

Report of the Faculty and Personnel Affairs Committee on Charge S-1903: Review of Rutgers' Policy on Workplace Violence

1. THE CHARGE

S-1903: Review of Rutgers' Policy on Workplace Violence: Consider what changes if any in Rutgers policy on work place violence are appropriate. Consider Rutgers' Policy on Workplace Violence, in particular its clarity and method of implementation. To what extent does it apply retroactively to faculty and how far back in time? To what extent is the policy's language precise? For example: "reasonable." To what extent can it be arbitrarily applied? To what extent does due process exist for all faculty/employees to whom the policy might apply. Consult with the administration, students, and unions, as needed. Make recommendations for changes to the policy if deemed appropriate.

2. SUMMARY

As a growing BIG TEN and AAU institution, Rutgers University is in need of a critical update to the Rutgers' Policy on Workplace Violence. The policy 60.1.13 entitled "Policy Prohibiting Workplace Violence" specifically focuses on workplace violence as defined as any actual or threatening behavior of a violent nature as understood by a reasonable person. This policy was adopted on 4/7/2001 and last revised on 7/5/2016. The policy definitions note inclusion of both physical contact and/or menacing/threatening behavior to cause physical harm or coerce behavior from individuals. The policy details the scope and reporting processes for such violence as well as the responsibilities of various University members in taking action regarding the violence. The policy also includes an appropriate clause regarding the confidentiality and retaliation concerns and how these issues are to be dealt with.

Of note, the policy 60.1.13 is immediately preceded by policy 60.1.12 which entails the University Policy Prohibiting Discrimination and Harassment. This policy discusses the processes for protecting against discrimination and harassment within the University but clearly defines itself as being laid out for "protected classes". That policy thus does not apply to all University staff and focuses on federally designated "protected classes". This is purely mentioned because of the overlap between harassment and non-verbal violence which clearly exists.

3. REPORT & RECOMMENDATION

The strong continued academic growth of our institution relies on a safe and supportive environment for our faculty, staff and employees. Reviewing our policy for workplace violence there are several critical gaps in our policy statement. This policy was not reviewed in isolation due to the overlap between violence and harassment (two separate policies). We as a group noted that the University has limited policies on bullying in the workplace. The violence policy does note that any action considered threatening to cause harm or coerce behavior falls in line with violence, but it does not clearly state it as similar policies from other BIG TEN/ AAU institutions clearly define bullying as a form of violence. The policy also lacks a timeline and description of who is involved in convening the Workplace Violence Consultation Team (WVCT).

Recommendations:

- 1- Add Bullying as a form of workplace violence – Bullying is considered as a persistent pattern of negative behavior which belittles another member of a unit. Bullying is often, but not always, based on a real or perceived power or status imbalance. Unlike other AAU institutions, we lack a clear definition of this in our policy and this is essential to facilitating a supportive academic structure.
- 2 – The goal of the University is to prevent violence in the workplace. Mere punishment may not be an efficacious measure to prevent or correct wrong behaviors. Alternative measures, such as training, counseling etc. should also be available when appropriate.
- 3 – Clearly define that oral and written behavior which has the purpose of intimidating, or creating a hostile environment in the University to be unacceptable. Distinguish between verbal disagreement and violence. State that while the University requires its members to engage each other in professional manner, it also protects freedom of speech, academic freedom and the widest possible dialogue within its instructional and research settings. As such, open discourse and exchanges that may cause some of its members to feel uncomfortable are not to be considered intimidating or threatening behaviors.
- 4 – Establish a clearly defined timeline in which any investigation and action is to be taken. Provide all parties with updates on the status of the investigation (i.e. collecting evidence, interrogating witnesses, preparing reports, reviewing reports etc.).
- 5- Define the burden of proof that is required to find someone has violated the policy. In the US law, the lowest burden of proof is "preponderance of the evidence". This level of proof should be adopted when dealing with workplace violence (this is the standard that would be applied in a court of law, should a lawsuit be brought against the University).

RESOLUTION

Be it resolved that the Rutgers University Senate recommends to:

- 1- Establish a university wide policy definition of bullying as a form of violence.
- 2- Establish alternative methods to prevent/correct wrong behaviors and have them listed in policy.
- 3- Develop and outline a clear timeline for any investigation with appropriate transparency.
- 4- Define the burden of proof needed as “preponderance of evidence”.
- 5- Define what a hostile work environment is.
- 6- Establish an appeal procedure so that it supports a multi-person, democratic and inclusive process.
- 7- Establish an accessible electronic reporting system for workplace violence.