing officers will withdraw from adjudicating any case in which they cannot reach a fair and objective decision.

- c. The hearing officer will exercise control over the manner in which the hearing is conducted to avoid unnecessarily lengthy hearings and to prevent the harassment or intimidation of witnesses. This includes, but is not limited to, rejecting redundant or irrelevant questions and imposing reasonable limits on the number of factual witnesses that may participate. An explanation and record of any rejected question will be made. Technical legal rules of evidence, the wording of questions, hearsay and opinions will not be formally applied. Anyone who disrupts a hearing or who fails to adhere to hearing procedures may be excluded from the proceeding at the discretion of the hearing officer.
- d. The hearing officer will review all materials, hear all information pertinent to the case from the Complainant, the Respondent(s) and witnesses, consult with other hearing officers who are assigned to hearings within the same disciplinary case, clarify issues raised, render a decision based on the information presented, and take all actions and make all determinations necessary and proper for the hearing.
- e. The Respondent(s) will be presumed not responsible for the allegation. The hearing officer will determine if it was “more likely than not” that the Respondent was responsible after considering all of the credible information provided during the disciplinary hearing process. If the student is found responsible for a violation of University rules, any submitted statement of mitigating factors, records within the student's past disciplinary file and a written victim impact statement, if appropriate, will also be used in determining an appropriate sanction(s).
- f. Following all hearings in the case, the hearing officer will provide the Respondent(s) with written notification of the decision reached and information regarding the University's appeal process.
- g. For cases involving a victim of "crimes of violence,"(covered under this Code) the hearing officer will also provide the victim with written notification of the decision reached and information regarding the University's appeal process.