



RHODES UNIVERSITY

Grahamstown • 6140 • South Africa

Policy on Eradicating Unfair Discrimination and Harassment, Other Than Sexual Offences

Policy Volume	Academic Faculty & Students
Policy Chapter	Student Affairs
Responsible Committee/Unit/Division/Faculty	Equity & Institutional Culture Committee
Responsible Chairperson/Director/Manager	Manager: Anti-Harassment & Discrimination
Dates of First and Subsequent Council Approvals	12 September 2019
Revision History: Approved Reviews	
Review Cycle (e.g. every 2/5/7 years etc.)	5 years
Next Review Date	2024

POLICY PARTICULARS

Policy Title	Policy on Eradicating Unfair Discrimination and Harassment
Policy Statement	<p>In its Mission and Vision Statement, Rhodes University makes a commitment to developing shared values that embrace human rights and the underpinning fundamental dignity of all people. Harassment and unfair discrimination as a result of an individual's membership or perceived membership of a group significantly undermines this commitment. This policy outlines the university's commitment to eradicating harassment and unfair discrimination in order to provide an environment in which staff members and students are able to work effectively, study and fully participate in University life. The policy is intended to protect those who participate in University research activities. It also outlines the commitment to appropriate educational and awareness-raising strategies to address prejudicial beliefs and discriminatory practices.</p> <p>The University's commitment to eradicating all forms of harassment and unfair discrimination is rooted in Section 9 of the Constitution of the Republic of South Africa, 1996, which prohibits unfair discrimination directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and place of birth. Unfair discriminatory behaviour stemming from any prohibited ground will be dealt with in an appropriate manner.</p> <p>Section 6 of the Employment Equity Act 55 of 1998 (as amended) similarly prohibits unfair discrimination in the workplace.</p> <p>The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 was enacted to give effect to the prohibition of unfair discrimination as provided for in the Constitution, and as such prohibits behaviour related to unfair discrimination such as hate speech and harassment. The Act aims to facilitate the transition to a democratic society, united in its diversity, marked by human relations that are caring and compassionate, and guided by the principles of equality, fairness, equity, social progress, justice, human dignity and freedom.</p> <p>The policy should be read in conjunction with the:</p> <ol style="list-style-type: none"> 1. Staff Disciplinary Code & Procedure; and 2. Student Disciplinary Code 3. Sexual Offences Policy for Students <p>These Codes will be relied upon in the instance where complainants wish to pursue proceedings against an alleged perpetrator. The Student Disciplinary Code and Staff Disciplinary Code & Procedure and related policies are the governing documents on how disciplinary cases shall be dealt with.</p> <p>Sexual offences, including rape, sexual assault, sexual harassment and sexual violations are dealt with in terms of the Sexual Offences Policy for Students, read together with the Student Disciplinary Code, and the Staff Disciplinary Code & Procedure.</p>

Reason for Policy	<p>The overarching objective of this policy is to codify the University's commitment to eliminating harassment and unfair discrimination.</p> <p>The specific objectives of the policy are to:</p> <ol style="list-style-type: none"> 1. provide an environment in which students and staff members study and work effectively and fully participate in University life without any fear of being subjected to any form of harassment or unfair discrimination. 2. ensure that educational strategies are employed towards developing an understanding in students and staff members of the nature of harassment and unfair discrimination and its impact on the individual, the collective, the institution and society; 3. provide for the implementation of prevention strategies to minimise the likelihood of harassment and unfair discrimination where possible; 4. ensure that support strategies are developed and implemented for the benefit of complainants and/or those who witness incidents of harassment and / or unfair discrimination; 5. make provision for appropriate recourse to complainants who report harassment and/ or unfair discrimination to allow them to pursue justice; 6. ensure that appropriate mechanisms are available to allow the institution to assess and monitor the nature and extent of harassment and unfair discrimination.
People affected by this Policy	Students, staff, visitors and affiliates of Rhodes University and contracted service providers to Rhodes University.
Who should read this Policy	<p>All students and staff members of Rhodes University</p> <p>Manager: Anti-Harassment and Discrimination Employee Relations Manager</p> <p>Manager: Campus Protection Unit Director: Equity & Institutional Culture Director: Student Affairs</p> <p>Prosecutors Deputy Vice-Chancellor: Academic and Student Affairs Vice-Chancellor</p>
Website address/link for this Policy	https://www.ru.ac.za/media/rhodesuniversity/content/institutionalplanning/documents/Policy on Eradicating Unfair Discrimination and Harassment, Other Than Sexual Offences. pdf

RELATED LEGISLATION AND POLICIES

<p>Relevant Legislation (Legislation/Regulatory requirements/Organisational Reports – name these)</p> <p>The:</p> <ul style="list-style-type: none"> -Constitution of the Republic of South Africa, 1996 -Employment Equity Act 55 of 1998 -Promotion of Administrative Justice Act 3 of 2000 -Promotion of Equality & Prevention of Unfair Discrimination Act 4 of 2000 -Protection from Harassment Act 17 of 2001 -Protection of Personal Information Act 4 of 2013 -White Paper for Post-School Education and Training (2013)

Related Policies

- Rhodes University Staff Disability Policy , 2010
- Rhodes University Student Disability Policy, 2005
- Staff Disciplinary Code and Procedure, 2019
- Student Disciplinary Code, 2018

Appendix A Flow Chart

POLICY DEFINITIONS

TERM	DEFINITION
Discrimination	<p>Discrimination involves any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly –</p> <ul style="list-style-type: none"> (a) imposes burdens, obligations or disadvantages on; or (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds. <p>Discrimination must be unfair in order to be a contravention of the policy. Discrimination is unfair when it imposes burdens or withholds benefits or opportunities on any person on the following grounds: race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and place of birth. Discrimination is unfair when it impairs the fundamental dignity of the complainant.</p>
Harassment (excluding harassment of a sexual nature)	<p>Unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and which is related to a person's membership or presumed membership of a group identified by one or more of the prohibited grounds or a characteristic associated with such group.</p>
Hate Speech	<p>Any utterance – verbal, written, published, advocated or communicated in person – directed towards any person, that could reasonably be construed to be demonstrate a clear intention to:</p> <ul style="list-style-type: none"> (a) Be hurtful (b) Be harmful or incite harm (c) Promote or propagate hatred
Manager: Anti-Harassment & Discrimination	<p>The Manager: Anti-Harassment & Discrimination is the first line of reporting for staff and students who have experienced or witnessed incidents/behaviours of harassment and/or unfair discrimination. He/she/they are responsible for the implementation of this policy. For more details on the responsibilities of this officer, see Roles and Responsibilities: Role 1 of this policy.</p>
Prohibited grounds	<p>Prohibited grounds are:</p> <ul style="list-style-type: none"> (a) race, gender, sex, gender identity, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, nationality and place of birth; (b) or any other ground where discrimination is based on that ground- <ul style="list-style-type: none"> (i) Causes or perpetuates systematic disadvantage (ii) Undermines human dignity (iii) Adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph (a) above.

Prosecutor	A suitably qualified person, appointed by the Vice-Chancellor for such a period as the Vice-Chancellor may from time to time determine, in student discipline matters, to investigate, assess contraventions and represent the University before a duly constituted Disciplinary Authority.
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PRINCIPLES GOVERNING THIS POLICY

OVERVIEW
Rhodes University strives to uphold the following principles which are regarded as critical to eradicating harassment and unfair discrimination and promoting a culture of acceptance of diversity and forging social cohesion.
1. Confidentiality Internal processes under this policy are confidential unless there is a legal duty to disclose.
2. Commitment and support by the Executive and Senior Management <p>The University Executive and Senior Management are committed to ensuring the creation of a positive, inclusive, caring, nurturing, safe and affirming institutional culture, and environment in order to enhance intellectual, social and cultural experience of students, staff and those who participate in our research.</p> <p>Rhodes University embraces and values diversity and respects and celebrates difference. In this regard, the Executive and Senior Management explicitly, consistently and publicly reject all forms of unfair discrimination, prejudice, bigotry or chauvinistic behaviour, and harassment and seek to ensure efficient, effective and timeous recourse when a student or staff member is subjected to any form of unfair discrimination, prejudice, bigotry or chauvinistic behaviour, and harassment. Such commitment would be actively demonstrated through appropriate and consistent action being taken against staff members and students who engage in unfair discrimination and harassment.</p>
3. Efficiency Processes and procedures are clearly outlined such that support services for the complainant can be offered successfully. Each officer or department will have a specific role to perform as expeditiously as is reasonably possible.
4. Orientation of new staff and students The orientation for new staff members and students must address the University's commitment to eradicating harassment and unfair discrimination and its stance on dealing with such behaviours.
5. Accountability Within a context of adequate resources and personnel and with respect to the domains of authority and responsibility, the Director: Equity and Institutional Culture shall be held responsible for the implementation of this policy.

DIRECTIVES FOR IMPLEMENTING THIS POLICY

1. Education and awareness The University has a responsibility to ensure that appropriate educational and awareness strategies are developed and implemented. Such strategies should also provide an environment where complainants of harassment and unfair
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discrimination are more likely to come forward and have confidence that the University will act firmly and decisively against perpetrators of harassment and unfair discrimination. Interventions should be innovative, proactive, constantly evolving and highly visible. These could include awareness raising workshops, the use of drama/theatre, posters, and inserts in orientation programmes for new students and staff members. Talk forums must be conducted for staff members and students.

Educational strategies should seek to ensure that there is an awareness of:

- (i) Behaviours that constitute harassment and unfair discrimination and the impact of such behaviours on others;
- (ii) The support available to those who experience harassment and unfair discrimination and where to access such support or further information of such support;
- (iii) The procedures that will be followed in addressing incidents of harassment and unfair discrimination; and
- (iv) The roles and responsibilities of those in authority in the institution to promote an environment free of harassment and unfair discrimination.

The Manager: Anti-Harassment & Discrimination shall be responsible for co-ordinating educational and awareness programmes targeted at both students and staff members.

Consideration must also be given to ensuring that these issues are infused into the formal student curriculum and learning programmes. The Deputy Vice-Chancellor: Academic & Student Affairs, after consultation with the Deans, is responsible for this action. Synergies between the formal and extra-curriculum programme for students should be sought.

2. Strategies to support complainants of harassment and unfair discrimination

It is critical that complainants of harassment and unfair discrimination have access to support from responsible persons after an incident. It is also important that accurate information is provided to the complainant. Strategies must allow for the resolution of these complaints as quickly as possible.

2.1 Initial support

Initial emotional support will be provided by the Manager: Anti-Harassment & Discrimination whom the complainant first approaches. Complainants may also approach the Counselling Centre for initial psychological support and will be referred to the Manager: Anti-Harassment & Discrimination.

2.2. Medium-term support

Upon receipt of the complaint, the Manager: Anti-Harassment & Discrimination must assess the need for counselling and ensure that psychological and continuous emotional support is provided to the complainants. The Counselling Centre does provide such services to students.

Psychological and emotional support to staff complainants of harassment and unfair discrimination is provided by an external service provider coordinated by the Manager: Staff Wellness.

3. Recourses available to complainants of unfair discrimination, hate speech and harassment

The University reserves the right to prosecute any complaint by any person other than the complainant when such incidents happen in the public view.

In providing support to complainants, the Manager: Anti-harassment & Discrimination must outline the options available to the complainant. The options available are set out in 3.1, 3.2 and 3.3 below:

3.1 Reporting for noting

The complainant reports the incident to the Manager: Anti-harassment & Discrimination who notes the details of the incident and the decision of the complainant not to pursue the matter further. Where the complainant chooses to have the incident noted, the University does not have any obligation to investigate or take further steps on the basis of this report.

While these consultations will be confidential, it is important to note that certain information may be divulged as demanded by a court of law.

3.2 Mediation

The complainant requests that a third party intervention takes place, the Manager: Anti-harassment & Discrimination shall satisfy herself that the facts alleged by the complainant do prima facie amount to harassment, unfair discrimination or hate speech on the basis of a prohibited ground. A trained mediator shall mediate a session between the complainant and the accused. The benefit of this interaction is that it allows for the two parties to explore perceptions and experiences related to a particular incident. The complainant will have an opportunity to express their experience of violation to the accused in order to encourage an understanding of the perspective of the complainant. The accused, in turn, will have an opportunity to respond to the allegations.

Mediation requires voluntary participation by both parties. If the accused does not agree to the mediation, the complainant may elect to lay a formal complaint which will be investigated, and due process will be followed.

If mediation breaks down, the complainant shall not forfeit the right to proceed with formal action against the accused. Once a resolution is reached, both parties are bound by the memorandum of understanding that is drafted by both parties, reduced to writing and signed by both parties. If the terms of the resolution are breached, then the complainant has the right to proceed with formal disciplinary action.

If the accused is willing to engage in mediation, then the parties will choose a mediator from the list of Rhodes University trained mediators. In the event there is a dispute with the appointed mediator, the Manager: Anti-Harassment & Discrimination will facilitate the process.

The Manager: Anti-Harassment & Discrimination will coordinate a mediation session which will be concluded within ten (10) days after reporting.

3.3 Formal complaint for the purpose of disciplinary action

The complainant lays a formal complaint and the alleged incident is investigated and, where appropriate, disciplinary process against the accused is invoked.

- (a) In the case of students, complaints for the purposes of disciplinary action will be submitted to the Prosecutor. The Prosecutor may, in turn, refer minor matters to the Wardens.
- (b) In the case of staff members, complaints will be referred to the Employee Relations Manager.
- (c) In the event that the complaint is against anyone in the HR Division then the employee/person complaining about the misconduct shall make a written request to the Vice-Chancellor, who shall have the power to delegate the investigation and/or review of an investigation already done to any person she/he deems appropriate. The Vice-Chancellor or their nominee will decide whether there is a *prima facie* case to proceed with any disciplinary action against the employee. The Vice-Chancellor or their nominee shall have the powers set out herein in respect of any alleged transgression notwithstanding that the complaint may not have been made to the Vice-Chancellor.

The University has an obligation to its community to address harassment and unfair discrimination and to take appropriate measures in response to complaints it receives in this regard. Assistance to complainants must support and encourage their sense of personal control, which includes respecting the complainant's informed decision at every stage of the

process. The needs of the complainant must be prioritised. Reporting, investigative or support staff must offer comprehensive information about all processes and options in a manner which is non-judgemental, appropriate, clear and sensitive to the complainant.

Should the accused believe that a false allegation of harassment and unfair discrimination has been made, a complaint may be made to the Employee Relations Manager or Prosecutor who will investigate the complaint in accordance with his/her mandate. Someone who is facing a complaint should be advised that it is their right to lay a “counter-complaint”.

No disciplinary action shall be set down while there is a mediation process pending in a matter between a complainant and an accused.

Should investigations yield evidence of false complaints, they shall be dealt with as misconduct and the Student Disciplinary Code and the Staff Disciplinary Code & Procedure shall be invoked.

4. Reporting and Monitoring

The following mechanisms will be used to monitor the nature and extent of harassment, hate speech and unfair discrimination:

- 4.1 The Manager: Anti-Harassment & Discrimination will keep a record of all complaints received and the option chosen by the complainant, for statistical purposes.
- 4.2 The Manager: Anti-Harassment & Discrimination will collate data on the incidence and type of incidents and produce a bi-annual report on the statistical data and the types of the complaints that will be presented to the Institutional Forum and the Student Services Council.
- 4.3 Regular surveys, overseen by the Director: Equity & Institutional Culture to assess the nature and extent of harassment and unfair discrimination will be conducted.

ROLES AND RESPONSIBILITIES

(Roles and responsibilities of Key personnel/Divisions/Faculties/Departments)

ROLE	RESPONSIBILITY
<p>ROLE 1 Manager: Anti-Harassment & Discrimination</p>	<ul style="list-style-type: none"> (a) Being the first port of call for complainants in connection with this policy and will refer all the complaints as appropriate. (b) Assessing whether complaints fall within the ambit of the policy and are indeed valid in terms of the policy. (c) Outlining the options available to the complainant (see Directive 3 above) being careful to ensure that the complainant understands all the implications of the choices such that an informed decision can be made. (d) Where the complainant requests mediation, establishing if the alleged perpetrator agrees to the mediation and if so facilitating the process. (e) Where the complainant who is an employee chooses a formal disciplinary action, the Manager: Anti-Harassment & Discrimination shall hand the case over to the Employee Relations Manager to assess if there is a <i>prima facie</i> case for further action. (f) In the case of students, referring cases where the complainant has chosen to pursue disciplinary action, to the Prosecutors. (g) Providing a bi-annual report to the Equity & Institutional Culture Committee, the Institutional Forum and the Student Services Council on the nature of complaints. (h) Co-ordinating of the review of this policy (as outlined in the Policy Review Procedure below).
<p>ROLE 2 Employee Relations Manager</p>	<ul style="list-style-type: none"> (a) Responsible for activating the disciplinary action process in line with the Staff Disciplinary Code & Procedure.

	<ul style="list-style-type: none"> (b) Ensure that matters are handled and concluded as expeditiously as is reasonably possible. (c) Provide regular feedback to complainants regarding progress in the investigation. (d) Provide the Director: Communications and Advancement with information for media reporting as and when needed, whilst maintaining confidentiality. (e) Keep the Manager: Anti-Harassment and Discrimination apprised of the developments in relation to the matters referred to his/her office.
ROLE 3 Mediator	<ul style="list-style-type: none"> (a) Facilitate the completion of the agreement to mediate. (b) Conduct a mediation session. (c) Ensuring that at the end of the mediation session, the parties involved do sign the mediation settlement agreement. (d) Advise the Manager: Anti-Harassment & Discrimination of the outcome of the mediation process.
ROLE 4 Prosecutors	<ul style="list-style-type: none"> (a) Activate the disciplinary action process in line with the Student Disciplinary Code. (b) Ensure that matters are handled and concluded as expeditiously as is reasonably possible. (c) Provide regular feedback to complainants regarding progress in the investigation. (d) Provide the Director: Communications and Advancement with information for media reporting as and when needed, whilst maintaining confidentiality. (e) Keep the Manager: Anti-Harassment & Discrimination apprised on the developments in relation to the matters referred to his/her office.
ROLE 5 Vice-Chancellor	<ul style="list-style-type: none"> (a) Will enter into memoranda of understanding with other training institutions to ensure that procedures are put in place that enable students and staff to make complaints and that these are investigated and resolved. (b) Ensures that contracts with service providers that offer direct services to students and staff, include a provision deterring them from any form of harassment. Any harassment of a student or staff member by a service provider will constitute a breach of contract.

CONTACTS

Area of Concern	Division/Faculty/Department	Telephone	Email
Reporting	Equity & Institutional Culture	046 6038187	z.mkhize@ru.ac.za
Student Disciplinary action	Legal and Risk Services Manager	046 6038278	t.hartzenberg@ru.ac.za
Staff Disciplinary action	Employee Relations Manager	046 6037095	b.selana@ru.ac.za

POLICY REVIEW PROCEDURE

On an annual basis, the Equity & Institutional Culture Directorate will, through the Manager: Anti-harassment & Discrimination, evaluate the success of the strategies, structures and processes outlined in this policy. This information shall be collated and used as a basis for reviewing this policy. In addition, every five years, the following structures will be asked to raise any concerns with current strategies, structures and processes:

- (a) Unions: Consultations and agreement with the recognised unions as regards this policy as it relates to the staff disciplinary code and policies.
- (b) SRC
- (c) Human Resources Division

- (d) Faculty Boards
- (e) Student Services Council
- (f) Student Disciplinary Committee
- (g) Institutional Forum
- (h) Equity & Institutional Culture Committee

Communication of the review process

At the end of a five- year cycle, gaps identified in the implementation of the policy, will be consolidated and the Manager: Anti-harassment & Discrimination will develop a draft policy document. Consultative sessions will be held with the Unions, Student Representative Council, Student Services Council, Student Disciplinary Committee, Human Resources Division, Faculty Boards and the Institutional Forum. Input from the consultative sessions will be integrated into the draft document. The document will be forwarded to the relevant approval structures namely the Equity & Institutional Culture Committee, Senate Executive, Senate and Council.

LIST OF APPENDICES

Appendix A Flow Chart

