

RU Policies and Statements on Free Speech and Academic Freedom

As of September 26, 2017

1. President's Website: Rutgers President on Free Speech and Academic Freedom

<http://president.rutgers.edu/public-remarks/speeches-and-writings/rutgers-president-free-speech-and-academic-freedom>

Rutgers President on Free Speech and Academic Freedom

From time to time, people in and outside the Rutgers community have raised concerns regarding comments and expressions made by Rutgers faculty members, by students, and by speakers on our campuses who have been guests of student organizations. Some of the comments, expressions, and displays have been offensive to many people and have been inconsistent with the commitment Rutgers has to reasoned discussion and balanced points of view. Such comments do not represent the position of the University, nor should they be construed as having been expressed on behalf of the University.

Having said that, all of the members of our community—our faculty members, students, alumni, and staff—are free to express their viewpoints in public forums as private citizens, including viewpoints that the University itself or I personally may not share. And we do not restrict the activities of recognized university organizations, including the speakers they invite to campus, as long as these organizations obey the law and follow University policy and guidelines regarding these events.

Furthermore, academic freedom—the right of our faculty in the discharge of their duties to express their ideas and to challenge the ideas of others without fear of retribution—is a cornerstone of American higher education. Our University is a community of diverse ideas; we value academic freedom's protections that enable our faculty to state their views and engage in lively discourse. At Rutgers we encourage our faculty to explore new and sometimes controversial ideas and to subject assumptions to scrutiny, all within the boundaries of civil and respectful discourse, which academic freedom requires.

Both academic freedom and our First Amendment rights are at the core of what we do. Our University policy on speech is clear. All members of our community enjoy the rights of free expression guaranteed by the First Amendment. Faculty members, as private citizens, enjoy the same freedoms of speech and expression as any private citizen and shall be free from institutional discipline in the exercise of these rights. In addition, they also enjoy academic freedom of expression when functioning in their roles as faculty members. In all cases, however, the conduct of a faculty member must be in accordance with standards dictated by law.

While I will not defend the content of every opinion expressed by every member of our academic community, or of speakers who we invite to our campus, I will defend their right to speak freely. That freedom is fundamental to our University, our society, and our nation.

2. President's Website: Supporting Our Students' Respectful Free Expression and Privacy

<http://president.rutgers.edu/public-remarks/letters/supporting-our-students-respectful-free-expression-and-privacy>

Supporting Our Students' Respectful Free Expression and Privacy

November 15, 2016

Dear Rutgers Students,

Respectful dialogue is at the heart of everything we do at Rutgers; indeed, it makes us great. Our right to free expression is weighty, it carries with it tremendous power and enormous responsibility.

A community as diverse as ours holds many different views – and we value them all. We celebrate our diverse racial, ethnic, and economic profile, and we embrace our political diversity. Just like we encourage students to reach out to understand people of other races, ethnicities, genders, or cultures, so, too, must we encourage understanding among students of differing political beliefs.

As President, I want to emphasize that Rutgers University stands together with all our students. No matter your political view, ethnicity, religious beliefs, race, gender identity, sexual orientation, or nationality, you are first and foremost a Rutgers student, and you are owed our respect, our support, and our best efforts to keep you safe and secure as you express your opinions and pursue your studies.

Our University is and must be a safe place for all people to live and learn – where students and others of all viewpoints may express their ideas with the full expectation that they will be heard and respected. Robust exchanges may not always be comfortable, but they must always be respectful.

We encourage those discussions. They make us stronger and more resilient. But please know that we expect those discussions to be civil; we will not tolerate hate speech, threats of physical harm or intimidation by anyone on any side of any discussion on our campuses.

Our chancellors have been providing opportunities for students to express themselves, to share their concerns publicly and to speak privately with professionals to answer personal or legal concerns that they may have. Students who feel anxious or upset may always seek assistance from counseling professionals at the student health services locations in [Camden](#), [Newark](#), and [New Brunswick](#). The Rutgers Law School operates an Immigrant Rights Clinic (located at the Center for Law and Justice, room 402A, in Newark; 973-353-5292) which can confidentially answer questions regarding immigration law or other concerns of undocumented students.

Over the past few days, many students have raised concerns about their privacy and their safety. You should know that:

- We will protect student confidentiality and will not share private information unless required by law or a court order. We expect all persons associated with the University to protect student privacy and confidentiality, as well.
- Rutgers police do not inquire into nor record the immigration status of students or other persons unless a serious crime has been committed.
- Rutgers University does not use E-verify for any purposes other than to comply with longstanding federal law regarding employment eligibility. Immigration status is not a factor in student housing decisions.

Finally, you should be aware that US Immigration and Customs Enforcement (ICE) policy characterizes colleges and universities, like Rutgers, as “sensitive locations,” places where, in the normal course, enforcement actions should not occur unless extraordinary circumstances exist.

We cherish and will protect the rights of free expression and privacy that are afforded to all members of the Rutgers community. We will do everything in our power to protect the safety of our students and community. We embrace the passion and commitment to civic engagement that have defined Rutgers for 250 years. Let us set an example for the country that shows how real freedom of expression can be exercised in a safe and respectful manner.

Sincerely,

Robert Barchi

3. University Policy on Academic Freedom, including Statement on Professional Ethics <http://policies.rutgers.edu/sites/policies/files/60.5.1-current.pdf>

UNIVERSITY POLICY

Policy Name: Academic Freedom (includes Statement on Professional Ethics)

Section #: 60.5.1 Section Title: Faculty

Formerly Book: 3.3.1

Approval Authority: Board of Governors Adopted: 10/19/51 Reviewed: 7/13/2015 Responsible Executive: Senior Vice President for Academic Affairs Revised: 10/14/1957; 01/1967; 06/1972; 8/30/2005; 8/21/2006; 8/11/2008; 7/01/2013; 7/13/2015

Responsible Office: Office of Academic Labor Relations

Contact: Office of Academic Labor Relations 848-932-7174 aclr@rutgers.edu

1. Policy Statement This policy sets forth the University’s commitment to academic freedom and standards of professional ethics and faculty conduct. It also details the conditions and procedures associated with academic dismissals.

2. Reason for Policy To inform faculty members and academic administrators of the University's expectations and policies regarding faculty conduct and faculty dismissal.

3. Who Should Read this Policy • Chancellors, Provosts, Deans, directors and department chairs
• Faculty members • Academic administrators • All employees hired to teach

4. Resources Policy 60.1.8, Equal Employment Opportunity and Affirmative Action Policy 60.5.4, Faculty Appointment Procedures and Faculty Responsibilities Policy 60.5.8, Conflicts of Interest – Faculty, Professional Activities Outside the University and Outside Employment for Academic Personnel Policy 60.5.14, Criteria for Appointments, Reappointments and Promotions Oath or Affirmation of Office

5. The Policy Since the very nature of a university and its value to society depend upon the free pursuit and dissemination of knowledge and free artistic expression, all members of the faculty and teaching staff of the University, whether tenured or nontenured, full-time or part-time, are expected, whenever and wherever they engage in teaching, research, service, professional practice or clinical practice, as well as in their research and professional publication, freely to discuss subjects with which they are competent to deal, to pursue inquiry therein, and to present and endeavor to maintain their opinions and conclusions relevant thereto. In expressing those ideas which seem to them justified by the facts, they are expected to maintain standards of sound scholarship and competent teaching.

A. They shall conduct themselves in accordance with the standards of professional ethics, set forth in paragraphs I to V inclusive, of the following Statement on Professional Ethics adopted by the American Association of University Professors at its annual meeting in April 1966 and revised in June 1987.

Statement on Professional Ethics

I. Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

II. As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for the students as individuals and adhere to their proper role as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

III. As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.

IV. As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.

V. As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom."

B. Outside the fields of instruction, artistic expression, research, professional and clinical practice, and professional publication, faculty members, as private citizens, enjoy the same freedoms of speech and expression as any private citizen and shall be free from institutional discipline in the exercise of these rights. The conduct of the faculty member shall be in accordance with standards dictated by law.

C. Except as set forth in paragraph K below, paragraphs C through J shall apply. In the case of tenure-track faculty, after the expiration of a probationary period, faculty members should have permanent or continuous tenure, and their service should be terminated, except in the case of retirement for age, only (1) for adequate cause as defined in section D (formerly section 3.94); or (2) under extraordinary circumstances because of financial exigencies; or (3) when the teaching, research, extension program, or clinical program in which the faculty member is involved is terminated and said faculty member cannot be properly prepared for alternative duties.

D. Recommendations regarding dismissal of tenured faculty members or nontenured faculty members prior to the completion of their contract, when the ground is failure to maintain standards of sound scholarship and competent teaching, or gross neglect of established University obligations appropriate to the appointment, or incompetence, or incapacitation, or conviction of a crime involving moral turpitude, are made to the president through the senior vice president and chief academic officer and the appropriate chancellor by deans of colleges and schools, with the advice of the faculty committee on appointments and promotions, and with the

advice of the tenured faculty, at, or above, the particular rank in the faculty member's department.

E. The recommendation may be initiated at the departmental level; or the appropriate dean or director, the appropriate chancellor, the executive vice president and chief academic officer, or the president may direct that advice be given from the departmental level. A group of students who have taken courses with the faculty member may petition the department to consider initiation of tenure termination proceedings.

F. Those responsible for academic dismissal at each level are to base their recommendations without discrimination because of race, religion, sex, views on any subject, or natural origin. They shall utilize the judgment of faculty peers, and shall utilize the judgment of students, especially those with majors in the appropriate department.

G. If the President of the University finds reason to believe that a faculty member should be dismissed when the ground is that the faculty member has been convicted of a crime involving moral turpitude, or is incompetent, or incapacitated, or has failed to maintain for himself or herself standards of sound scholarship and competent teaching, or gross neglect of established University obligations appropriate to the appointment, the President shall send the faculty member a notice stating in detail the charges against the faculty member and informing the faculty member that the faculty member is entitled to a hearing if the faculty member shall ask for it within two weeks and that, in the absence of a request for a hearing, the faculty member may be dismissed from the faculty.

H. If the faculty member requests a hearing, it shall be held by a panel of five, selected by lot from the elected members of the University Senate; but the parties may first exercise a reasonable number of challenges, and a member of the Senate may be excused from service on the panel at the member's own request, for good cause. The procedure at the hearing shall fully conform to the concept of due process; but the hearing shall not be public unless the respondent so requests. The President of the University shall designate a lawyer or a member of the faculty to present the charges, and the respondent shall be entitled to the aid of counsel. The faculty member's reasonable expense shall be paid by the University. No administrative officer of the University shall participate in presenting charges, or as defense counsel, or as a member of the panel.

I. The panel shall determine whether the charges, or any part thereof, are true; whether the matters charged and proved constitute ground for dismissal under section C above (formerly section 3.93); and whether, taking into consideration the respondent's previous record and his or her value to the University, the faculty member should be dismissed or otherwise disciplined.

J. The report of the panel shall be presented to the Board of Governors and a copy thereof sent to the respondent. Written as well as oral argument may be submitted to the Board on behalf of the President and the respondent. If further evidence is required by the Board, the panel shall be reconvened to receive it and to make any further findings that may be appropriate. The Board shall accord great weight to the findings of the panel, and its final action affirming, revising, or modifying the panel shall be by vote for such action by at least six members of the Board.

K. In Robert Wood Johnson Medical School, School of Health Related Professions, Rutgers School of Dental Medicine, New Jersey Medical School, School of Public Health, and School of Nursing (former UMDNJ School of Nursing), dismissal of a faculty member will be in accordance with the applicable collective negotiations agreement.

4. University Policy: Academic Titles and Rank Equivalencies for Tenured, Tenure-Track and Non-Tenure Track Faculty

Section #: 60.5.2 Section Title: Faculty

<http://policies.rutgers.edu/sites/policies/files/60.5.2-current.pdf>

UNIVERSITY POLICY

Policy Name:

Academic Titles and Rank Equivalencies for Tenured, Tenure-Track and Non-Tenure Track Faculty

Section #: 60.5.2 Section Title: Faculty

Formerly Book:

3.3.2

Approval Authority:

Board of Governors Adopted: 11/10/61 Reviewed: 3/31/15

Responsible Executive: Executive Vice President for Academic Affairs

Revised: 12/9/99; 07/1/2010; 7/1/2013; 2/4/14, 3/31/2015

Responsible Office: Office of Academic Labor Relations

Contact: aclr@rutgers.edu Office of Academic Labor Relations 848-932-7174

1. Policy Statement There is rank equivalence among instructional, teaching, research, clinical, extension, professional practice and library faculty of the University. This policy catalogs the customary range of equivalent titles for tenured, tenure-track, and non-tenure track faculty.

2. Reason for Policy To identify the faculty titles that are equivalent in salary, tenure, academic rights and responsibilities, comparable standards and procedures for appointment, reappointment, promotion and granting of tenure, and guarantees of academic freedom and due process.

3. Who Should Read this Policy □ Chancellors, deans, directors and department chairs □ Faculty members □ Academic administrators

4. Resources Policy 60.5.3 - Other Academic Titles

5. The Policy Rank Equivalencies. There is rank equivalence among instructional, teaching, research, clinical, extension, professional practice and library faculty of the University. Except that non-tenure track faculty are not eligible for tenure, rank equivalence means equivalence in salary, equivalence in tenure, equivalence in academic rights and responsibilities, comparable standards and procedures for appointment, reappointment, promotion and granting of tenure, and guarantees of academic freedom and due process.

A. Except as set forth in paragraph B, the titles within each of the following ranks of faculty are equivalent with the other titles within the same rank:

1. Distinguished Professor, Distinguished Teaching Professor, Distinguished Research Professor, Distinguished Clinical Professor, Distinguished Clinical Professor Law,

Distinguished Extension Specialist, Distinguished Professor of Professional Practice.1

2. Professor, Teaching Professor, Research Professor, Clinical Professor, Clinical Professor Law, Extension Specialist, County Agent I, Professor of Professional Practice, Librarian I, Librarian of Practice I.

3. Associate Professor, Associate Teaching Professor, Associate Research Professor, Clinical Associate Professor, Clinical Associate Professor Law, Associate Extension Specialist, County Agent II, Associate Professor of Professional Practice, Librarian II, Librarian of Practice II.

4. Assistant Professor, Assistant Teaching Professor, Assistant Research Professor, Clinical Assistant Professor, Clinical Assistant Professor Law, Assistant Extension Specialist, County Agent III, Assistant Professor of Professional Practice, Librarian III, Librarian of Practice III.

5. Instructor, Teaching Instructor, Research Associate, Clinical Instructor, Clinical Instructor Law, Extension Associate, County Agent IV, Instructor of Professional Practice, Librarian IV, Librarian of Practice IV.

6. Assistant Instructor, Research Assistant, Clinical Assistant Instructor, Extension Assistant, County Agent V, Librarian V. B. In Robert Wood Johnson Medical School, School of Health Related Professions, Rutgers School of Dental Medicine, New Jersey Medical School, School of Public Health, and School of Nursing (former UMDNJ School of Nursing), the titles within each of the following ranks of faculty are equivalent, with the exception of salary, with the other titles within the same rank:

1. Distinguished Professor, Professor, Adjunct Professor, Clinical Professor.

2. Associate Professor, Adjunct Associate Professor, Clinical Associate Professor.

3. Assistant Professor, Adjunct Assistant Professor, Clinical Assistant Professor.

4. Instructor, Adjunct Instructor, Clinical Instructor.

**5. AGREEMENT BETWEEN RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY and RUTGERS COUNCIL OF AAUP CHAPTERS, AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS-AMERICAN FEDERATION OF TEACHERS, AFL-CIO
September 1, 2014 – June 30, 2018**

<http://academiclaborrelations.rutgers.edu/sites/academiclaborrelations/files/2014-2018%20Faculty%20Contract%2010-6-15%20FINAL.pdf>

From page 3:

II - ACADEMIC FREEDOM

The parties hereto recognize the principles of academic freedom as adopted by the University's Board of Governors on January 13, 1967.

6. UNIVERSITY LIBRARIES FACULTY RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY BYLAWS

https://www.libraries.rutgers.edu/rul/staff/lib_fac/pdfs/fac_bylaws.pdf

Preamble

The University Libraries Faculty is dedicated to providing outstanding scholarly information resources and services to the University and its stakeholders, to incorporating the best practices of the profession of librarianship, and to fostering innovative scholarly and creative activity.

The University Libraries Faculty is committed to academic and intellectual freedom and acknowledges the responsibilities and obligations inherent in those freedoms.

These bylaws provide for the governance of the University Libraries Faculty and adhere to the applicable provisions of University policies, which supersede the bylaws in the event of conflict.

7. UNIVERSITY LIBRARY POLICY WITH RESPECT TO QUALIFICATIONS FOR APPOINTMENT AT LIBRARIAN RANK

https://www.libraries.rutgers.edu/rul/staff/lib_fac/pdfs/univ_lib_policy_rank.pdf

INTRODUCTION

According to the University Policy Library the "University Libraries support and enrich the instructional, research, and public service missions of the University" (10.1.4). Since academic

librarians both participate in and give support to the educational and research programs at Rutgers, they possess rank equivalency with the faculty, thus guaranteeing “equivalence in salary, equivalence in tenure, equivalence in academic rights and responsibilities, comparable standards and procedures for appointment, reappointment, promotion and granting of tenure, and guarantees of academic freedom and due process” (10.1.4).

8. Rutgers School of Public Health: BYLAWS FOR THE GOVERNANCE OF THE SCHOOL OF PUBLIC HEALTH RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY (July 1, 2016)

<http://sph.rutgers.edu/about/docs/bylaws.pdf>

Section 6. ACADEMIC FREEDOM AND ACADEMIC RESPONSIBILITY It is the policy of the University to foster and maintain full freedom of discussion, inquiry, teaching and research. It is the responsibility of the faculty of the University to foster and maintain high standards of professional, academic and public conduct and morals. Every member of the faculty of the University is entitled to discuss relevant subjects freely in the classroom. In research and publication each faculty member is entitled to discuss freely those subjects with which he or she is competent to deal, to pursue inquiry thereunto and to present and endeavor to maintain the opinions and conclusions relevant thereunto. While free to express those ideas which seem to him or to her justified by the facts, the faculty member is expected to maintain standards of sound scholarship and competent teaching. Every member of the faculty of the University is obliged by his or her position and the standards of his or her profession to work for the betterment of the University, its component schools, the academic community and the communities where the University facilities are located. Each faculty member should lend his or her counsel as may be required and should undertake in the spirit of community a fair share of the burdens of organization,

School of Public Health Bylaws

July 1, 2016 Page 7 of 13

legislation and deliberation within the University, the School and the department. Every member of the faculty, outside of the fields of instruction, research and publication should conduct himself or herself in a manner that is neither reprehensible nor yielding of discredit to the University. When speaking or writing as a citizen, he or she shall be free from institutional censorship or discipline, but should be accurate, should exercise appropriate restraint, should show respect for the opinions of others and must clearly indicate that he or she is not a spokesperson for the institution.

9. School of Dental Medicine Faculty Handbook

<http://sdm.rutgers.edu/about/pdf/FacultyHandbook.pdf>

(p 108-109) B. Student Rights 1. Students on Rutgers campuses have the following rights: the academic freedom to examine and discuss all questions of relevance and to express opinions publicly and privately; the right to be informed of and to participate, when invited, in the formulation and implementation of appropriate policies and procedures affecting student affairs, and to express views about policies and issues of student interest; the right to form associations to promote common interests; the right to be apprised of criteria for academic evaluation, advancement and graduation; all rights and protections mandated by applicable Federal and state constitutions, laws and regulations; and the right to seek redress of grievances and have complaints heard.

2. Each RBHS School shall have and shall publicize policies, procedures and standards ensuring that its students can exercise the above rights.

10. Summary of Amendments to RWJMS Bylaws (*As of December 12, 2016*)

http://rwjms.rutgers.edu/about_rwjms/faculty/faculty_affairs/bylaws_policies/documents/SummaryofAmendments_000.pdf

Summary of Amendments to RWJMS Bylaws

As of December 12, 2016

When RWJMS was integrated with Rutgers, sections of the UMDNJ Bylaws previously referenced had to be included specifically in the RWJMS Bylaws (Article and Section numbers for 2013 RWJMS Bylaws are given):

- The definition of Academic Freedom and Responsibility (Art 1 Sec 6)
- Termination of Service (Art 1 Sec 7)
- Duties and responsibilities of the Dean (Art II Sec 1)
- Duties and responsibilities of Department Chairs (Art II Sec 5)
- Policies, procedures and criteria for appointments and promotions; definitions of academic titles and ranks; emeritus designation; leaves of absence (Art III Sec 4)

The 2016 proposed bylaws respond to new LCME standards, and reflect current practice for committees and requirements from Rutgers central administration.

Changes that may affect faculty members directly include the following (*Article and Section numbers for 2016 RWJMS Bylaws draft are given*):

- Definition of Academic Freedom removed, since it is defined in University level policy 60.5.1
- Termination of Service removed, since it is in the AAUP contract

- Incorporated to *Article I*, a new *Section 6*: appointment and promotion of faculty will adhere to RBHS Policies and Guidelines; this is comparable to RWJMS Bylaws prior to 2013, which referred to UMDNJ Bylaws for this information
- Definition of tenure now included in RWJMS Bylaws (*Article I, Section 6.2*), which was previously in the UMDNJ Bylaws
- Duties and Powers of the Faculty (*Article I, Section 3*) no longer includes “establishment of written criteria and procedures for appointment and promotion” as the University says the power to establish criteria lies elsewhere
- Activities and composition of RWJMS Advisory Committee on Appointments and Promotions remain in *Article III, Section 4*, affirming requirement for its advisory role to the Dean

Some additional changes (*Article and Section numbers for 2016 RWJMS Bylaws draft are given*):

- Duties and Powers of the Faculty (*Article I, Section 3*) now includes establishment of goals and policies with regard to diversity and inclusion; definition and adherence to standards of professionalism; review of the “actions” of standing committees rather than review of their “functions and policies”
- Committee of Review eliminated at request of the Rutgers Office of Academic Affairs and Rutgers Counsel
- Graduate Biomedical Sciences Education Committee eliminated pending reorganization of the graduate schools
- New Professionalism Committee established (*Article I, Section 13*)

11. RBHS Students Rights, Responsibilities, and Disciplinary Procedures

<http://academicaffairs.rutgers.edu/sites/academicaffairs/files/RBHS%20Chancellor%20Policy%20Students%20Rights%20Responsibilities%20and%20Disciplinary%20Procedures%206.19.13.pdf>

Policy Name: Students Rights, Responsibilities, and Disciplinary Procedures

Approval Authority: RBHS Chancellor

Originally Issued: 06/07/1995

Revisions: 1/10/2010, 4/22/2013

B. Student Rights (p.2)

1. Students on Rutgers campuses have the following rights: the academic freedom to examine and discuss all questions of relevance and to express opinions publicly and privately; the right to be informed of and to participate, when invited, in the formulation and implementation of appropriate policies and procedures affecting student affairs, and to express views about policies and issues of student interest; the right to form associations to promote common interests; the right to be apprised of criteria for academic evaluation, advancement and graduation; all rights and protections mandated by applicable Federal and state constitutions, laws and regulations; and the right to seek redress of grievances and have complaints heard.

12. Robert Wood Johnson Medical School Student Handbook, 2017-18

<http://rwjms.rutgers.edu/education/documents/RWJMSSStudentHandbook.pdf>

(p. 217) B. Student Rights

1. Students on Rutgers campuses have the following rights: the academic freedom to examine and discuss all questions of relevance and to express opinions publicly and privately; the right to be informed of and to participate, when invited, in the formulation and implementation of appropriate policies and procedures affecting student affairs, and to express views about policies and issues of student interest; the right to form associations to promote common interests; the right to be apprised of criteria for academic evaluation, advancement and graduation; all rights and protections mandated by applicable Federal and state constitutions, laws and regulations; and the right to seek redress of grievances and have complaints heard.

(p. 242) II. POLICY Rutgers University is committed to a working and learning environment for all faculty, staff and students that is free from discrimination and harassment. The University strictly prohibits discrimination and harassment based on membership in certain enumerated protected classes (“protected classes”). These classes are race, religion, color, national origin, ancestry, age, sex, sexual orientation, pregnancy, gender identity and expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. Harassment is a form of discrimination and, therefore, harassment directed toward an individual or group, or experienced by an individual or group, based on membership in a protected class, also violates University policy.

Discrimination and harassment compromise the integrity of the University and unfairly interfere with the opportunity for all persons to fully participate in the academic, work, and living environment at Rutgers. The University recognizes the human dignity of each member of the Rutgers community and believes that each member has a responsibility to promote respect and dignity for others so that all employees and students are free to pursue their educational and work goals in an open environment, participate in the free exchange of ideas, and to share equally in the University’s employment and educational opportunities. To achieve this end, the University strives to foster an academic, work, and living environment that is free from discrimination and harassment on the basis of membership in the protected classes referenced above.

At the same time, the University is committed to the principles of academic freedom and believes that vigorous discussion and debate, as well as free inquiry and free expression, are an integral part of the University community.

(p. 242) V. ACADEMIC FREEDOM The classroom and other instructional settings (e.g., studio, laboratory) present special problems because academic freedom protects the expression of ideas, even when the idea or its expression may be perceived to be offensive, if conduct or statements which are the subject of a complaint are germane to the subject matter taught. The educational process is predicated upon the free exchange of ideas, and this Policy shall not be interpreted to prohibit free expression protected by the First Amendment. The National AAUP’s

Statement on Professional Ethics provides that professors should avoid any exploitation, harassment, or discriminatory treatment of students. The 1940 Statement of Principles on Academic Freedom and Tenure provides that Professors should not introduce into their teaching controversial matter which has no relation to their subject. Accordingly, if conduct or statements which are the subject of a complaint occur in an instructional context and are germane to the subject matter being taught, wide latitude is required for professional judgment in determining the appropriate content and presentation of the academic material being taught. Therefore, harassment in violation of this Policy will not be found to exist in an instructional setting unless the conduct or statements which are the subject of a complaint are not germane to the subject matter taught and: □ are directed toward an individual or group based on one or more of the protected classes listed in Section I above; □ are sufficiently severe or pervasive to alter an individual's educational environment; □ create an objectively hostile learning environment; and □ are, in fact, perceived as hostile by the complainant.

13. Rutgers Standards of Conduct – Student Organization Policy & Procedure

<https://slwordpress.rutgers.edu/studentconduct/wp-content/uploads/sites/46/2017/05/Student-Organization-Conduct.pdf>

INTRODUCTION

Rutgers, The State University of New Jersey, which will be referred to as “the University”, is committed to supporting student organizations which permit and foster the student's ability to freely associate and express themselves. This support is formalized through the University recognition system, which has been put in place to serve the interest of both the University and the student organizations. Student organizations that choose to be recognized by the University, accept the rights and responsibilities outlined in this policy. Within the University, schools, colleges, funding sources, student governing bodies or other entities have developed policies regarding the operation of student organizations. The Standards of Conduct for Registered/Recognized Student Organizations do not replace those standards, limit the procedures and sanctions provided by those policies, federal, state, or local laws, nor contradict or lessen those standards.

14. Rutgers Student Affairs – “Our Mission”

<http://studentconduct.rutgers.edu/about-us/our-mission/>

The Office of Student Conduct supports the educational goals of Rutgers University by facilitating processes that 1) assist students in making better choices in regards to their behavior, 2) provide an outlet for community members to addresses conflict, and 3) aid in the creation of a safer, more educational, and more inclusive community.

Our Goals

- To deliver a multi-partial, educational, student conduct system.
- To promote a positive, safe, and civil campus climate.
- To provide opportunities and options for community members to resolve conflicts.
- To educate the University community on the University Code of Student Conduct and the Academic Integrity Policy.
- To treat all community members with consideration and respect.
- To support students in their educational and personal development by challenging students when their behavior violates community standards and providing opportunities for them to learn from their actions.

15. Rutgers Student Affairs – University Code of Student Conduct

<http://studentconduct.rutgers.edu/disciplinary-processes/university-code-of-student-conduct/>

From the Preamble:

Rutgers, The State University of New Jersey, is dedicated to teaching that meets the highest standards of excellence; to conducting research that breaks new ground; and to turning knowledge into solutions for local, national, and global communities. As it was at our founding in 1766, the heart of our mission is preparing students to become productive members of society and good citizens of the world.

When students choose to accept admission to Rutgers University, they accept the rights and responsibilities of membership in the University’s academic and social community. As members of the University community, students are expected to uphold our stated values by maintaining a high standard of conduct. Because the University establishes high standards for membership, its standards of conduct may exceed federal, state, or local requirements.

16. HANDBOOK OF THE RUTGERS UNIVERSITY SENATE

<http://senate.rutgers.edu/handbookrevisions042205rev042005.pdf>

Brief History of the University Senate

In 1950, the University Committee on Personnel Procedures recommended creation of a Faculty Senate to consist of the University president and members elected from, and by, the faculty (Preliminary Report of the Special Committee to Study the Senate, April 15, 1968). In 1953, the existing University Council was renamed the “University Senate.” It was composed of 31 faculty members and 17 administrators, and was chaired by the University president, who also chaired its Executive Committee. It usually met only twice a year, and was rarely involved in important matters. University policy remained essentially the prerogative of the administration and the trustees (Excerpts from the Report of the Joint Commission on University Governance,

June 1979). This University Senate made recommendations to the president on such matters as academic freedom and tenure. Other important matters pertaining to academic policy, such as the reorganization of the colleges and the faculties, were not referred to the Senate (Preliminary Report of the Special Committee to Study the Senate, April 15, 1968, pp. 1-9).

...

B. Advisory Function

The Senate shall study and advise on matters listed in University Regulation 2.2.2.B. on its own initiative, or when these matters are brought to the Senate's attention by the central administration, by colleges, faculties and divisions of the University, or by special-interest groups or individuals within the University.

1. Those matters include all matters of broad educational and research policy including, but not limited to:

a. budget priorities and allocations, and general planning; b. establishment or dissolution of colleges, schools, divisions, institutes, and similar educational units (described in a policy of the Board of Governors of May 10, 1991)⁵; c. special affiliations and programs; d. regulations affecting students and faculty, such as those concerning academic freedom, equal opportunities, and personnel practices and procedures; and e. such changes in educational and research policy as are covered in University Regulations.

...

(p 19-20) 5. Faculty Affairs and Personnel Committee

Standing Charge: The Faculty Affairs and Personnel Committee (FAPC) shall have primary responsibility for matters directly concerning faculty, with the exception of matters included under the collective bargaining agreement. These shall include, but are not limited to, the following:

- Survey the general policies of Rutgers with respect to the rank and standing of all faculty personnel.
- Review all procedures and regulations by which appointments, promotions and tenure are governed.
- Study the relations of the faculty members to administrative officers, and the manner in which administrative requirements affect faculty.
- Evaluate and recommend policies concerning both internal funding for research and the conditions under which external research funds are solicited, accepted and administered.
- Consider patent and human subject policies of Rutgers.
- Advise administrative officers and others, through the Senate, on questions relating to actual, possible or alleged discrimination as it affects the faculty and staff of Rutgers or Rutgers' responsibility to the public.
- Review matters concerning academic freedom, equal opportunities, and personnel practices and procedures, as these matters affect the educational mission of Rutgers.

17. Duties and Powers of the Senate

<http://senate.rutgers.edu/handbook.html#2.2.2>.

2.2.2. Duties and Powers of the Senate

A. The Senate shall concern itself with all academic matters pertaining to the University. Taking into account the diverse functions of the separate units of the University, it shall establish minimum standards respecting admission, scholarship and honors. The Senate shall also regulate formal relationships among academic units within the University, including the organization of the disciplines, recommend norms for teaching loads, and establish the University calendar. The Senate shall in addition have such other powers as the Board of Governors may delegate to it.

B. The Senate shall advise the President on matters of broad educational and research policy, which matters include but are not limited to: (a) budget priorities and allocations and general planning, (b) the establishment or dissolution of colleges, schools, divisions, institutes, and similar educational units, (c) special affiliations and programs, (d) regulations affecting students and faculty, such as those concerning academic freedom, equal opportunities, and personnel practices and procedures, and (e) such changes in educational and research policy as are covered in the *University Regulations and Procedures Manual*. The Senate may also initiate action on these matters. The President of the University shall act on such matters only after having received the advice of the Senate or after giving the Senate a reasonable time in which to present its views. If there is a question as to whether a matter is of broad educational and research policy, the Senate Executive Committee shall be informed in order to determine Senate action on that matter. When special circumstances require prompt action, and when the Senate as a body is either out of session or not available for timely consultation, the President shall ask the Executive Committee of the Senate to convene as expeditiously as possible, in order to hear the reasons why emergency action seems necessary and to provide counsel on both the assessment of the situation and the proposed course of action. If the full membership of the Senate Executive Committee cannot be convened within a reasonable period of time, the President shall consult with such members as can be convened by the Secretary of the Senate. At the earliest possible opportunity, a report on such emergency action shall be presented to the full Senate.

(1) The President of the University shall, with respect to such matters, communicate to the Board of Governors, or to any other such agency to which he or she may report, the views of the Senate along with his or her own report and/or recommendation. Either at the request of the President or the Board of Governors, or upon its own initiative, the Senate may by resolution advise the President or the Board of Governors on any matters of concern to the University. The Senate shall be informed of the President's recommendation on matters on which the Senate has taken action prior to the meeting of the Board of Governors or its appropriate committee. Whenever the Board of Governors or one of its committees is considering a recommendation from the Senate, an appropriate additional representative of the Senate shall be invited to present the views of the Senate. The President shall inform the Senate of the disposition of all of its recommendations.

(2) In matters of significant consequence to the University's broad educational and research policies, a representative of the University Senate may appeal, on the Senate's behalf, to the Educational Planning and Policy Committee of the Board of Governors an action of the President of the University in which the representative alleges that the President has acted contrary to any of the following provisions: policy of the Board of Governors; these Regulations; State or Federal law; a contract to which the University is a party except contracts involving collective bargaining; practice well established in the absence of Board policy or University Regulation; or the University's best interest in an action which establishes a policy in a matter not regulated by any of the foregoing. If the Educational Planning and Policy Committee finds that the decision questioned is consequential and that the issue requires interpretation under any of the provisions above, the Committee will request the advice of the Senate on the issue if that has not already been offered and will refer the question to the Board of Governors for resolution.

C. Any major decision in any academic or administrative matter affecting the faculty or students made at a departmental, college or any other internal level which requires prior consultation with the affected bodies, under provision of a policy of the Board of Governors, of these Regulations, of State or Federal law, of a contract to which the University is a party except contracts involving collective bargaining, or of a practice well established in the absence of Board policy or University Regulation, or which establishes a policy in a matter not regulated by any of the foregoing provisions, may be appealed to the University Senate by the faculty or any division thereof or the student governing body of any interested unit of the University on the ground that the faculty or student body was not adequately consulted prior to making the decision. The appeal shall be made in writing, and shall include copies of any relevant document and a short statement of the reasons why the appellant believes this paragraph of University Regulations is applicable and the decision should be reconsidered. If the Senate decides to hear the appeal, the decision shall be suspended while the appeal is pending unless the President of the University determines that it is not practical to do so. If the President so determines, he or she shall set forth in writing the reasons for his or her action. The Senate may exercise its power directly or provide that appeals be heard and decided by a committee. The Senate will not conduct a new hearing for the purpose of taking testimony but will act on the record of the committee's proceeding. The record will include a finding of facts on which the committee based its conclusions.

18. University Policy on University Senate—Duties and Powers, Section: 50.2.2

<http://policies.rutgers.edu/sites/policies/files/50.2.2-current.pdf>

50.2.2 UNIVERSITY SENATE - DUTIES AND POWERS

...

B. The Senate shall advise the President on matters of broad educational and research policy, which matters include but are not limited to: (a) budget priorities and allocations and general planning, (b) the establishment or dissolution of colleges, schools, divisions, institutes, and similar educational units, (c) special affiliations and programs, (d) regulations affecting students

and faculty, such as those concerning academic freedom, equal opportunities, and personnel practices and procedures, and (e) such changes in educational and research policy as are covered in the University Policy Library. The Senate may also initiate action on these matters. The President of the University shall act on such matters only after having received the advice of the Senate or after giving the Senate a reasonable time in which to present its views. If there is a question as to whether a matter is of broad educational and research policy, the Senate Executive Committee shall be informed in order to determine Senate action on that matter. When special circumstances require prompt action, and when the Senate as a body is either out of session or not available for timely consultation, the President shall ask the Executive Committee of the Senate to convene as expeditiously as possible, in order to hear the reasons why emergency action seems necessary and to provide counsel on both the assessment of the situation and the proposed course of action. If the full membership of the Senate Executive Committee cannot be convened within a reasonable period of time, the President shall consult with such members as can be convened by the Secretary of the Senate. At the earliest possible opportunity, a report on such emergency action shall be presented to the full Senate.

19. S-0901 Academic Freedom for Contingent Faculty

<http://senate.rutgers.edu/FPAConS0901AcademicFreedomForContingentFacultyApril2009.pdf>

UNIVERSITY SENATE Faculty and Personnel Affairs Committee

Report and Recommendation on Academic Freedom for Contingent Faculty

1. THE CHARGE

S-0901 Academic Freedom for Contingent Faculty: Given that PTLs and NTTs do not have the protections of tenure and by definition are continually under scrutiny for reappointment, consider ways to amend University Regulation 60.5.1 to maximize academic freedom for contingent faculty. Alternatively, or in addition to such amendment, consider other mechanisms, such as due process provisions, that will help to ensure academic freedom for contingent faculty. The National AAUP's Recommended Institutional Regulations on Academic Freedom and Tenure serves as a relevant background document, with section 13 on part-time faculty of particular interest.

Links to relevant documents may be found below:

Rutgers University Statement on Academic Freedom (includes Statement on Professional Ethics): <http://policies.rutgers.edu/PDF/Section60/60.5.1-current.pdf>

The National AAUP's Recommended Institutional Regulations on Academic Freedom and Tenure: <http://www.aaup.org/AAUP/pubsres/policydocs/contents/RIR.htm>

The 1940 Statement of Principles on Academic Freedom and Tenure:
<http://www.aaup.org/AAUP/pubsres/policydocs/contents/1940statement.htm>

2. SUMMARY

The Faculty and Personnel Affairs Committee (FPAC) was asked to review the desirability and feasibility of amending University Regulation 60.5.1 to include a statement on academic freedom as it pertains to contingent faculty and to submit appropriate recommendations for the consideration and approval of the Senate. In its deliberations, the committee agreed that both the privileges and responsibilities of academic freedom pertain to all instructional personnel at Rutgers University. By unanimous vote, the FPAC recommends to the Board of Governors a change in Regulation 60.5.1 that makes this explicit.

3. REPORT AND RECOMMENDATION

The FPAC met and discussed the charge in two sessions, namely on 2/27/2009 and 3/27/2009. During these meetings, the committee heard from authors of the charge (Karen Thompson, who represents PTLs on the Senate, and Peter Simmons, Senator from the Newark Law School).

Section 9 in the AAUP report on Academic Freedom referenced in the charge states:

University Senate, FPAC Report on S-0901: page 2 of 3

“All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 Statement of Principles on Academic Freedom and Tenure, formulated by the Association of American Colleges and Universities and the American Association of University Professors.”

As it pertains to activities in the classroom, The 1940 Statement of Principals on Academic Freedom and Tenure (Section I, Academic Freedom) further refines academic freedom as both a privilege and a responsibility:

“...Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject...Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment...”

...College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.”

The FPAC agreed that both the privileges and responsibilities of academic freedom pertain to all instructional personnel at Rutgers University. They recommend, by unanimous vote, to include language in Regulation 60.5.1 that makes this explicit.

Recommendation

Specifically, the FPAC wishes to add the phrase “whether tenured or nontenured, full-time, annual, or part-time” to the first paragraph of 60.5.1 to read (addition is underlined):

“Since the very nature of a university and its value to society depend upon the free pursuit and dissemination of knowledge and free artistic expression, all members of the faculty of this University, whether tenured or nontenured, full-time or part-time, are expected, in the classroom, laboratory, and studio, in research and professional publication, freely to discuss subjects with which they are competent to deal, to pursue inquiry therein, and to present and endeavor to maintain their opinions and conclusions relevant thereto. In expressing those ideas which seem to them justified by the facts, they are expected to maintain standards of sound scholarship and competent teaching.”

The remainder of the regulation remains unchanged.

3. RESOLUTION

In Support of the University Senate's Faculty and Personnel Affairs Committee's Report and Recommendations:

Whereas, the University Senate Faculty and Personnel Affairs Committee has examined and reported on the Academic Freedom for Contingent Faculty; and

University Senate, FPAC Report on S-0901: page 3 of 3

Whereas, the University Senate has reviewed the Committee's report and its Recommendations, finding those recommendations to be sound and in the best interests of Rutgers University;

Therefore, Be It Resolved, that the Rutgers University Senate endorses the “Report and Recommendation on the Academic Freedom for Contingent Faculty” and urges the Board of Governors to implement its recommendations.

Faculty and Personnel Affairs Committee 2008-09 Gould, Ann, SEBS (F), Co-Chair, Executive Committee Liaison Panayotatos, Paul, Engineering (F), Co-Chair Abercrombie, Elizabeth, GS-N (F) Boylan, Edward, FAS-N (F) Burrell, Sherry, CCAS (F) Carr, Deborah, SAS-NB (F) Ciklamini, Marlene, SAS-NB (F) Covey, Lori, SAS-NB (F) Creese, Ian, GS-N (F) Deutsch, Stuart, Law-N Dean (A) Ellis, Nancy, PTL-C (F) Finegold, David, SMLR Dean (A) Fishbein, Leslie, SAS-NB (F) Gonzalez-Palmer, Barbara, MGSA (F) Gursoy, Melike, Engineering (F) Janes, Harry, SEBS (F) Kociol, Brett, GSAPP (S) Lehne, Richard, SAS-NB (F) Levine, Justine, NB Staff Markert, Joseph, RBS-N/NB (F) Niederman, Robert, GS-NB (F) Rodgers, Yana, SAS-NB (F) Rudman, Laurie, GS-NB (F) Simmons, Peter, Law-N (F) Stein, Gayle, NB Staff Stevens, Camilla, SAS-NB (F) Thompson, Frank, SPAA (F) Thompson, Karen, PTL-NB Tomassone, Maria, Engineering (F) Wagner, Mary, Pharmacy (F)

20. S-1016 Academic Freedom and Faculty Participation in University Governance

<http://senate.rutgers.edu/FPAConS1016AcademicFreedomApril2012.pdf>

UNIVERSITY SENATE Faculty and Personnel Affairs Committee

Report and Recommendation on Academic Freedom and Faculty Participation in University Governance

1. THE CHARGE

S-1016 Academic Freedom and Faculty Participation in University Governance: Review current recognition and protection of academic freedom in University policies, traditions and practices, with particular emphasis on the relationship between academic freedom and faculty participation in University governance. Respond to Senate Executive Committee by March 2012.

Links to relevant documents may be found below:

Rutgers Policy 60.5.1 on Academic Freedom (includes Statement on Professional Ethics)
<http://policies.rutgers.edu/PDF/Section60/60.5.1-current.pdf>

Supreme Court of the United States decision Garcetti et al. v. Ceballos (2006)
<http://www.supremecourt.gov/opinions/05pdf/04-473.pdf>

Protecting an independent faculty voice: academic freedom after Garcetti v. Ceballos
<http://www.aaup.org/NR/rdonlyres/B3991F98-98D5-4CC0-9102-ED26A7AA2892/0/Garcetti.pdf>

2. SUMMARY

In light of lower court interpretations of the Supreme Court decision in Garcetti v. Ceballos (2006) that restricts the First Amendment protections of faculty speech, the Faculty and Personnel Affairs Committee (FPAC) was asked in a charge suggested by the Rutgers University Senate Faculty Caucus to review current protections of academic freedom in University policies, traditions, and practices. Particular emphasis was placed on the relationship between academic freedom and faculty participation in University governance. Following substantial deliberations, the committee agreed that Rutgers University must reaffirm the right of its faculty members to speak on matters pursuant to their official duties, without fear of retaliation. By unanimous vote, the FPAC recommends to the Board of Governors a change in Regulation 60.5.1 that makes this explicit.

University Senate, FPAC Report on S-1016: page 2 of 6

3. BACKGROUND

3.1 Academic freedom

The concept of academic freedom dates to the middle ages, and in the United States, the notion is comprised not only of the freedoms enjoyed by academics (in scholarly inquiry, teaching, and extramural speech and action), but also the responsibilities of academics to teach and conduct research with integrity and fairness.

In defining the concept of “academic freedom,” The AAUP’s 1940 Statement of Principles on Academic Freedom and Tenure states that: “Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning.”

Protections of academic freedom are often included in faculty handbooks, collective bargaining agreements, and policy statements at both public and private institutions. Whether or not such policy is clearly stated in official documentation, implied protections of academic freedom may also be afforded by “academic customs,” which are defined as practices and expectations peculiar to an institution that may serve to supplement contractual understandings between the institution and its faculty. In addition, the First Amendment to the U.S. Constitution limits the right of the government (including public institutions) to interfere in a variety of public expression.

For many years, faculty employed by public colleges and universities have relied on the free speech language of the First Amendment to the U.S. Constitution (as applied to the states under the 14th amendment) as a source of protection for academic freedom in addition to the rules, by-laws, contract provisions, customs, and traditions of their employing institution. Further, it was assumed that such first amendment protection covered speech related to institutional governance as well as to teaching, research, and public debate and discussion. However, a decision by the U.S. Supreme Court in 2006 in *Garcetti v. Ceballos* may have removed the U.S. Constitution as a source of protection of academic freedom when it ruled that speech of a public employee related to his or her official duties was not covered by the first amendment.

3.2 *Garcetti v. Ceballos*

In the Supreme Court case *Garcetti v. Ceballos* (2006), the plaintiff was a deputy district attorney in the Los Angeles County District Attorney’s Office who, after criticizing the legitimacy of a search warrant, claimed that he was subject to retaliation by his supervisor and passed by for promotion. The

1Source: Lee, B. A. 2010. Academic Freedom Reconsidered. Presented at the National Conference on Law and Higher Education, The Center for Excellence in Higher Education Law and Policy, Stetson University College of Law.

Court ruled in a 5 to 4 decision that when public employees speak “pursuant to their official duties, the employees are not speaking as citizens for the First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”

The case did not involve University personnel. Indeed, in dissent, Justice Souter wrote that “I have to hope that today’s majority does not mean to imperil First Amendment protection of academic freedom in public colleges and universities, whose teachers necessarily speak and write ‘pursuant to official duties.’” None-the-less, in the majority opinion, Justice Kennedy set aside the question of whether or not the ruling should apply to speech related to academic scholarship and teaching:

“There is some argument that expression related to academic scholarship or classroom instruction implicates additional constitutional interests that are not fully accounted for by this Court’s customary employee-speech jurisprudence. We need not, and for that reason do not, decide whether the analysis we conduct today would apply in the same manner to a case involving speech related to scholarship or teaching.”

Subsequent decisions by lower federal courts concerning faculty speech have disregarded this concern. *Hong v. Grant* (2007) ruled that the University of California is entitled to unfettered discretion when it restricts statements an employee makes on the job and according to his professional responsibilities, including participation in institution governance. Two other decisions, *Renken v. Gregory* and *Gorum v. Sessoms*, adopted similarly restrictive interpretations of faculty free speech rights. The result is that the protection of academic freedom of faculty members engaged in research, teaching, and governance, all considered part of their “official duties,” is severely diminished. Ironically, only speech on topics outside the expertise of the faculty member may be constitutionally protected; there exists an inverse relationship between the scope of a faculty member’s role in shared governance and the breadth of protection for speech.

3.3 Academic freedom policies at institutions of higher learning

In response to the *Garcetti* decision, the AAUP has called upon institutions of higher learning to provide formal contract language and justification for protecting faculty from the limitations of the *Garcetti* decision. In particular, the definition of academic freedom must clearly extend not only to speech associated with research and teaching, but also to governance and the many other responsibilities faculty have to their colleagues, departments, institutions, and disciplines. Such changes have been made to policy statements, handbooks, and collective bargaining agreements at other universities, including fellow AAUs, to strengthen academic freedom policies or to put such policies in place where they did not before exist.

At Rutgers, the University Policy Statement 60.5.1 on academic freedom reflects both the rights and responsibilities of individual faculty:

Since the very nature of a university and its value to society depend upon the free pursuit and dissemination of knowledge and free artistic expression, all members of the faculty of this University are expected, in the classroom, laboratory, and studio, in research and professional

publication, freely to discuss subjects with which they are competent to deal, to pursue inquiry therein, and to present and endeavor to maintain their opinions and conclusions relevant thereto. In expressing those ideas which seem

University Senate, FPAC Report on S-1016: page 4 of 6

to them justified by the facts, they are expected to maintain standards of sound scholarship and competent teaching.

The statement continues with a statement on Professional Ethics, which outlines the responsibilities professors have to uphold the concepts of academic freedom. These include the principal responsibilities to “seek and state the truth as they see it” and to uphold the “best scholarly and ethical standards of their disciplines.” In addition, “as colleagues, professors have obligations that derive from common membership in the community of scholars...professors accept their share of faculty responsibilities for the governance of their institution.” Furthermore, when professors “speak or act as private persons they avoid creating the impression of speaking or acting for their college or university.”

What is lacking in the Rutgers policy statement, however, is specific language that protects the speech of faculty as it pertains to faculty governance. As a result of the Garcetti decision, it is prudent for Rutgers’ faculty to seek express coverage of speech related to institutional governance in our University regulations on academic freedom which currently cover teaching and research. Clearly one could argue that speech related to institutional governance is presently covered by implication under current University regulations, however the Committee recommends that such protection be made express by adding language to the existing Rutgers Policy Statement 60.5.1 B.

4. RECOMMENDATION

The FPAC met and discussed the charge in nine sessions from February 2011 to March 2012. During these meetings, the committee heard from Barbara Lee, Professor and former Dean, Human Resource Management, School of Management and Labor Relations, Rutgers University. National AAUP Counsel Kathi Westcott provided background on similar considerations of this issue by other U.S. universities and colleges.²

Recommendation

Specifically, the FPAC wishes to add the sentence “As faculty members, they are free to discuss any matter of institutional policy or action, including but not limited to those related to professional duties and university governance, without threat of sanction” to section B of Rutgers Policy Statement 60.5.1, which will now read (addition is underlined):

“Outside the fields of instruction, artistic expression, research, and professional publication, faculty members, as private citizens, enjoy the same freedoms of speech and expression as any private citizen and shall be free from institutional discipline in the exercise of these rights. As faculty members, they are free to discuss any matter of institutional policy or action, including

but not limited to those related to professional duties and university governance, without threat of sanction. The conduct of the faculty member shall be in accordance with standards dictated by law.

The remainder of the regulation remains unchanged.

2 Institutional Academic Freedom Policies – Passed in Response to *Garcetti v. Ceballos*.
Last revision 12/6/2011. <http://www.aaup.org/NR/rdonlyres/9225C37B-4AC9-4199-B18A-7972164CA05A/0/ChartpostGarcettipolicies.pdf>

University Senate, FPAC Report on S-1016: page 5 of 6

5. RESOLUTION

In Support of the University Senate's Faculty and Personnel Affairs Committee's Report and Recommendations:

Whereas, the University Senate Faculty and Personnel Affairs Committee has examined and reported on the Academic Freedom and Faculty Participation in University Governance; and

Whereas, the University Senate has reviewed the Committee's report and its Recommendations, finding those recommendations to be sound and in the best interests of Rutgers University;

Therefore, Be It Resolved, that the Rutgers University Senate endorses the "Report and Recommendation on Academic Freedom and Faculty Participation in University Governance" and urges the administration to endorse the report and the Board of Governors to implement its recommendations.

Faculty and Personnel Affairs Committee 2011-2012 Gould, Ann, SEBS (F), Co-Chair - Executive Committee Liaison Panayotatos, Paul, GS-NB (F), Co-Chair - Executive Committee Liaison Alizadeh, Farid, RBS:UNB (F) Bagchi, Prosenjit, Engineering (F) Boylan, Edward, FAS-N (F) Creese, Ian, Other Units-N (F) Fernandez, Vivian, Vice President for Faculty and Staff Resources (Non-Senator) Goldstein, Daniel, GS-NB (F) Gurfinkiel, Israel, FAS-C (F) Harris, John, SAS-NB (F) Hetling, Andrea, EJBSPPP (F) Hock, Karlo, PTL-NB (F) Isenburg, Steven, PTL-C (F) Janes, Harry, SEBS (F) Leibman, Ray, PTL-N (F) Midlarsky, Manus, SAS-NB (F) Mojadeddi, Jawid, SAS-NB (F) Niederman, Robert, SAS-NB (F) Robinson, Joanne, SON-Camden Acting Dean (A) Schurman, Susan, SMLR Acting Dean (A) - Administrative Liaison Simmons, Peter, Law-N (F) Suplee, Patricia, FAS-C (F) Thompson, Karen, PTL-NB (F) Toney-Boss, Permelia, Newark Staff Wagner, Mary, Pharmacy (F)

i Examples of changes to academic freedom policies as a result of the *Garcetti* decision (see footnote 2): University of Delaware added the following language to their current bargaining contract: "Academic freedom is the freedom to teach, both in and outside the classroom, to conduct research and other scholarly or creative activities,

University Senate, FPAC Report on S-1016: page 6 of 6

and to publish or otherwise disseminate the results. Academic freedom also encompasses the freedom to address any matter of institutional policy or action whether or not as a member of any agency of institutional governance. Faculty have the freedom to address the larger community with regard to any social, political, economic, or other interest.”

<http://www.udel.edu/aaup/CBA%2010-13%20FINAL.pdf>. University of Wisconsin amended the Faculty Policies and Procedures to define academic freedom as: “...the freedom to discuss and present scholarly opinions and conclusions regarding all relevant matters in the classroom, to explore all avenues of scholarship, research, and creative expression, and to reach conclusions according to one’s scholarly discernment. It also includes the right to speak or write—as a private citizen or within the context of one’s activities as an employee of the university—without institutional discipline or restraint on matters of public concern as well as on matters related to professional duties, the functioning of the university, and university positions and policies.”

<http://www.secfac.wisc.edu/senate/2010/0301/2186.pdf> University of Minnesota changed the Board of Regents policy on Academic Freedom and Responsibility to read: “Academic freedom is the freedom, without institutional discipline or restraint, to discuss all relevant matters in the classroom, to explore all avenues of scholarship, research, and creative expression, and to speak or write on matters related to professional duties and the functioning of the University.”

http://www1.umn.edu/regents/policies/academic/Academic_Freedom.pdf University of Florida new collective bargaining policy prohibits the administration from interpreting any provision of the collective bargaining agreement in a manner that would violate a faculty member’s academic freedom or punish him/her for exercising it; adds service and shared governance to what is protected by academic freedom; prohibits reprisals for extramural exercise of academic freedom/free speech (e.g., letters to the editor); and neutralizes adverse national court cases that stripped faculty of free-speech rights by defining academic freedom as a separate right in addition to constitutionally protected freedom of expression.

http://www.uffacultycontract.org/new/archive/2010-2013_UFF-UFBOT_PROPOSED_CBA.pdf University of California: currently under systemwide review are revisions to General University Policy Regarding Academic Employees, APM 010 Academic Freedom, to include within the protections of academic freedom the freedom to speak out on matters of institutional policy. The new policy would read: The University of California is committed to upholding and preserving principles of academic freedom. These principles reflect the University’s fundamental mission, which is to discover knowledge and to disseminate it to its students and to society at large. The principles of academic freedom protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication, and freedom to address any matter of institutional policy or action whether or not as a member of an agency of institutional governance.

<http://www.ucop.edu/acadpersonnel/apm/documents/apm-010.pdf> Penn State University policy adopted by the University Senate and awaiting approval by the President, expands the definition of academic freedom and removes language prohibiting faculty members from discussing controversial issues in the classroom that are outside the faculty member’s field of study. With respect to shared governance, new language states that “Faculty members are free to discuss governance issues of their respective departments, colleges, units, libraries, and of the University as a whole, and are free to speak and write on all matters related to their professional duties without institutional discipline or restraint. Similarly, faculty members recognize that academic freedom is inherent to the institutional environment and therefore they are expected to exercise professional responsibility in their service roles. Faculty members are responsible for respecting

confidentiality and the privacy rights of others.” <http://www.senate.psu.edu/agenda/2010-2011/dec2010/appd.pdf>.

21. President’s Response to S-0901 and S-1016, both related to Rutgers’ Policy on Academic Freedom

<http://senate.rutgers.edu/RLBAckS0901AndS1016OnAcademicFreedomFebruary2014.pdf>

22. Rutgers Senate Resolution: Rutgers – A Safe and Welcoming Environment

<http://senate.rutgers.edu/ECResolutionOnSafeAndWelcomingEnvironmentDecember2016.pdf>

Resolution

Be It Resolved That the Rutgers University Senate endorses the following principles: 1. Rutgers provides a safe, diverse, inclusive, and welcoming environment for the advancement of research, education, health care, and community outreach. 2. Free expression, privacy, and safety are cherished rights that are afforded to all members of the Rutgers community. 3. Rutgers faculty members, students, alumni, and staff are free to express their viewpoints in public forums as private citizens, including viewpoints that the University itself may not share, with the full expectation that they will be heard and respected. 4. Rutgers celebrates diversity and all members of our community, no matter their viewpoint, political view, ethnicity, religious beliefs, race, gender identity, sexual orientation, nationality, citizenship, or immigration status are owed our respect, our support, and our best efforts to provide safety and security. 5. Rutgers opposes all forms of intolerance, bigotry, and oppression and supports mutual respect for the dignity of all persons.

And Be It Further Resolved that

1. The Rutgers University Senate endorses and supports the efforts of President Barchi to respond to these challenges as expressed in his letter of November 15, 2016. 2. The Rutgers University Senate commends President Barchi and three of our Chancellors for signing the “Statement in Support of the Deferred Action for Childhood Arrivals (DACA) Program and our Undocumented Immigrant Students” promulgated by leaders in higher education, and endorses the views expressed therein. 3. The University Senate endorses and supports President Barchi’s statements on academic freedom, freedom of expression, student confidentiality, and the respect, support, and protection of all Rutgers students. The rights of free expression protected by the First Amendment lie at the heart of academic debate and intellectual discourse, and the Senate commends all efforts to protect those rights, and to ensure the safety and support of all of our students, whatever their viewpoint, political view, ethnicity, religious beliefs, race, gender identity, sexual orientation, nationality, citizenship, or immigration status. 4. The Rutgers University Senate calls on President Barchi to continue to lead and respond vigorously to acts of hate and bias on campuses, to confront and respond to attacks on academic freedom, and to

continue to assure students who are not US citizens that Rutgers will do everything legally possible to protect them.

And Be It Further Resolved that

1. The Rutgers University Senate commits itself to providing all possible assistance and support to the Rutgers administration in responding to the politically inspired challenges we now face.

23. Statement and Resolution on Rutgers as a Safe and Welcoming Environment Adopted by the Camden Faculty Council December 2016

<http://senate.rutgers.edu/CamdenFacultyCouncilOnSafeEnvironmentDecember2016.pdf>

Recent events at colleges and universities across the country have raised concerns about a number of serious challenges to American higher education relating to academic freedom, free speech, safety, confidentiality and privacy, and the position of undocumented students.

At Rutgers, students in Camden, Newark, and New Brunswick held rallies during November 2016 reacting to recent events. Faculty members in various units have also voiced their opinions. President Barchi issued a letter “Supporting Our Students’ Respectful Free Expression and Privacy” to the university community on November 15, 2016 and another letter “Clarifying Rutgers’ Postion [sic] on Protecting Student Rights” on December 8, 2016. Those letters are available at <http://president.rutgers.edu/public-remarks/letters/supporting-our-students-respectful-freeexpression-and-privacy> and <http://president.rutgers.edu/public-remarks/letters/clarifying-rutgerspostion-protecting-student-rights>. In addition, both President Barchi and three of the four Chancellors at Rutgers added their names to a “Statement in Support of the Deferred Action for Childhood Arrivals (DACA) Program and our Undocumented Immigrant Students” endorsed by college and university officers around the country. That Statement is available at <https://www.pomona.edu/news/2016/11/21-college-university-presidents-call-us-uphold-andcontinue-daca>.

Most recently, on December 9, 2016, the University Senate overwhelmingly approved a resolution on “Rutgers – A Safe and Welcoming Environment.” That resolution is available at <http://senate.rutgers.edu/ECResolutionOnSafeAndWelcomingEnvironmentDecember2016.pdf>

In presenting the “Safe and Welcoming Environment” resolution to the University Senate, the Executive Committee of the Senate explained the urgency of Senate action by noting the following:

- Some who hold biases based on race, religion, ethnicity, gender, sexual orientation, or political views have been responsible for a significant increase in the number of hate-based acts of intimidation and violence on campuses across the country.
- Threats to repeal the Deferred Action for Childhood Arrivals (DACA) policy are creating insecurity and fear among a significant number of students.
- A new website has been created, called the Professor Watchlist, whose “mission...is to expose and document college professors who discriminate against conservative students and advance leftist propaganda in the classroom.” And to help to “identify, and expose more professors who

have demonstrated liberal bias in the classroom.” So far about 160 faculty members, including four from Rutgers, are on this Watchlist. Such lists inevitably have a chilling effect on academic freedom, discourse, and the exchange of ideas.

- There have been calls for Rutgers to declare itself a “sanctuary campus.” In contrast, there is a view that the term itself is loaded and open to misinterpretation, and that what matters most is the reality of what we do, not the labels we adopt. For others, labels too are important.

The Executive Committee concluded that “Rutgers, as one of the most diverse universities in the country, must take a leading role in responding to all these and similar challenges.” It also observed that we are not necessarily all agreed, in our academic community at large, in the Rutgers University Senate, or in its Executive Committee, on the perfect balance between protection of free speech and the prevention of harm of various sorts to members of our community, or the most appropriate remedies to be adopted. The Executive Committee’s position in presenting this resolution now is that discussion of many of these matters must and will continue at the Executive Committee and, if deemed appropriate, through charges to other standing committees, but that it will be a useful contribution to the debate and of value within and outside Rutgers if at this time we adopt a resolution summarizing those important points on which we are agreed. In some cases, we have used the same words as the President’s letter; in others, we have extended them.

In the light of these developments, the Camden Faculty Council also considers it vital to put itself on record supporting the safety and security of all our students.

We therefore resolve that:

I. The Camden Faculty Council endorses the following principles adapted from the December 8, 2016 Resolution of the University Senate: 1. Rutgers provides a safe, diverse, inclusive, and welcoming environment for the advancement of research, education, health care, and community outreach. 2. Free expression, privacy, and safety are cherished rights that are afforded to all members of the Rutgers community. 3. Rutgers faculty members, students, alumni, and staff are free to express their viewpoints in public forums as private citizens, including viewpoints that the University itself may not share, with the full expectation that they will be heard and respected. 4. Rutgers celebrates diversity and all members of our community, no matter their viewpoint, political view, ethnicity, religious beliefs, race, gender identity, sexual orientation, nationality, differing abilities, citizenship, or immigration status are owed our respect, our support, and our best efforts to provide safety and security. 5. Rutgers opposes all forms of intolerance, bigotry, and oppression and supports mutual respect for the dignity of all persons. 6. The rights of free expression protected by the First Amendment lie at the heart of academic debate and intellectual discourse, and the University must continue to protect those rights, and to ensure the safety and support of all of our students, whatever their viewpoint, political view, ethnicity, religious beliefs, race, gender identity, sexual orientation, nationality, differing abilities, citizenship, or immigration status.

II. The Camden Faculty Council also 1. Endorses and supports the various statements and resolutions, at Rutgers and nationally, enumerated above. 2. More specifically commends President Barchi for his defense of academic freedom, freedom of expression, student confidentiality, and the respect, support, and protection of all Rutgers students. 3. Commends Chancellor Haddon for her support of the national statement in support of DACA and for her

other related efforts. 4. Joins the University Senate in calling on President Barchi to continue to lead and respond vigorously to acts of hate and bias on campuses, to confront and respond to attacks on academic freedom, and to continue to assure students who are not United States citizens that Rutgers will do everything legally possible to protect them. 5. Calls on the administration at Rutgers University-Camden to continue their similar efforts on behalf of our students. 6. Commits itself to assisting the administration of Rutgers University and Rutgers University-Camden in their continuing efforts to respond to the difficult challenges we now face.

III. The Council directs its Chair to 1. Request the Chancellor and Provost to distribute this Statement and Resolution to the faculty, students, and staff at Rutgers University-Camden. 2. Share this Statement and Resolution with the Communications Office at Rutgers University-Camden.

24. Rutgers University Statement Rejecting Academic Boycott

<http://news.rutgers.edu/statement/rutgers-university-statement-rejecting-academic-boycott/20131226#.WcEvnbpFy70>

Rutgers University Statement Rejecting Academic Boycott

As we approach our 250th anniversary, Rutgers celebrates a long tradition of global intellectual and cultural exchange, and it deeply values academic collaboration with scholars and institutions around the world.

While Rutgers affirms the right of faculty, students, and associations to express their own political and intellectual viewpoints, we believe that academic boycotts fundamentally violate the principles of academic freedom and the free exchange of knowledge and ideas.

Rutgers, The State University of New Jersey, joins peer institutions -- including fellow members of the Association of American Universities (AAU) -- in rejecting the American Studies Association's boycott of Israeli institutions of higher education.

25. UNIVERSITY POLICY: Policy Prohibiting Discrimination and Harassment

<http://policies.rutgers.edu/sites/policies/files/00004529.PDF>

UNIVERSITY POLICY

Policy Name:

Policy Prohibiting Discrimination and Harassment

Section #: 60.1.12 Section Title:

Universitywide HR Policies & Procedures

Formerly Book:

6.4.14

Approval Authority:

Senior Vice President for Human Resources and Organizational Effectiveness

Adopted: 7/1980 Reviewed: 7/05/2016

Responsible Executive:

Senior Vice President for Human Resources and Organizational Effectiveness

Revised:

4/27/1997; 6/30/2006; 2/12/2008; 7/24/2008; 12/9/2010; 8/31/2012; 7/1/2013; 2/6/2014;
7/05/2016

Responsible Office:

University Human Resources

Contact: policies@hr.rutgers.edu

1. Policy Statement This Policy discusses the University's prohibitions against discrimination and harassment based upon membership in enumerated protected classes as well as the prohibitions against retaliation based upon the exercise of rights pursuant to the Policy. The scope of the Policy is set forth herein, as well as definitions of harassment and discrimination. The Policy also references the process for reporting violations of the Policy.

The University has a separate policy that addresses sexual and gender-based discrimination and harassment, Policy 60.1.28, Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking and Related Misconduct by Employees and Third Parties.

2. Reason for Policy To inform all members of the Rutgers community that this Policy applies to all areas of University operations and programs.

3. Who Should Read this Policy All members of the Rutgers University community.

4. Resources Discrimination, Harassment, Workplace Violence, Sexual Misconduct, and Retaliation Complaint Process: Complaints Against University Employees and Third Parties Policy 60.1.13, Policy Prohibiting Workplace Violence Policy 60.1.16, Conscientious Employee Protection Policy Policy 60.1.28, Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related Misconduct by Employees and Third Parties Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related Misconduct by Employees and Third Parties Resources Supplement Office of Employment Equity Formal Complaint Form Policy 10.3.12, Student Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related

Misconduct □ Policy 10.2.11, Code of Student Conduct □ RBHS Students Rights, Responsibilities and Disciplinary Procedures □ Policy 60.1.1, Employment of Relatives

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□ Policy 60.1.8, Equal Employment Opportunity and Affirmative Action Policy □ Policy 60.5.1, Academic Freedom Policy □ Staff and Faculty Guidelines for Disability Accommodations □ Student Life Policy Against Verbal Assault, Harassment, Intimidation, Bullying and Defamation □ Staff and Faculty Guidelines for Religious Accommodations □ University Human Resources: 848-932-3020 □ Office of Employment Equity: 848-932-3973; employmentequity@hr.rutgers.edu □ Office of Student Conduct o New Brunswick: 848-932-9414, conduct@rci.rutgers.edu o Newark: 973-353-2772 o Camden: 856-225-6050, deanofstudents@camden.rutgers.edu □ Rutgers University Police Departments: o New Brunswick: 732-932-7211 o Newark: 973-353-5581 o Camden: 856-225-6009 o Health Sciences-Newark: 973-972-4491

5. Definitions

A. Discrimination is defined as an intentional or unintentional act which adversely affects employment or educational opportunities on the basis of membership in one or more protected classes. Rutgers provides equal employment opportunity to all its employees and applicants for employment regardless of their race, religion, color, national origin, ancestry, age, sex, sexual orientation, pregnancy, gender identity and expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. Rutgers considers as a basis for selection in employment only those characteristics which are demonstrably related to job performance or requirements.

B. Harassment is conduct directed toward an individual or group based on membership in one or more protected classes. Such conduct must be sufficiently severe or pervasive to alter an individual's employment conditions, or a student's educational opportunities¹ which, in turn, creates an unreasonably intimidating, offensive, or hostile environment for employment, education, or participation in University activities.

A person does not have to be the direct and immediate target of harassment to complain about it. Harassing behavior toward others may be so offensive, demeaning, or disruptive as to constitute a hostile work or academic environment, though not specifically directed at the observer or individual lodging the complaint. Conduct alleged to constitute harassment will be evaluated according to the objective standard of a reasonable person.

Examples of conduct that may constitute or support a finding of harassment in violation of this Policy include, but are not limited to, the following types of behavior:

PHYSICAL CONDUCT □ Unnecessary or unwanted physical contact □ Blocking someone's path or impeding movement □ Physical interference with work □ Stalking, Deliberate destruction of property

1 A student's educational opportunities refer to his or her learning environment (academic performance and/or academic opportunities), living environment (campus housing accommodations), and ability to participate in activities made available by Rutgers.

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NON-VERBAL CONDUCT Display of offensive material or objects Suggestive or insulting gestures, or sounds

VERBAL CONDUCT In some instances, innuendo or other suggestive, offensive, or derogatory comments or jokes about a protected group listed in Section I above Extortion, overt threats, or intimidation Obscene or harassing messages sent via computer or left on an answering machine or voice mail

C. Sexual harassment, sexual assault, sexual exploitation, gender-based harassment, stalking, relationship violence (including dating and domestic violence), and related misconduct committed are also acts of discrimination on the basis of sex and are governed by the Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking, and Related Misconduct by Employees and Third Parties.

6. The Policy

I. POLICY

Rutgers University is committed to a working and learning environment for all faculty, staff and students that is free from discrimination and harassment. The University strictly prohibits discrimination and harassment based on membership in certain enumerated protected classes ("protected classes"). These classes are race, religion, color, national origin, ancestry, age, sex², sexual orientation, pregnancy, gender identity and expression, disability, genetic information, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, and any other category protected by law. Harassment is a form of discrimination and, therefore, harassment directed toward an individual or group, or experienced by an individual or group, based on membership in a protected class, also violates University policy.

Discrimination and harassment compromise the integrity of the University and unfairly interfere with the opportunity for all persons to fully participate in the academic, work, and living environment at Rutgers. The University recognizes the human dignity of each member of the Rutgers community and believes that each member has a responsibility to promote respect and dignity for others so that all employees and students are free to pursue their educational and work goals in an open environment, participate in the free exchange of ideas, and to share equally in the University's employment and educational opportunities. To achieve this end, the University strives to foster an academic, work, and living environment that is free from discrimination and harassment on the basis of membership in the protected classes referenced above.

At the same time, the University is committed to the principles of academic freedom and believes that vigorous discussion and debate, as well as free inquiry and free expression, are an integral part of the University community.³

II. SCOPE

This policy applies to all areas of University operations and programs, including the conduct of all University employees and student employees that arises out of their employment status, as well as

2 Claims of discrimination on the basis of sex made against University employees or third parties may be covered by this policy or the Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking and Related Misconduct by Employees and Third Parties (60.1.28).

3 See Academic Freedom Policy 60.5.1.

to the conduct of all interns, volunteers, vendors, contractors, subcontractors, and others who do business with the University.

III. DESIGNATION OF UNIVERSITY OFFICES AND EMPLOYEES

Throughout this Policy, the University office and/or employee(s) who will typically perform certain roles or duties are identified. However, the University may designate other University offices or employees to perform any roles or duties described in this Policy where necessary to effectuate this Policy.

IV. ACADEMIC FREEDOM

The classroom and other instructional settings (e.g., studio, laboratory) present special problems because academic freedom protects the expression of ideas, even when the idea or its expression may be perceived to be offensive, if conduct or statements which are the subject of a complaint are germane to the subject matter taught. The educational process is predicated upon the free exchange of ideas, and this Policy shall not be interpreted to prohibit free expression protected by the First Amendment. The National AAUP's Statement on Professional Ethics provides that professors should avoid any exploitation, harassment, or discriminatory treatment of students. The 1940 Statement of Principles on Academic Freedom and Tenure provides that Professors should not introduce into their teaching controversial matter which has no relation to their subject. Accordingly, if conduct or statements which are the subject of a complaint occur in an instructional context and are germane to the subject matter being taught, wide latitude is required for professional judgment in determining the appropriate content and presentation of the academic material being taught. Therefore, harassment in violation of this Policy will not be found to exist in an instructional setting unless the conduct or statements which are the subject of a complaint are not germane to the subject matter taught and:

□ are directed toward an individual or group based on one or more of the protected classes listed in Section I above; □ are sufficiently severe or pervasive to alter an individual's educational environment; □ create an objectively hostile learning environment; and □ are, in fact, perceived as hostile by the complainant.

V. REPORTING DISCRIMINATION AND HARASSMENT

Any member of the University community alleging discrimination or harassment on the basis of membership in any of the protected classes is encouraged to report it immediately to the Office of Employment Equity.⁴ If managers and supervisors receive reports of discrimination or harassment, they are required to refer them immediately to the Office of Employment Equity. One does not have to be the direct target of the discrimination or harassment to report it. Complaints against students, arising out of their conduct as students, are addressed by the Code of Student Conduct, Policy 10.2.11.⁵

Any individual who believes that he or she has been the victim of a crime (including but not limited to forced physical contact and/or sexual violence) also has a right, and is encouraged, to report the incident to the appropriate law enforcement agency. Questions about law enforcement assistance

⁴ The Director of the Office of Employment Equity supervises the operation of the Discrimination, Harassment, Workplace Violence, Sexual Misconduct, and Retaliation Complaint Process: Complaints Against University Employees and Third Parties. The Office is also a resource for all members of the University community, and is responsible for arranging education and training for the community regarding the Policy and the Complaint Process. Contact information for the Director is 848-932-3973 or employmentequity@hr.rutgers.edu.

⁵ Additional information about complaints against students can be found at <http://studentconduct.rutgers.edu/> or by contacting the Office of Student Conduct, which responds to such complaints, and can be reached at 732-932-9414 or conduct@rci.rutgers.edu.

and involvement may be directed to the Chief of Police at Rutgers University–New Brunswick, Rutgers University–Newark, and Rutgers University–Camden.

The University is committed to responding to reports and complaints of discrimination and harassment promptly, fairly, and with sensitivity, as outlined in the Discrimination, Harassment, Workplace Violence, Sexual Misconduct, and Retaliation Complaint Process: Complaints Against University Employees and Third Parties (“Complaint Process”).⁶ Upon completion of the Complaint Process, the University will take appropriate corrective action consistent with the results of the investigation. Disciplinary action, up to and including discharge, may be taken against an employee who violates this Policy. ⁷

The University will maintain confidentiality as to discrimination and harassment complaints, and the investigation of those complaints, to the extent possible. Only those who have a need to know will be told the identity of the parties to a complaint. Any manager, supervisor or other employee who violates confidentiality as to a complaint of discrimination and/or harassment will

be subject to appropriate sanctions. Please contact the Office of Employment Equity with any questions regarding confidentiality.

In some instances, a complainant may choose to take no action or to defer action until a later date in order to maintain anonymity. In these instances, the University reserves the right to limited disclosure and to take appropriate action in order to ensure the safety and well-being of members of the University community.

VI. RETALIATION

The University prohibits retaliation against individuals who, in good faith, assert their rights to bring a complaint of discrimination or harassment as defined in this Policy, participate in a discrimination or harassment investigation, or protest the alleged discrimination, harassment, or retaliation. Retaliation is an offense separate from the original complaint of discrimination, and will be considered independently from the merits of the underlying complaint. Individuals who believe they have been subjected to retaliation should report the conduct to the Office of Employment Equity.

VII. FALSE ACCUSATIONS

Knowingly making a material misstatement of fact may subject the complainant to discipline. Anyone who believes that he or she has been the subject of a false complaint may meet with the Director of the Office of Employment Equity to discuss the allegations. The filing of a complaint that does not result in a finding of prohibited conduct is not alone evidence of the intent to file a false complaint.

6 Available at

<https://uhr.rutgers.edu/sites/default/files/userfiles/DiscriminationHarassmentComplaintProcess.pdf>. Information is also available at <http://uhr.rutgers.edu/policies-resources/policies-procedures/policy-and-complianceguidelines/discrimination-and>.

7 Complaints of discrimination or harassment against vendors, contractors, subcontractors, and others who do business with the University will be handled by the Director of the Office of Employment Equity.

http://www.envsci.rutgers.edu/~whuang/413/RUAI_413.pdf

26. Rutgers University Policy On Academic Integrity Rutgers Undergraduate Catalog, General Information, pp. 545-547 (<http://ruweb.rutgers.edu/catalogs/nb-ug/03-05/general.pdf>)

SUMMARY “Academic freedom is a fundamental right in any institution of higher learning. Honesty and integrity are necessary preconditions to this freedom. Academic integrity requires that all academic work be wholly the product of an identified individual or individuals. Joint efforts are legitimate only when the assistance of others is explicitly acknowledged. Ethical conduct is the obligation of every member of the university community, and breaches of

academic integrity constitute serious offenses” (Academic Integrity Policy, p. 1). The principles of academic integrity entail simple standards of honesty and truth. Each member of the university has a responsibility to uphold the standards of the community and to take action when others violate them. Faculty members have an obligation to educate students to the standards of academic integrity and to report violations of these standards to the appropriate deans. Students are responsible for knowing what the standards are and for adhering to them. Students also should bring any violations of which they are aware to the attention of their instructors.

Violations of Academic Integrity Any involvement with cheating, the fabrication or invention of information used in an academic exercise, plagiarism, facilitating academic dishonesty, or denying others access to information or material may result in disciplinary action being taken at either the college or university level. Breaches of academic integrity can result in serious consequences ranging from reprimand to expulsion. Violations of academic integrity are classified into four categories based on the level of seriousness of the behaviors. Brief descriptions are provided below. This is a general description and is not to be considered as all-inclusive.

Level One Violations These violations may occur because of ignorance or inexperience on the part of the person(s) committing the violation and ordinarily involve a very minor portion of the course work. Examples: Improper footnoting or unauthorized assistance on academic work. Recommended Sanctions: Makeup assignment.

Level Two Violations Level two violations involve incidents of a more serious nature and affect a more significant aspect or portion of the course. Examples: Quoting directly or paraphrasing without proper acknowledgment on a moderate portion of the assignment; failure to acknowledge all sources of information and contributors who helped with an assignment. Recommended Sanctions: Probation, a failing grade on the assignment, or a failing grade in the course.

Level Three Violations Level three offenses involve dishonesty on a significant portion of course work, such as a major paper, an hourly, or a final examination. Violations that are premeditated or involve repeat offenses of level one or level two are considered level three violations.

Examples: Copying from or giving others assistance on an hourly or final examination, plagiarizing major portions of an assignment, using forbidden material on an hourly or final examination, using a purchased term paper, presenting the work of another as one’s own, altering a graded examination for the purposes of regrading. Recommended Sanctions: Suspension from the university for one or more terms, with a notation of “academic disciplinary suspension” placed on a student’s transcript for the period of suspension, and a failing grade in the course.

Level Four Violations Level four violations are the most serious breaches of academic integrity, and also include repeat offenses of level three violations. Examples: Forgery of grade change forms; theft of examinations; having a substitute take an examination; dishonesty relating to senior thesis, master’s thesis, or doctoral dissertation; sabotaging another’s work; the violation of the ethical code of a profession; or all infractions committed after return from suspension for a previous violation.

Recommended Sanctions: Expulsion from the university and a permanent notation on the student's transcript. Faculty members who believe that violations have occurred should immediately contact the Office of the Dean. Students who suspect that other students are involved in actions of academic dishonesty should speak to the instructor of the course. Questions on reporting procedures may be directed to the Office of the Dean.

UNIVERSITY CODE OF STUDENT CONDUCT SUMMARY A university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Its rules should be conceived for the purpose of furthering and protecting the rights of all members of the university community in achieving these ends. All members of the Rutgers University community are expected to behave in an ethical and moral fashion, respecting the human dignity of all members of the community and resisting behavior that may cause danger or harm to others through violence, theft, or bigotry. All members of the Rutgers University community are expected to adhere to the civil and criminal laws of the local community, state, and nation, and to regulations promulgated by the university. All members of the Rutgers University community are expected to observe established standards of scholarship and academic freedom by respecting the intellectual property of others and by honoring the right of all students to pursue their education in an environment free from harassment and intimidation. Preamble University Code of Student Conduct

Overview Communities establish standards in order to ensure that they are able to fulfill their mission and keep their members from harm. The University Code of Student Conduct (referred to as "the code" in the remainder of this summary) defines those kinds of behavior that violate the standards of the Rutgers University community and also provides the mechanism for addressing alleged violations. In doing so, the code protects the rights of those accused of offenses (referred to as "respondents" in the remainder of this summary) by providing due process while also protecting victims of those offenses and the university community as a whole.

Filing a Complaint Any individual may file a complaint against a student suspected of violating the code by notifying the dean of students (or equivalent) of the respondent's college or school, or the assistant director of judicial affairs in the Office of Compliance, Student Policy, and Judicial Affairs.

Preliminary Review Upon receipt of a complaint, a preliminary review is conducted by the dean of students (or equivalent) or his or her designee to assess the evidence and determine if it is sufficient to proceed to a hearing. The dean conducting this review also assesses the seriousness of the charges. The most serious charges can, upon a finding of responsibility, result in separation from the university (suspension or expulsion). These serious cases are decided at university hearings. Less serious offenses (nonseparable offenses) are heard according to procedures in place at the student's college or school.

27. Rutgers New Brunswick SAS Honors Program – Integrity Pledge

<http://www.sashonors.rutgers.edu/academics/integrity-pledge>

All students enrolled in the School of Arts and Sciences Honors Program are responsible for upholding the highest standards of student behavior, as specified under the University Code of Student Conduct, including but not limited to strict adherence to the terms of the University’s Academic Integrity Policy.

Please make yourself familiar with the terms of the University Code of Student Conduct, including the University’s Academic Integrity Policy.

Please note that effective Fall 2008, a finding of “responsible” under the University Code of Student Conduct, including but not limited to violations of the University’s Academic Integrity Policy, is grounds for permanent dismissal from the School of Arts and Sciences Honors Program, pending review by the SASHP Committee, the Dean, and the Administrative Director of the SASHP. The SASHP staff will regularly request disciplinary clearance information from Student Judicial Affairs to ascertain the status of ongoing disciplinary proceedings against SAS Honors students. Such dismissal from the School of Arts and Sciences Honors Program will render the student permanently ineligible for subsequent reinstatement as a member of the School of Arts and Sciences Honors Program.

Integrity Pledge

As a member of the Rutgers University School of Arts and Sciences Honors Program, I pledge myself to the highest standards for academic and personal integrity. These standards include, but are not limited to, the following:

- I will seek knowledge, protect academic freedom, and preserve academic integrity.
- I will honor the spirit of the Rutgers University Code of Student Conduct, and I will abide by all its regulations.
- I will respect myself, Rutgers University facilities, and the Rutgers community.

28. Office of the Chancellor—New Brunswick website: Free Speech and Academic Freedom at Rutgers

<http://nbchancellor.rutgers.edu/news-communications/free-speech-and-academic-freedom-rutgers-university>

Links to item 1 (President’s letter) above.

29. Newark Catalog link to University Code of Student Conduct—Preamble

http://catalogs.rutgers.edu/generated/nwk-ug_0608/pg23624.html

30. Student Policy Prohibiting Sexual Harassment, Sexual Violence, Stalking, and Related Misconduct

http://catalogs.rutgers.edu/generated/nwk-ug_current/pg644.html

STUDENT POLICY PROHIBITING SEXUAL HARASSMENT, SEXUAL VIOLENCE, STALKING, AND RELATED MISCONDUCT

Rutgers, The State University of New Jersey, is committed to fostering an environment that is safe and secure and free from sexual and gender-based discrimination and harassment, sexual violence, dating and domestic violence, stalking, and other related misconduct. The university recognizes its responsibility to increase awareness of such misconduct, prevent its occurrence, support victims, deal fairly and firmly with offenders, and diligently investigate reports of misconduct. In addressing these issues, all members of the university must come together to respect and care for one another in a manner consistent with our deeply held academic and community values.

This policy applies to student conduct and prohibits a broad range of behaviors focused on sex and/or gender that may or may not be sexual in nature. Sexual harassment, sexual violence, sexual exploitation, gender-based harassment, stalking, and relationship violence (including dating and domestic violence) are all forms of misconduct that are prohibited by this policy and will not be tolerated by the university.

This policy sets forth how the university defines and addresses sexual and gender-based harassment, sexual violence, stalking and relationship violence, and related misconduct involving university students. The policy first sets forth the scope and jurisdiction of the policy. It then defines key concepts, including the full range of prohibited conduct. Next, it describes reporting options, and explains whether and to what extent interactions with various resources are confidential. The policy then discusses the university's response procedures, including services and measures that may be available in particular cases to support and assist students and informal resolution options. The response procedures further describe the investigation, determination, sanctioning, and appeal processes for matters in which students are accused of prohibited conduct, as well as the affected students' rights in connection with the process. The last section is a comprehensive listing of resources available to students affected by sexual and gender-based harassment, sexual violence, sexual exploitation, stalking, and relationship violence.

The university is committed to the principles of academic freedom and believes that vigorous discussion and debate, as well as free inquiry and free expression, are an integral part of the university community. Nothing in the policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or the university's educational mission.

31. Rutgers Newark Link to President's Letter on Free Speech

<https://www.newark.rutgers.edu/supporting-our-students-respectful-free-expression-and-privacy>

32. Link here to Rutgers Policy 60.5.1 (same as item 3 above).

<http://oirap.rutgers.edu/msa/Documents/60.5.1.pdf>

33. Link to AGREEMENT BETWEEN RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY and RUTGERS COUNCIL OF AAUP CHAPTERS, AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS-AMERICAN FEDERATION OF TEACHERS, AFL-CIO September 1, 2014 – June 30, 2018 (same as item 4 above).

<http://academiclaborrelations.rutgers.edu/sites/academiclaborrelations/files/2014-2018%20Faculty%20Contract%2010-6-15%20FINAL.pdf>

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<http://oirap.rutgers.edu/msa/Standard-6.htm#S6E5>

6. a climate that fosters respect among students, faculty, staff, and administration for a range of backgrounds, ideas, and perspectives;

Rutgers maintains an [online index of university-wide diversity resources](#) that includes the University Policy on Diversity and Mission Statement. In addition, the Newark Campus has a [diversity website](#). The Campus Climate Report, published in 2006, provides survey results concerning the environment on each campus. The [Committee to Advance Our Common Purposes](#) has functioned since 1987 to foster intercultural relations while reducing acts of prejudice and bias. [Human Dignity Awards](#) honor individuals and groups who promote the value of diversity. The [Erena Rae Bias Prevention Artistic Contest](#) engages the community in multicultural awareness. The [Office of Faculty Diversity Initiatives](#) provides resources to enhance the diversity of Rutgers' educational and scholarly activities.

The university offers related academic programs on the Camden Campus including the B.A. in [African American Studies](#) and other undergraduate programs in [European Studies](#), [Latin American Studies](#), [Religion](#), and [Women's Studies](#). Also offered at Camden are the B.A., M.A., and Ph.D. in [Childhood Studies](#). On the Newark Campus, B.A. programs are offered in [African-American and African Studies](#), [Central and Eastern European Studies](#), [Portuguese and Lusophone World Studies](#), [Puerto Rican Studies](#), and [Women's Studies](#). Also offered at Newark are the [B.A. in American Studies](#), [M.A. and Ph.D. in American Studies](#) and the M.S. and Ph.D. in [Global Affairs](#). On the New Brunswick Campus, B.A. programs are offered in [Africana Studies](#), [American Studies](#), [East Asian Languages and Area Studies](#), [European Studies](#), [Italian Studies](#),

[Jewish Studies](#), [Latin American Studies](#), [Latino and Hispanic Caribbean Studies](#), [Middle Eastern Studies](#), and [Religion](#). Also offered at New Brunswick are the B.A., M.A., and Ph.D. in [Women's and Gender Studies](#). Further, the [Douglass Project for Rutgers Women in Math, Science and Engineering](#) supports undergraduate women and students at the secondary level interested in studying math, sciences, engineering and technology.

Related research and service efforts are conducted by the [Center for African Studies](#), the [Center for American Women and Politics](#), the [Douglass Developmental Disabilities Center](#), the [Institute on Ethnicity, Culture, and the Modern Experience](#), the [Institute for Hungarian Studies](#), the [Center for Race and Ethnicity](#), the [Institute for Research on Women](#), the [Institute for Women and Art](#), the [Center for Women and Work](#), the [Center for Women's Global Leadership](#), and the [Institute for Women's Leadership](#).

Cultural centers at Rutgers include the [Asian American Cultural Center](#), the [Center for Latino Arts and Culture](#), and the [Paul Robeson Cultural Center](#). The [Office of Social Justice Education and LGBT Communities](#) provides educational, social, and leadership development programs and activities for LGBT students and others.

A [visit by the Dalai Lama](#) was a major event for Rutgers in September 2005. [Campus ministries](#) serve a variety of faith communities, and [student organizations](#) offer a wide range of ideas and perspectives.

The [Office of Employment Equity](#) provides information about issues of harassment, discrimination, diversity, and disabilities in the workplace. It is a universitywide resource for all faculty and staff.

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<http://oirap.rutgers.edu/msa/Standard-10.htm>

8. adherence to principles of academic freedom, within the context of institutional mission; and

Academic freedom is integral to the mission of the university. Its importance is put forth in the university policy statement on academic freedom and ethical behavior ([section 60.5.1](#)). The university senate advises the president on matters of academic freedom (*see* [section 2.2.2 of University Senate Handbook](#)).