

SEXUAL HARASSMENT PROCEDURES

I. POLICY STATEMENT

Randolph Community College is committed to maintaining and strengthening an inclusive, safe and welcoming learning environment free from discrimination, harassment and related misconduct for all members of the College community. Pursuant to applicable federal, state and local laws and in accordance with its policy, the College prohibits unlawful discrimination and harassment on the basis of an individual's age, race, religion, color, national origin, sex, sexual orientation, gender, gender identity or expression, pregnancy, disability, genetic information, political affiliation, veteran's status, or other protected status.

Title IX is a comprehensive federal law, grounded in Title IX of the Education Amendments of 1972, that prohibits discrimination on the basis of sex in any federally funded education program or activity. Under Title IX, discrimination on the basis of sex includes quid pro quo harassment; sexual harassment; and sexual assault, stalking, dating or domestic violence (collectively referred to as "sexual harassment"). Such acts violate the essential dignity of our community and are contrary to our institutional values.

This policy and associated procedures protect students, employees, and other persons from unlawful discrimination and harassment, including sexual harassment. The College's Title IX Coordinators have oversight responsibility for handling unlawful discrimination and harassment, including sexual harassment, complaints.

- **Student Related Incidents (Title IX Coordinator)**
Tammy Cheek- Assistant Director of Student Success Counseling
Student Services/Welcome Center
336-633-0246
twcheek@randolph.edu

- **Employee and Third-Party Related Incidents (Title IX Coordinator)**
Heather Clouston- Director of Human Resources
Administration/Education Building
336-633-0256
hoclouston@randolph.edu

All allegations involving sexual harassment should be directed to the individuals listed above and addressed according to the College's Sexual Harassment Procedures.

Other issues of unlawful discrimination and harassment not related to sexual harassment should be directed to the individuals listed above and addressed according to the College's Unlawful Harassment and Discrimination Procedures.

II. DEFINITIONS

The following definitions shall apply to this procedure. The definitions are not intended to operate as speech codes, promote content and viewpoint discrimination or suppress minority

viewpoints in the academic setting. Indeed, just because a student's speech or expression is deemed offensive by others does not mean it constitutes discrimination or harassment.

In applying these definitions, College administrators shall view the speech or expression in its context and totality and shall apply the following standard: the alleged victim subjectively views the conduct as discrimination or harassment and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that the conduct is discriminatory or harassing.

- A. Actual Knowledge** – notice of sexual harassment or allegations of sexual harassment by the Title IX Coordinator or any College official who has authority to institute corrective measures on behalf of the College. Actual knowledge is not met when the only College official with actual knowledge is a Respondent.
- B. Advisor** - a person chosen by one of the parties (complainant or respondent) to assist them during the investigation and potential hearing. The advisor may be, but is not required to be, an attorney. It could be a friend, family member, faculty member, etc.
- C. Complainant** – an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- D. Consent** – explicit approval to engage in sexual activity demonstrated by clear actions or words. This decision must be made freely and actively by all participants. Non-verbal communication, silence, passivity or lack of active resistance does not imply consent. In addition, previous participation in sexual activity does not indicate current consent to participate and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent has not been obtained in situations where the individual: i) is forced, pressured, manipulated or has reasonable fear that they will be injured if they do not submit to the act; ii) is incapable of giving consent or is prevented from resisting due to physical or mental incapacity (including being under the influence of drugs or alcohol); or iii) has a mental or physical disability which inhibits his/her ability to give consent to sexual activity.
- E. Dating Violence** – crimes of violence against a person with whom the person has or had a social relationship or a romantic or intimate relationship.
- F. Domestic Violence** – crimes of violence against a current or former spouse or intimate partner; a person with whom the individual shares a child in common; a person with whom the individual cohabitates or has cohabitated as a spouse or intimate partner; a person similarly situated to the individual as a spouse under local domestic laws; or any other person who is protected under local domestic laws of the jurisdiction.
- G. Education Program or Activity** – for purposes of these Procedures, this means any locations, events, or circumstances over which the College exercised substantial control over both the Respondent(s) and the context in which the alleged sexual harassment occurs. It also means any building owned or controlled by a student organization that is officially recognized by the College.
- H. Formal Complaint** – a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting the College

investigate the allegation(s). A Formal Complaint initiates a formal grievance process in which parties are entitled to due process protections.

- I. Informal Resolution** – a resolution reached regarding an allegation of sexual harassment without the filing of a Formal Complaint. Informal Resolution may include mediation, facilitated dialogue, conflict coaching, restorative justice, or other models of alternative dispute resolution. Informal Resolution cannot be used for a student’s allegation of sexual harassment against a college employee.
- J. Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- K. Retaliation** – to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under these Procedures.
- L. Sexual Assault** – an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting system.
- M. Sexual Harassment** – quid pro quo harassment; unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal educational access to the College’s education program or activity, including conduct based on sex stereotyping; or any instance of sexual assault, dating violence, domestic violence, or stalking.

Quid pro quo harassment is a person having power or authority over another and conditioning an educational or employment benefit or service or access to receiving the educational or employment benefit or service upon a person’s participation in unwelcome sexual conduct.
- N. Stalking** – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress.
- O. Standard of Evidence** – the College uses preponderance of the evidence as the standard for proof of whether a violation occurred. In the grievance process, legal terms like "guilt", "innocence" and "burden of proof" are not applicable. Due process hearings are conducted to take into account the totality of all evidence available from all relevant sources. The College will find the Respondent either "responsible" or "not responsible" for violating these Procedures.
- P. Supportive Measures** – individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party that are designed to ensure equal educational access, protect safety, or deter sexual harassment. Examples of support measures are counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, leaves of absences, increased security and monitoring of certain areas of the College, and other similar measures.

III. SCOPE AND APPLICABILITY

- A.** These Procedures apply to the conduct of and protect:
 - 1. College students and applicants for admission into the College.
 - 2. College employees and applicants for employment.
 - 3. College student organizations.
 - 4. Third parties participating in a College education program or activity.
- B.** These Procedures apply to conduct that occurs in a College education program or activity located within the United States and of which the College has actual knowledge.

IV. REPORTING

A. Reporting to Local Law Enforcement

Individuals may report sexual harassment directly to local law enforcement agencies by dialing 911. Individuals who make a criminal allegation may also choose to pursue the College's grievance procedure simultaneously. A criminal investigation into the matter does not release the College from its obligation to conduct its own investigation (nor is a criminal investigation determinative of whether sexual harassment has occurred). However, the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence. In the event of such a delay, the College must make available supportive measures when necessary to protect the alleged Complainant and/or the College community.

Individuals may choose not to report alleged sexual harassment to law enforcement authorities. The College respects and supports individuals' decisions regarding reporting; nevertheless, the College may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations.

B. Reporting to College Officials

The College's Title IX Coordinators oversee compliance with these Procedures. Questions about these Procedures should be directed to one of the College's Title IX Coordinators. Anyone wishing to make a report relating to sexual harassment may do so by reporting the concern to one of the College's Title IX Coordinators in person, by mail, by telephone, by email, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report of alleged sexual harassment.

V. GRIEVANCE PROCEDURES

A. Scope

- 1. Use of these grievance procedures applies to reports alleging sexual harassment carried out by employees, students, or third parties.

2. All reports of sexual harassment are taken seriously. At the same time, those accused of sexual harassment are presumed "not responsible" throughout this grievance procedure.

B. Initial College Response and Assessment

1. After receiving a report of sexual harassment, the Title IX Coordinator takes immediate and appropriate steps to:
 - a. Communicate with the individual who reported the alleged conduct.
 - b. Implement supportive measures to eliminate and prevent the recurrence of sexual harassment, deter retaliation, remedy the effects of sexual harassment, and provide due process rights during a College investigation;
 - c. Provide the individual with a copy of this Policy and Procedure; and
 - d. Determine whether the alleged conduct, as described by the reporting party, falls within the scope of this policy and if so, initiate the investigation and resolution procedures.
 - e. The Title IX Coordinator may delegate the authority to take some or all of these steps as necessary.
2. The Title IX Coordinator must administratively close a report or complaint of sexual harassment if after an initial assessment:
 - a. The allegations as stated do not constitute a violation of this Policy and Procedure, even if proven; or
 - b. The alleged sexual harassment did not occur in the College's Education Program or Activity or did not occur in the United States.
 - c. The Title IX Coordinator will notify the parties if a report or complaint of sexual harassment is closed under this section, including the reason(s) for closure, and direct the parties to the appropriate College office or department to resolve the report or complaint. All parties may appeal the Title IX Coordinator's dismissal of a Formal Complaint under this section by using the appeal procedures in Section VII.
3. The Title IX Coordinator may administratively close a report or complaint of sexual harassment if:
 - a. The Complainant, at any time, requests withdrawal of the report or complaint;
 - b. The Respondent is no longer enrolled or employed by the College; or
 - c. The College is prevented from gathering evidence sufficient to reach a determination of responsibility.
 - d. The Title IX Coordinator will notify the parties if a report or complaint of sexual harassment is closed under this section, including the reason(s) for closure, and direct the parties to the appropriate College office or department to resolve the report or complaint. All parties may appeal the Title IX Coordinator's dismissal of a Formal Complaint under this section by using the appeal procedures in Section VII.
4. Regardless of when the alleged sexual harassment is reported, a Complainant must be participating in or attempting to participate in the College's education program or activity for a Formal Complaint to be filed.

C. Informal Resolution

1. Any party may request the College facilitate an informal resolution to a sexual harassment complaint at any time after the filing of a Formal Complaint. The Title IX Coordinator may offer the parties the opportunity for informal resolution, too.
 - a. Upon a request for informal resolution, the Title IX Coordinator determines whether informal resolution is appropriate based on the facts and circumstances of the case. The Title IX Coordinator ensures that any proposed informal resolution is consistent with the College's obligations to prevent and redress sexual harassment.
 - b. A student's allegations of sexual harassment against a College employee is not eligible for informal resolution.
 - c. The Title IX Coordinator provides the parties with written notice of proceeding with an informal resolution, including the allegations of sexual harassment, the requirements of the informal resolution process, and potential outcomes resulting from participating in the informal resolution process.
 - d. The Title IX Coordinator may also designate an independent, neutral College official to facilitate the informal resolution.

2. Informal resolution is voluntary.
 - a. The Complainant and Respondent must provide written consent for informal resolution to take place.
 - b. Any party has a right to end the informal resolution process at any time prior to agreeing to a resolution and begin or continue the formal investigation and grievance process.

3. Informal resolution concludes the matter only when all parties have signed a written agreement that confirms resolution of the allegations.
 - a. The resolution agreement must include a waiver of the parties' right to have a formal hearing on the allegations that have been informally resolved.
 - b. Parties are prohibited from revoking or appealing a resolution agreement. Should the Respondent violate the terms of an informal resolution agreement, such violation will subject the Respondent to an investigation and the formal grievance process contained in this procedure.

4. If a resolution agreement is not reached, the College will continue with a formal investigation.

D. Formal Investigation

1. The goal of a formal investigation is to reach a determination as to whether a Respondent has violated one or more College policies prohibiting sexual harassment and if so, remedy the effects of a violation.
 - a. The Title IX Coordinator may include possible violations of other College policies that contributed to, arose from, or are otherwise related to alleged violations of this Policy and Procedure in the scope of an investigation.
 - b. The Title IX Coordinator gives written notice to the Complainant and Respondent of the investigation, providing sufficient details to allow the parties to respond and prepare for initial interviews, including the identity of the parties involved (if known), the conduct alleged to be sexual harassment, the date and location of alleged incidents (if known), a statement that the Respondent is presumed not

responsible, and a determination of responsibility is made at the conclusion of the process, information regarding the parties' right to an advisor and the right to review evidence and notice that the College prohibits knowingly making false statements or submitting false information during the grievance process.

- c. The Title IX Coordinator designates an investigator to investigate the allegations of sexual harassment.
2. Parties to an investigation can expect a prompt, thorough, and equitable investigation of complaints, including the opportunity for parties to ask questions, present witnesses and provide information regarding the allegations.
3. Parties and witnesses should cooperate in the investigation process to the extent required by law and this policy.
4. The standard of proof used in investigations is preponderance of the evidence. It is the College's responsibility to establish the standard of proof and gather evidence during investigations.
5. The College aims to complete all investigations to a resolution within thirty (30) business days from the date the Title IX Coordinator determines an investigation will commence.
 - a. Extensions of timeframe for good cause are allowed, so long as written notice and the reason for the delay is provided to the parties. Good cause includes:
 - i. The complexity and/or number of the allegations.
 - ii. The severity and extent of the alleged misconduct.
 - iii. The number of parties, witnesses, and other types of evidence involved.
 - iv. The availability of the parties, witnesses, and evidence.
 - v. A request by a party to delay an investigation.
 - vi. The effect of a concurrent criminal investigation or proceeding.
 - vii. Intervening holidays, College breaks, or other closures.
 - viii. Good faith efforts to reach a resolution; or
 - ix. Other unforeseen circumstances.
 - b. Investigations typically include interviews with the Complainant, the Respondent, and any witnesses, and the objective evaluation of any physical, documentary, or other evidence as appropriate and available. The College will give the Complainant and the Respondent written notice of any interview, meeting, or hearing at which a party is invited or expected to participate.
 - c. The Title IX Coordinator will inform the Complainant and Respondent at regular intervals of the status of its investigation.
 - d. The College may suspend or place on administrative leave a student or employee, pending the completion of an investigation and resolution, when the College performs an individualized safety and risk analysis and determines the person poses an immediate threat to the physical health or safety of any member(s) of the College community.
 - i. The Title IX Coordinator may recommend to the appropriate College official to implement or stay an interim suspension of a student or employee and the conditions and duration of such suspension or leave.
 - ii. In all cases in which an interim suspension or administrative leave is imposed, the student or employee shall be given notice and an opportunity to challenge the removal decision immediately following the removal.

- iii. Violation of an interim suspension under this procedure is grounds for expulsion or termination.
6. Interviews conducted as part of an investigation under this procedure may be recorded by the College. Recordings not authorized by the College are prohibited.
7. The Complainant and Respondent have the right to be accompanied by an advisor of their choosing during all stages of the investigation.
 - a. A party may elect to change advisors during the process.
 - b. All advisors are subject to the same rules:
 - i. During the investigation, the advisor's role is limited to providing advice, guidance, and support to the Complainant or Respondent. An advisor is not permitted to act as a participant or advocate during the investigative process.
 - ii. Advisors are expected to maintain the privacy of the records shared with them.
 - iii. Advisors are expected to refrain from interfering with investigations.
 - iv. Any advisor who oversteps their role or interferes during an investigation process will be warned once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave. The Title IX Coordinator determines whether the advisor may return or should be replaced by a different advisor.
8. Prior to finalizing a report, the investigator provides all parties an equal opportunity to review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the College does not intend to rely.
 - a. The Complainant and Respondent may submit a written response to the evidence within ten (10) business days after receipt of the evidence.
 - i. Responses must be submitted to the investigator by the date responses are due.
 - ii. Responses may not exceed 10 double-spaced pages on 8.5x11 paper with one-inch margins and 12-point font.
 - b. The investigator considers any responses received from the parties and conducts any further investigation necessary or appropriate.
9. Following an investigation and at least ten (10) business days prior to a grievance hearing, the investigator submits an investigative report to the parties that fairly summarizes relevant evidence. The report includes a summary of the allegations; a summary of the response; a summary of the investigative steps taken to verify the allegations and response; and a summary of the evidence relevant to a determination of responsibility.

VI. GRIEVANCE HEARINGS

At least ten (10) business days after the issuance of an investigation report, the College must hold a live hearing in front of a decision-maker. The College's Vice President for Student Services serves as the decision-maker to determine responsibility of a Respondent for student related incidents. The President of the College will designate a Vice President (not the Vice

President for Student Services) to serve as the decision-maker to determine responsibility of a Respondent for employee or third-party related incidents. The decision-maker may not be the Title IX Coordinator or the investigator(s). A "live hearing" means either in person or virtually. The following hearing rules apply:

- A.** All parties must be able to see and hear the questioning of parties and witnesses.
- B.** Any party may request a virtual hearing. If requested, the College will provide a virtual hearing.
- C.** All parties have an equal opportunity to present witnesses, including fact and expert witnesses.
- D.** The parties' advisors are permitted to cross-examine the parties and any witnesses.
 - 1. The parties are prohibited from directly conducting cross-examination. Cross-examination must be conducted by a party's advisor.
 - 2. The decision-maker determines whether questions asked during cross-examination are relevant to the determination of responsibility. If the decision-makers disallows a question, they will explain the basis for their decision at the hearing. Parties and advisors may not challenge a decision-maker's relevancy determinations during the hearing.
 - 3. Evidence or questions that inquire about the Complainant's sexual predisposition or prior sexual history are prohibited (i.e., rape-shield protections) unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
 - 4. The decision-maker may consider statements of persons not present at a hearing and/or not subject to cross-examination unless the statements are subject to exclusion under another provision in this Procedure. Statements include but are not limited to opinions and statements in police reports, medical records, court records, investigation notes, emails, written statements, text messages, social media postings, and the like.
 - 5. Records with a legally recognized privilege, such as medical treatment records, may not be used unless the individual or entity who holds the privilege waives the privilege. Any waiver must be written and made in advance of a hearing.
 - 6. If a party does not have an advisor, the College will provide an advisor at no cost to the party. The advisor may, or may not, be an attorney.
 - 7. Other standard Rules of Evidence do not apply in grievance hearings under these Procedures.
- E.** The College will provide either an audio recording, audiovisual recording, or transcript of the hearing to all parties.

F. The decision-maker evaluates all relevant evidence and reaches a determination regarding responsibility. The decision-maker issues their final written determination to all parties within ten (10) business days of the hearing. The final written determination includes a summary of the allegations; a description of the procedural steps taken by the College to investigate and reach a determination of responsibility; findings of fact supporting the determination; conclusions regarding the application of College policies to the facts; a statement of and rationale for the result as to each allegation, including a determination of responsibility; any disciplinary sanctions the College recommends or imposes; whether remedies designed to restore or preserve equal access to an education program or activity will be provided to the Complainant; and the College's appeal procedures.

G. The following sanctions may be imposed for those who have violated these Procedures:

1. Students
 - a. Verbal or Written Warning
 - b. Probation
 - c. Administrative withdrawal from a course without refund
 - d. Required Counseling
 - e. No Contact Directive
 - f. Suspension
 - g. Recommendation of Expulsion
 - h. Other consequences deemed appropriate.
2. Employees
 - a. Verbal or Written Warning
 - b. Performance Improvement Plan
 - c. Required Counseling
 - d. Required Training or Education
 - e. Recommendation of Demotion
 - f. Recommendation to Suspend with or without Pay
 - g. Recommendation of Dismissal
 - h. Other consequences deemed appropriate to the specific violation

If the decision-maker makes a recommendation for student expulsion or employee suspension, demotion, or dismissal, such recommendation will be made after the time for appeal has expired. If the decision-maker recommends the Respondent be expelled, suspended, demoted, or dismissed, during the time in which either party has to appeal, the Respondent shall remain on suspension unless otherwise determined by the decision-maker.

VII. APPEALS

After the decision-maker submits their determination of responsibility to the Complainant and Respondent, all parties are given an equal opportunity to appeal the determination. Appeals may be based only on these grounds:

- A.** Procedural irregularity that affected the outcome.
- B.** New evidence that was not reasonably available at the time of the hearing that could affect the outcome; and/or

- C. The Title IX Coordinator, investigator, or decision-maker had a bias or conflict of interest that affected the outcome.

Parties must submit any appeal to the President of the College within ten (10) business days of receiving the written determination of responsibility.

The President of the College notifies all parties when an appeal is filed and provides all parties a copy of the appeal and a chance to submit a written statement supporting or challenging the outcome. Parties must submit written statements supporting or challenging the outcome to the President of the College within five (5) business days of receiving a copy of an appeal.

Within fifteen (15) business days the President of the College shall conduct a review of the record, including the appeal(s) received, any written statements supporting or challenging the outcome, the investigation report, the decision-maker written determination of responsibility, and any accompanying evidence prior to issuing a written decision to the Complainant and Respondent that describes the result of the appeal and the rationale for the result.

The President of the College's written decision is final.

VIII. PROTECTION AGAINST RETALIATION

The College will not in any way retaliate against an individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under these Procedures.

The College strictly prohibits retaliation and will take appropriate disciplinary action against any employee or student found to have retaliated against another.

Retaliation is a violation of College policy regardless of whether the underlying allegations are ultimately found to have merit. Reports of retaliation are treated separately from reports or complaints of sexual harassment.

IX. PROVIDING FALSE INFORMATION

Any individual who knowingly files a false report or complaint, who knowingly provides false information to College officials or who intentionally misleads College officials involved in the investigation or resolution of a complaint may be subject to disciplinary action, including but not limited to expulsion or employment termination. The College recognizes a determination regarding responsibility alone is not sufficient to conclude a false report or complaint was made.

X. LIMITED IMMUNITY

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, complainants or witnesses are hesitant to report to College officials or participate in resolution processes because they fear they themselves may be accused of

various policy violations. It is in the best interest of this College that as many complainants as possible choose to report to College officials and that witnesses come forward to share what they know. To encourage reporting, the College offers sexual harassment complainants and witnesses amnesty from minor policy violations.

XI. FERPA (Family Educational Rights and Privacy Act)

A student's personally identifiable information found in a student's education records will be shared only with College employees who need to know to assist with the College's response to sexual harassment.

A student's personally identifiable information found in a student's education records will not be disclosed to third parties unaffiliated with the College unless:

- A. The student gives consent.
- B. The College must respond to a lawfully issued subpoena or court order; or
- C. The College is otherwise required by law to disclose.

XII. SUSPENDING PROCEDURES

In cases of emergency or serious misconduct, the College reserves the right to suspend this process and may enact appropriate action for the welfare and safety of the College community.

XIII. STUDENT AND EMPLOYEE EDUCATION AND ANNUAL TRAINING

The Title IX Coordinators, investigators, decision-makers, and any other designated College officials shall receive annual training. These training materials are posted on the College's website.

All employees shall be required to complete annual training that promotes prevention and awareness of sexual harassment. All students will be provided training that promotes prevention and awareness of sexual harassment.

These Procedures will be maintained online on the College's website and a hard copy may be requested from the College's Title IX Coordinator.

XIV. RECORDKEEPING

The College maintains all records of Title IX proceedings and all materials used to train Title IX personnel for seven years.

For more information about Title IX visit the [U.S. Department of Education - Sex Discrimination](#).