



Equity & Compliance

Discrimination and Discriminatory Harassment Policy & Procedures



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I. **Policy Against Discrimination & Discriminatory Harassment**

Rhode Island School of Design (the “College”) is committed to creating and providing a learning, living, and working environment free of discrimination and harassment for all students, faculty, and staff. Discrimination and harassment are contrary to the standards of the College community and goals towards creating an inclusive environment. Discrimination and harassment impedes educational opportunities and equal employment. Discrimination and discriminatory harassment on the basis of race, color, religion, age, sex, sexual orientation, gender identity or expression, disability, national origin, veteran status, and/or genetics as set forth in RISD’s Non-Discrimination Policy, will not be tolerated. Note that while RISD’s Non-Discrimination Policy also prohibits discrimination on the basis of sex, sexual orientation, gender identity, and gender expression, those forms of discrimination and harassment may be processed under RISD’s Title IX policy, found [here](#).

II. **Purpose**

The College is wholly committed to creating an environment free of discrimination and discriminatory harassment, as prohibited by this Policy and by applicable federal, state, and local laws. The College has a compelling interest in assuring community members are a part of a community committed to inclusive practices, policies, and values where production and creativity thrive. This includes College compliance with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the College’s programs and activities; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA); Title VI and Title VII of the Civil Rights Act; Section 504 of the Rehabilitation Act of 1973; and the American with Disabilities Act (ADA).

Discrimination and discriminatory harassment are very serious matters that can have both short-term and long-term impact. The effects of discrimination and discriminatory harassment can negatively impact the educational experiences and careers of individuals. Intentionally false accusations can have a similar impact and may be subject to inquiry and disciplinary action through applicable College policy.

III. **Applicability & Scope**

A claim arising under this Policy may be brought by the College, employee or student member of the RISD community, or by a person outside of the RISD community. Complaints based on conduct of students under this Policy may also implicate RISD’s Code of Student Conduct and Procedures found [here](#). Similarly, complaints based on conduct of employees, including faculty and staff, under this Policy may also implicate relevant policies under Human Resources found [here](#). If, during the course of the investigation, or at any time prior to the resolution of the Complaint, it is alleged or discovered that a party has engaged in conduct that violates other College policies, with the exception of those circumstances covered under any relevant and applicable amnesty policy, the College reserves the right to resolve those allegations in accordance with any and all applicable College policies/procedures, including but not limited to the Discrimination and Discriminatory Harassment, Title IX, and/or Student Conduct policies and procedures.

Equity & Compliance is responsible for the implementation of this Policy and respective procedures. All references to “Executive Director” under this Policy may include Designee(s), as assigned by Equity & Compliance. Equity & Compliance may, at their discretion, consult with the Office of Human Resources in its enforcement of this policy.



IV. **Applicable & Related Definitions of Prohibited Conduct**

A. **Discrimination**

Discrimination is unwelcome verbal, written, graphic, and/or physical conduct that unreasonably interferes with an individual or class of individuals' learning, working, or living environment by use of demeaning expressions concerning an individual's or group of individuals' membership or perceived membership to a protected class. Discrimination can occur when an individual or class of individuals is treated unfairly or unfavorably, based on their membership or perceived membership in a legally protected class such that it adversely impacts a term or condition of an individual's employment, educational, or living environment when similarly situated individuals, outside of the same protected class, received more favorable treatment.

Unwelcome verbal, written, graphic, and/or physical conduct related to a protected class may include, but is not limited to:

1. Epithets, slurs, jokes, negative stereotyping, demeaning depictions or treatment, or intimidating or hostile acts;
2. Written, digital, or graphic material that shows hostility;
3. Instigating, threatening or actual physical assault or acts of violence, or enabling an environment that is unwelcoming or hostile; and/or
4. Displaying or transmitting negative or offensive content.

B. **Discriminatory Harassment**

Discriminatory harassment is conduct that is severe, persistent, and/or pervasive such that it has the purpose or effect of unreasonably interfering, limiting, or denying an individual's or class of individuals' access to an educational, employment, or living activity by creating an environment that is intimidating, hostile, or offensive. Protected classes include, but are not limited to: race, color, religion, sex, age, national origin, disability, veteran status, sexual orientation, gender identity or expression, genetics, or any other protected characteristic as established by law.

Whether conduct is severe, persistent, and/or pervasive is determined by using a reasonable person standard. When determining whether conduct is severe, persistent, and/or pervasive, the following factors may be considered:

- a) the severity of the conduct;
- b) the frequency of the prohibited conduct;
- c) the widespread nature of the conduct; and
- d) whether the unwelcome conduct, based on a reasonable person standard, unreasonably interfered with an individual's or class of individuals' educational, employment, or living environment.

The College's academic and research settings necessarily accommodate themes, topics, and materials that are germane to the subject matter and that, in other settings, may not be appropriate; policies forbidding discriminatory harassment do not threaten such academic freedoms.

C. **Sexual Misconduct**

Engaging in any form of sexual contact or conduct with another person, without that person's effective consent is strictly forbidden. For purposes of this provision, (a) it is the responsibility of the person seeking to initiate sexual contact or conduct to obtain such consent, not of the intended recipient of such contact or conduct to deny such consent, and (b) valid consent cannot be obtained from a person whose ability to make decisions is obviously substantially impaired by alcohol, drugs, or other intoxicants or by mental or physical condition; who is unaware that the sexual contact or conduct is being committed; or



who is compelled or coerced to grant consent by force, threat of force, deception, or supervisory or disciplinary authority.

1. Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on consideration of the following factors:
 - a) The length of the relationship;
 - b) The type of relationship;
 - c) The frequency of interaction between the persons involved in the relationship.

2. Domestic Violence includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who:
 - a) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
 - b) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c) shares a child in common with the victim; or
 - d) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

It should be understood that domestic violence and dating violence applies to any pattern of coercive behavior that is used by one person to gain power and control over a current or former intimate partner or dating partner. This pattern of behavior may include physical or sexual violence, emotional and psychological intimidation, threats, verbal abuse, stalking, isolation, and economic control.

3. Sexual Assault includes nonconsensual sexual contact and nonconsensual sexual intercourse:
 - a) Nonconsensual Sexual Contact is any physical contact with another person that is of a sexual nature, without effective consent, including but not limited to: touching someone's intimate parts (such as genitalia, groin, breast, or buttocks, either over or under clothing); touching a person with one's own intimate parts; or forcing a person to touch another's intimate parts. Nonconsensual sexual contact includes the Clery Act definition of fondling: the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.

 - b) Nonconsensual Sexual Intercourse is any sexual penetration or attempted sexual penetration, however slight, of any bodily opening with any object or body part, by a person upon another person, that is without effective consent and/or by force (expressed or implied, violence, duress, menace, fear, or fraud); or when a person is incapacitated or unaware of the nature of the act, due to unconsciousness, sleep, and/or intoxicating substances. Intercourse includes: vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact, no matter how slight the penetration or contact.) Nonconsensual sexual intercourse includes the Clery Act definitions of:
 - (1) Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of that person, including instances in which the person is incapable of giving consent because of



their age or because of their temporary or permanent mental or physical incapacity;

- (2) Incest: non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and
 - (3) Statutory Rape: non-forcible sexual intercourse with a person who is under the statutory age of consent (in Rhode Island the age of consent is 16).
4. Sexual Exploitation is when an individual(s) takes non-consensual or abusive sexual advantage of another, for their own advantage or benefit, or to benefit or advantage anyone other than the person being exploited. This includes, but is not limited to:
- a) providing alcohol or other drugs to someone without that person's knowledge, or unreasonably pressuring the person to consume alcohol or drugs, with the purpose of causing incapacitation in order for one to take sexual advantage of the person;
 - b) recording, photographing, transmitting, or allowing another to view images of private sexual activity and/or the intimate parts of another person without effective consent;
 - c) allowing third parties to observe private sexual acts without effective consent;
 - d) voyeurism, including by electronic means;
 - e) indecent exposure;
 - f) knowing or recklessly exposing another person to a significant risk of sexually transmitted infection, including HIV, without their knowledge; or
 - g) the unauthorized dissemination of indecent materials under Rhode Island General Law § 11-64-3: The unauthorized dissemination of a sexually explicit visual image of another person when the person intentionally, or by any means, disseminates, publishes or sells:
 - (1) a visual image that depicts another identifiable person 18 years or older engaged in sexually explicit conduct or of the intimate areas of that person;
 - (2) the visual image was made, captured, recorded, or obtained under circumstances in which a reasonable person would know or understand that the image was to remain private;
 - (3) the visual image was disseminated, published, or sold without the consent of the depicted person; and
 - (4) with knowledge or with reckless disregard for the likelihood that the depicted person will suffer harm, or with the intent to harass, intimidate, threaten, or coerce the depicted person.
5. Stalking is engaging in a course of conduct¹ directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. For the purposes of this definition, “course of conduct” means two or more acts, including, but not limited to, acts in which the reported party directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, pursues, harasses, observes, surveils, threatens, communicates to or about a person, interferes with a person’s property, gives unwanted attention or unwanted physical, verbal or electronic contact, threatens by use of words and/or conduct, or any exhibits other course of conduct that is repetitive and menacing, directed at a specific person(s) which interferes with their peace, or would otherwise cause a reasonable person to fear for their safety; or safety of others; or suffer substantial emotional distress. Stalking can take many forms. Some

¹ The term “course of conduct” means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose, as defined in [18 USC § 2266\(2\)](#).



examples of stalking include, but are not limited to two or more instances of the following conduct (that also meet the definition of stalking above):

- a) following a person;
 - b) appearing at a person's home, class or work;
 - c) continuing to contact a person after receiving requests not to;
 - d) leaving written messages, objects, or unwanted gifts;
 - e) vandalizing a person's property;
 - f) photographing a person; and other threatening, intimidating, or intrusive conduct;
 - g) the use of electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices to send non-consensual communication, telephone calls, voice messages, emails, texts, letters, notes, gifts, or any other communication that are repeated and undesired.
6. Abuse in Later Life means neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and does not include self-neglect.
7. Economic Abuse, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:
- a) restrict a person's access to money, assets, credit, or financial information;
 - b) unfairly uses a person's personal economic resources, including money, assets, and credit, for one's own advantage; or
 - c) exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianships, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has fiduciary duty.
8. Forced Marriage means a marriage to which 1 or both parties do not or cannot consent, and in which 1 or more elements of force, fraud, or coercion is present. Forced marriage can be both a cause and a consequence of domestic violence, dating violence, sexual assault, or stalking.
9. Technological Abuse means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces or platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

D. **Retaliation**

We encourage any complaints of retaliation to be brought forward to Equity & Compliance. Retaliation is defined as any conduct, whether or not workplace, employment, or education-related, that is directed at a person because they are, in good faith, opposing a discriminatory practice, initiating a complaint of discrimination, or participating in such an inquiry/investigation, which is intended to deter a person from making or supporting a charge of discrimination and/or discriminatory harassment.



Retaliation can take many forms and may consist of any adverse action taken against said person. Actions in response to a good faith report or response under this Policy are considered retaliatory if they have a materially adverse effect on the working, living, or academic environment of an individual and could dissuade a reasonable person from participating in or supporting a charge of discrimination and/or discriminatory harassment.

Any individual or group of individuals who engage in retaliation may be held accountable under this Policy or another related policy. In the event that a sanction of discipline is imposed, the rights of bargaining union members under relevant collective bargaining agreements remain.

E. Other Applicable Definitions

1. Complainant means an individual who is alleged to be the victim of conduct that could constitute prohibited conduct under this Policy.
2. Coercion means the use of an unreasonable amount of pressure to initiate or continue sexual activity against an individual's will. Coercion is more than an effort to gain consent, persuade, entice, or attract another person to engage in sexual activity. If coercion, intimidation, threats, and/or physical force is used, there is no consent.
3. Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Consultation with Confidential Resources does not constitute notice to RISD.
4. Conflict of Interest may exist when the Executive Director or Designee, Investigator(s), Decision-Maker(s), and Facilitator(s) of Informal Resolution Process has an actual or reasonably perceived conflict that prevents such person(s) from being able to impartially participate in their role under this Policy.
5. Effective consent is defined by RISD as conscious, informed, freely and voluntarily given, mutually understandable words or actions which indicate a willingness to participate in a specific mutually agreed upon sexual activity.
6. Formal Complaint means a document filed by a Complainant or signed by the Executive Director or Designee alleging prohibited conduct under this Policy against a Respondent and requesting that RISD initiate a formal or informal resolution process regarding the allegation of prohibited conduct. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of RISD. For purposes of this Policy, employment by RISD constitutes participation in the education program or activity. A Formal Complaint may be filed with Equity & Compliance in person, through mail, email, telephone, or electronic report submission.
7. Incapacitation means a state beyond drunkenness or intoxication, and a person is not incapacitated merely because they have been drinking or using drugs. Incapacitation is not determined by technical or medical definitions. The question is whether a person has the physical and/or mental ability to make informed, rational judgments and decisions. Where alcohol or other substances are involved, incapacitation is determined by how the substance impacts that person's decision-making capacity,



awareness of consequences, and ability to make informed judgments. Because the impact of alcohol and other drugs varies from person to person, one should be cautious before engaging in sexual contact or intercourse when either person has been drinking alcohol or using other drugs. The use of alcohol or other drugs may create ambiguity about consent. If there is any doubt about either party's level of intoxication, the safe thing to do is to forgo all sexual activity.

Although each individual is different, there are some common and observable signs that someone is incapacitated or approaching incapacitation, including but not limited to slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand or coherently answer some or all of the following questions: Do you know where you are? Do you know how you got here? Do you know what is happening? Do you know who you are with?

8. Preponderance of the Evidence is the standard for making a determination of responsibility. This standard is met if the greater weight of the evidence demonstrates that it is 'more likely than not' that a violation has occurred.
9. Privacy means that information related to a complaint will be shared with only a limited number of RISD employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are responsible for RISD's response to Title IX prohibited conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with Family Educational Rights and Privacy Act (FERPA), and the privacy of employee records will be protected in accordance with Rhode Island law and Policy.
10. Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute prohibited conduct under this Policy.
11. Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to RISD's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter Title IX prohibited conduct.

V. **Prevention, Resources & Support**

A. **Prevention & Education**

The College is committed to creating and providing a learning, living, and working environment free from discrimination. Equity & Compliance is committed to providing equitable responses to community issues involving discrimination as well as providing support to members of our community navigating discriminatory behaviors. We encourage members of our community to take advantage of appropriate educational and training opportunities that can be conducted through Equity & Compliance on an ongoing basis to (1) inform community members about identifying and preventing discrimination and harassment and the problems they cause; (2) educate members of the community about their resource & support options, as well as response options; and (3) train community members in the administration of this Policy.



B. Assistant with Discrimination & Discriminatory Harassment Concerns

Equity & Compliance is responsible for upholding community values and ensuring equitable responses involving discrimination and discriminatory harassment. It is also our belief that an environment committed to inclusive practices and free of impermissible discrimination and discriminatory harassment is the responsibility of every member of the community. We encourage any individual who believes that they have experienced or witnessed discrimination and/or discriminatory harassment, as prohibited by this Policy, to come forward with their inquiries or complaints so that the College can provide resources and support to: stop the behavior, remedy its effects, and prevent its recurrence.

The College can take corrective action only when it becomes aware of problems. Therefore, it is the expectation of the College that all cases involving discrimination and/or discriminatory harassment be brought forward to Equity & Compliance.

C. Confidential RISD Resources

Information about or assistance with discrimination and discriminatory harassment issues may be obtained from a variety of on-campus resources. Prior to or concurrent with lodging a discrimination and/or discriminatory harassment complaint, individuals may find it helpful to consult with a counselor or otherwise seek counseling support. The following offices can provide such advice and support to individuals who believe they are experiencing discrimination and/or discriminatory harassment. All information shared with these offices will remain confidential to the extent permitted by law and College policy. Discussions with representatives of these offices will not be considered a report to the College regarding the prohibited conduct and will not, without additional action by the Complainant, result in intervention or corrective action.

RISD Counseling & Psychological Services (CAPS) - students only	72 Pine Street, 2 nd Floor Providence, RI 02903 Available 24/7: 401 454-6637
RISD Health Services - students only	72 Pine Street, 2 nd Floor Providence, RI 02903 401 454-6625
Employee Assistance Program (EAP) - employees only	Coastline EAP Available 24/7: 1-800-445-1195

D. Private RISD Resources

Our office has a comprehensive list of on-campus, off-campus, and online resources and support that can be found [here](#).

Information about or assistance with discrimination and/or discriminatory harassment issues may be obtained from a variety of on-campus resources. Prior to or concurrent with lodging a discrimination and/or discriminatory harassment report or Formal Complaint, individuals may find it helpful to consult with other on-campus resources to seek support. The following departments provide support to individuals who believe they are experiencing discrimination and/or discriminatory harassment. All information shared with these offices may be shared with on-campus partners on a need- to-know basis, to the extent possible under applicable law and other College policy. Concerns can also be brought forward to a supervisor; Dean, Director or Department Head; RISD Human Resources; Associate Dean of



Students (for students) Student Affairs and/or Director, Student Conduct + Community Standards (for students); and/or Dean of Faculty (for faculty). Discussions with representatives of these offices may not be considered a report to the College regarding the prohibited conduct and may not, without additional action by the Complainant, result in intervention or corrective action. However, the College, at its discretion, may move forward following such a disclosure of prohibited conduct; and will communicate its decision directly with the necessary parties.

VI. Procedures

A. Reports & Supportive Measures

REPORTING: Any individual who wishes to report to the College about alleged prohibited conduct covered by this Policy should contact Equity & Compliance or use the online report form [here](#). Contact information for Equity & Compliance can be found [here](#). Reports of behavior covered by this Policy by any staff member of Equity & Compliance or against supervisory staff members of Equity & Compliance should be made directly to RISD Human Resources. Contact information for Human Resources can be found [here](#). A report is not a Formal Complaint and does not necessarily initiate a formal or informal process as outlined by this Policy. Reports may be filed with Equity & Compliance staff, Public Safety, or any Deputy Coordinator. ²

Equity & Compliance	20 Washington Place (Prov Wash) 3rd Floor equitycompliance@risd.edu 24/7: 401 454-6666 Online Reporting Form
Simone Tubman Executive Director; Deputy Title IX Coordinator	stubman@risd.edu 401 454-6297
Sana Amini Title IX Coordinator	samini@risd.edu 401 454-6510
Alyssa Roush Assistant Director; Deputy Title IX Coordinator	aroush@risd.edu 401 454-6386

Complainants can pursue either an informal or formal process at any time. Any complaints brought forward to Equity & Compliance, whether pursued through a formal or informal process process, and concerns filed with Equity & Compliance are documented to allow the College to check for a history of previous related behavior, assess trends, and determine educational community opportunities.

The College will handle discrimination and/or discriminatory harassment complaints under this Policy consistently with procedural guidelines developed to ensure an equitable resolution of such complaints.

² Reports made pursuant to this policy, including reports made to campus partners, will be routed to Equity & Compliance.



All parties are entitled to one advisor of their choosing to guide and accompany them throughout the various stages of the process. An advisor may be any support person of the party's choosing and is not limited to members of the RISD community. Union members are entitled to union representation as well as an advisor of their choosing. Examples of an advisor include, but are not limited to: a friend, mentor, professor, family member, roommate, attorney, or any other supporter a party chooses to advise them. The role of the advisor is to support and accompany the party throughout the investigation, determination, and appeal processes. The role of advisors in these processes is passive in nature; the parties in the case speak on their own behalf, and active participation is limited solely to them. All communication regarding cases is made directly with the parties.

SUPPORTIVE MEASURES: RISD may implement supportive measures following notification of a discrimination or discriminatory harassment concern. Such measures are designed to provide for the safety of the parties, to provide for the health or well-being of the parties, and/or to prevent interference with the parties' educational, employment, or other opportunities. These measures may include, but are not limited to, imposing a temporary no-contact order, which typically will instruct the parties to refrain from having contact with one another, directly or through intermediaries, whether in person or via electronic means, pending the investigation and determination. RISD may also take any further supportive action, when appropriate, pending the resolution of the matter, including, but not limited to: limited contact orders, referral to on/off-campus partners; changing a party's academic, working and/or living situation, if appropriate and reasonably available; facilitating conversations regarding extensions with professors, facilitating campus escort services, coordinating leaves of absence, increasing Public Safety presence in certain areas, and providing restrictive access to certain areas.

B. Informal Resolution Process

The following procedures apply to cases and complaints proceeding through the informal process brought under this Policy.

An informal resolution process is a mutually agreed upon resolution of allegations related to discrimination or discriminatory harassment. In many cases, an informal process can be requested prior to a Formal Complaint being filed. To initiate an informal resolution process, an individual must contact Equity & Compliance. All parties must consent to participating in an informal resolution process in order for the process to proceed.

The informal resolution process encompasses a full range of possible options and appropriate outcomes. For example, Equity & Compliance may propose solutions, facilitate direct discussions between the parties, communicate directly with either party involved about concerning behavior brought forward, or pursue other resolution methods. The informal resolution process is voluntary and can result in a resolution of allegations of discrimination or discriminatory harassment by agreement of the parties and the College. It is not necessary to pursue the informal resolution process first in order to pursue a Formal Complaint, and any party participating in the informal resolution process can stop the informal process, prior to the issuance of an informal resolution agreement, and initiate or resume the Formal Complaint process.

The College will obtain written confirmation that all parties voluntarily wish to attempt to resolve the matter through an informal resolution process before proceeding.



The informal resolution process is available at any time prior to the conclusion of the investigation process. If both parties are willing to participate in the informal resolution process, Equity & Compliance will determine whether the informal resolution process can be used according to the criteria in the section below.

The College reserves the right to determine that the informal resolution process is not appropriate for any particular case. The ultimate determination of whether the informal resolution process is available is to be made by the Executive Director, Equity & Compliance. The Executive Director, Equity and Compliance will review all relevant factors in determining whether the informal resolution process is appropriate for a particular case. Some of the relevant factors may include:

- The nature and severity of the allegations
- The parties' cooperation in the informal resolution process
- Power dynamics between the parties
- Civility of the parties
- Emotional investment of the parties
- Goals of the parties
- Risk assessment
- Disciplinary history

The outcome of the informal resolution process is final and is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. If the parties cannot agree on all terms of resolution, the Formal Complaint process can begin and/or resume at the same point where it was paused. If the informal resolution process is unsuccessful and either party decides to proceed with a Formal Complaint process, Equity & Compliance will ensure that the staff member who facilitated the informal resolution process is not assigned to investigate or serve as a hearing panelist/decision maker during a related Formal Complaint process.

Each party will be permitted to have an advisor of choice or support person assist them during the informal resolution process in any meetings with Equity & Compliance. The parties are strongly encouraged, although not required, to consult with their advisors and any support persons throughout the duration of the informal resolution process. While an advisor may provide support or advice, they may not speak on behalf of the party or act in a disruptive manner. Equity and Compliance reserves the right to remove any individual whose actions are disruptive to the process.

During the informal resolution process, the facilitator may consult with other RISD colleagues at any time. For example, they may need to consult with a supervisor about a workplace or scheduling issue, or with a professor about scheduling conflict.

The Executive Director, Equity & Compliance must approve the terms of the informal resolution process are appropriate, even if both parties agree. At the conclusion of the informal resolution process, the facilitator may draft a resolution agreement, if appropriate. Informal resolution agreements may include the voluntary imposition of safety measures, remedies, agreed-upon resolutions by the parties, recognition of harm, and acknowledgement of accountability.

Equity & Compliance maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive actions, including sanctions. With all informal resolution options, no determination regarding responsibility is made by Equity & Compliance as to whether prohibited conduct occurred.



Generally, any materials submitted by the parties during the informal resolution process, and which relate to the allegations in the Formal Complaint, will be shared with the Investigators if informal resolution fails and the parties proceed with the formal process.

For students, Equity & Compliance will retain a copy of the signed agreement, which will also be shared with the Director, Student Conduct + Community Standards or Designee(s) for any procedures related to violations of the informal resolution agreement, or prior to reaching sanctioning decisions on any future related or unrelated matter.

For employees, Equity & Compliance and Human Resources may retain a copy of the signed agreement. A summary of the signed agreement may be shared with each party's HR Partner, who may share it with a supervisor and may be used to place a supervisor on notice of an informal resolution process and/or reach sanctioning decisions on future related and/or unrelated matters.

The parties are expected to honor and comply with the terms of the resolution reached through the informal resolution process. If a breach of the agreement occurs, it is the responsibility of the parties to notify Equity & Compliance, who will then determine appropriate next steps.

C. **Initial Assessment & Initiation of Formal Resolution Process**

Upon receipt of a Formal Complaint involving discrimination and/or discriminatory harassment, Equity & Compliance will conduct a preliminary review to determine whether the complaint alleges prohibited conduct cognizable under this Policy and whether there is reasonable cause to proceed.

In evaluating whether or not a complaint is cognizable, the Executive Director, Equity & Compliance will evaluate:

1. Whether RISD has jurisdiction³ over the Respondent; and
2. Whether the alleged conduct, if proven as stated in the complaint, would constitute a violation of applicable prohibited conduct under this policy.

If Equity & Compliance determines that the complaint does not allege discrimination/discriminatory harassment as cognizable under this Policy the case will be dismissed and the parties will be notified. If there is reason to proceed with charges under other College policies, the case may be referred to the appropriate department.

In addition to the reasons for dismissal described in the paragraph above, RISD may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

1. A Complainant notifies Equity & Compliance in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
2. The Respondent is no longer enrolled or employed by RISD; or
3. Specific circumstances prevent RISD from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

³ Jurisdiction means whether RISD had substantial control over the Respondent. Substantial control is whether the College has disciplinary authority, whether contractually defined or by policy and affiliation, over either the persons, places or contexts in question.



Upon a dismissal required or permitted pursuant to this section, the Executive Director, Equity & Compliance will promptly send written notice of the dismissal and reason(s) therefore to the parties. Both parties will be given the opportunity to appeal RISD's dismissal of a Formal Complaint or any allegations therein within three (3) days of receiving the dismissal. Parties can submit an appeal form [here](#). Upon receipt of an appeal, Equity & Compliance will assign an Appeal Designee as outlined in the appeal section below (see Appeals, Section 3.D.5).

Appeals may be made on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
3. The Executive Director, Investigator(s), Panelist(s) or Decision-Maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Such a dismissal does not preclude the College from taking action under another procedure designed to address potential violations of another applicable College policy.

D. **Formal Resolution Process Procedures**

The following procedures apply to cases and complaints proceeding through the formal resolution process brought under this Policy.

1. **Investigation**

- a. If it is determined that there is reasonable cause to proceed, Equity & Compliance will notify both the Complainant and the Respondent in an investigation notification. The investigation may be completed by either an internal or external investigator at RISD's sole discretion.⁴
- b. The investigation may include, but is not limited to: meeting with the Complainant, the Respondent, and/or others who may have relevant information; obtaining written statements from relevant persons; and/or seeking other potentially relevant records or information. Our office seeks to complete investigations in a reasonable amount of time.
- c. All members of the RISD community are expected to cooperate with an investigation under this Policy; however, participation in the process is voluntary. Please note that an investigation may proceed in the absence of a non-participating party or witness.
- d. At the conclusion of the investigation, the investigator will prepare and submit an investigation report. As a part of the preparation for the hearing or administrative conference, the parties will be given an opportunity to inspect and review the investigation report.

2. **Determination**

- a. At the conclusion of the investigation, a hearing or administrative conference will be held to determine whether the Respondent violated College policy, based on a preponderance of the evidence standard. Under the preponderance standard, the burden of proof is met when the fact finder determines that there is a greater than 50% chance that the claim is true.
- b. Hearing/Administrative Conference (Hearing): Upon request, provisions will be made to separate the parties during the hearing. Parties are entitled to one advisor of their choosing to

⁴ Internal investigators are trained employees of RISD. External investigators are trained vendors contracted with Equity & Compliance to conduct investigations under RISD's applicable policies and procedures.



guide and accompany them throughout their hearing and investigation process. Union members are entitled to union representation as well as an advisor of their choosing. During all proceedings, the role of the advisor is passive in nature, and parties are required to speak on their own behalf. During the hearing, parties are permitted to ask questions of the other party and witnesses, through the panel or hearing administrator, who may determine whether or not a question is relevant to their decision making.

- c. Once a determination has been made, Equity & Compliance will inform both the Respondent and (to the extent permitted by FERPA, as applicable) the Complainant of the determination.
- d. Sanctions: If the Respondent is found responsible, appropriate sanction(s) will be imposed. Unless the decision is appealed or otherwise noted, sanctions take effect immediately. Possible sanctions for those found responsible may include, but are not limited to: community service, a reflection paper, behavioral expectation conversations/check-ins, and/or educational training, as well as, warnings, suspension, expulsion, or termination. Notification of the sanction will be either in-person or sent to the Respondent's RISD email account. The Complainant will also be notified (to the extent permitted by FERPA) either in person or by RISD email account. In the event that a sanction of discipline is imposed, the rights of bargaining union members under relevant collective bargaining agreements remain.

3. Remedial Measures

- a. RISD may implement remedial measures following the determination. Such remedies are designed to restore or preserve equal access to RISD's programs or activities for parties. These measures may include, but are not limited to: referral to on/off-campus partners; modifying a party's academic, working, and/or living situation; modifying a party's campus-housing/work assignment; modifying a party's work schedule; facilitating conversations regarding extensions, facilitating campus escort services; imposing a "no-contact" directive, which typically will instruct the parties to refrain from having contact with one another, directly or through intermediaries, whether in person or via electronic means; and restricting access to campus-buildings. Broader remedial action may also be taken for the campus community, such as: limited contact orders, increased supervision or monitoring, directed or increased education and prevention efforts, and/or a review of policies and procedures.

4. Right of & Grounds to Appeal

- a. Either the Complainant or the Respondent or both may appeal a final determination directly to Equity & Compliance. Any such appeal may be made on only one or more of the following grounds:
 - i. There was significant procedural irregularity sufficient to have materially affected the outcome of the matter;
 - ii. There is new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, and that could have materially affected the outcome of the matter; or
 - iii. The decision-maker(s) had a significant conflict of interest or bias for or against Complainant(s) or Respondent(s) generally or the individual Complainant or Respondent specifically that materially affected⁵ the outcome of the matter.

⁵ Having a significant or influential effect



5. Appeal Process

- a. Any appeal must be submitted to Equity & Compliance, in writing ([here](#)) within three (3) days of a case outcome, must specify the grounds on which the appeal is based, and must set forth and explain, in detail, any relevant facts, information, and arguments. In the absence of a timely appeal, the determination will be final and conclusive.
- b. Parties may request appeal submission extensions prior to the deadline, via email (equitycompliance@risd.edu), to Equity & Compliance who may grant extensions at its own discretion. Union members also have the right to navigate a grievance process and/or appeal process respective to their collective bargaining agreement.
- c. Upon receipt of an appeal that complies with these requirements, Equity & Compliance will notify the other party of the appeal (to the extent permitted by FERPA). An Appeal Designee (an impartial and neutral person appointed by Equity & Compliance to decide whether there are sufficient grounds for appeal) will be appointed and may, at their discretion, decide the appeal on the basis of the investigative report, statements, any response, and the record; consult with the Equity & Compliance team, Investigator, Hearing Designee(s), or other person(s) they deem appropriate; and/or grant the parties a conference to explain their positions in person. The Appeal Designee may affirm, modify, or overturn the determination and/or may refer the case back to Equity & Compliance for further or new proceedings. Decisions on appeal are deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- d. The decision of the Appeal Designee is final and an appeal determination will be provided to the parties' RISD email account to the extent permitted by FERPA.

6. Sanctions Pending Appeal

- a. The submission of an appeal to Equity & Compliance defers any imposed sanctions of the Respondent until the issuance of the appeal determination to the Respondent. Reasonable requests for extensions of any process timeline may be made via email to Equity & Compliance, who may grant such extensions at its own discretion.

VII. College Discretion of Action

The College may also, at its discretion, respond to complaints or reports by persons external to the College community about alleged discrimination and/or discriminatory harassment conducted by College employees and/or students.

VIII. Revision of Policies & Procedures

This Policy and procedures supersede any previous policies addressing harassment, sexual misconduct, discrimination, and/or retaliation for incidents occurring on or after August 14, 2020 will be reviewed and updated annually by the Executive Director of Equity & Compliance. RISD reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Executive Director, Equity & Compliance may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Executive Director, Equity & Compliance may also vary procedures materially with notice (on the College website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and procedures.



If government laws or regulations change—or court decisions alter—the requirements in a way that impacts this policy, this policy will be construed to comply with the most recent government laws or regulations or court holdings.

IX. Notice of Internal Resolution Process & Right to Outside Processes

Equity & Compliance processes and procedures are intended to offer an internal resolution to complaints. In addition to any sanctions that may be imposed by the College for violation(s) of this Policy, any person who harasses or discriminates against another person may be held personally liable to the Complainant and may be subject to processes and procedures independent of those utilized by the College. This policy does not preclude the Complainant or the Respondent from exercising their individual rights before any other appropriate forum, including filing charges under state or federal law.

In addition to RISD’s Non-Discrimination Policy that reflects RISD’s commitment to creating and maintaining educational, working, and living environments that are free from any unlawful discrimination, the College recognizes its legal obligations to pursue those same goals under applicable Federal and State statutes. These include Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act (ADA):

Title VI prohibits discrimination on the basis of race, color or national origin under any program or activity receiving federal financial assistance. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin.

Title VII prohibits discrimination in employment on the basis of race, color, religion, sex (including: pregnancy), or national origin.

Section 504 of the Rehabilitation Act of 1973 prohibits organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services.

Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability.

The following government agencies may provide additional resources for students and/or employees who have concerns related to misconduct:

The Rhode Island Commission for Human Rights	180 Westminister Street, 3rd Floor Providence, RI 02903 (401) 222-2661
The United States Equal Employment Opportunity Commission ("EEOC")	25 Sudbury Street Boston, MA 02222 (617) 565-3200
The United States Department of Education Office for Civil Rights	5 Post Office Square Boston, MA 02109 617 289-0111