

# UNLAWFUL DISCRIMINATION AND 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.

- **Student Related Incidents (Title IX Coordinator)**  
Tammy Cheek- Assistant Director of Student Success Counseling  
Student Services/Welcome Center  
336-633-0246  
[twcheek@randolph.edu](mailto: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](mailto: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. Discrimination** – any act or failure to act that unreasonably differentiates treatment of others based solely on their protected status and is sufficiently serious, based on the perspective of a reasonable person, to unreasonably interfere with or limit the ability of that individual to participate in, access or benefit from the College's programs and activities. Discrimination may be intentional or unintentional.
- B. Harassment** – a type of discrimination that happens when verbal, physical, electronic, or other behavior based on a person's protected status interferes with a person's participation in the College's programs and activities and it either creates an environment that a reasonable person would find hostile, intimidated or abusive or where submitting to or rejecting the conduct is used as the basis for decisions that affect the person's participation in the College's programs and activities.

Harassment may include but is not limited to threatening or intimidating conduct directed at another because of the individual's Protected Status; ethnic slurs, negative stereotypes, and hostile acts based on an individual's protected status.

- C. Protected Status** – 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 class in accordance with all applicable federal, state and local laws.
- D. 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 procedures 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.

### III. REQUESTING ACCOMMODATIONS

#### A. Students

1. Students with disabilities wishing to make a request for reasonable accommodation, auxiliary communication aids or services, or materials in alternative accessible formats should contact the College's Disability Services Coordinator in Student Services.
2. Students who anticipate that they may require accommodations related to pregnancy or parenting may work collaboratively with the Title IX Coordinator, Disability Services, and their Medical Provider to create a support plan. Pregnancy itself is not a disability;

however, when medical conditions arise related to pregnancy that cause a student to miss class and assignments, it is viewed as a “temporary disability”. Students seeking accommodations related to pregnancy or childbirth must provide documentation indicating the requested accommodations are medically necessary. Documentation must be provided by an appropriate licensed medical professional.

3. The College will also provide reasonable accommodation of a student's religious beliefs/practices provided such expression/practice does not create a hostile environment for other students and employees and/or the accommodation does not cause an undue hardship for the College.

#### B. Employees

1. Employees with disabilities wishing to make a request for reasonable accommodation, axillary communication aids or services, or materials in alternative accessible formats should contact the College’s Director of Human Resources. Information provided by employees is voluntary and strict confidentiality is maintained.
2. Employees who anticipate that they may require accommodation related to pregnancy or parenting may work collaboratively with the Office of Human Resources and their Medical Provider to create a support plan. Pregnancy itself is not a disability; however, when medical conditions arise related to pregnancy that cause an employee to miss work, it is viewed as a “temporary disability”. Employees seeking accommodations related to pregnancy or childbirth must provide documentation indicating the requested accommodations are medically necessary. Documentation must be provided by an appropriate licensed medical professional.
3. The College will also provide reasonable accommodation of an employee's religious beliefs/practices provided such expression/practice does not create a hostile environment for other employees and students and/or the accommodation does not cause an undue hardship for the College.

### IV. REPORTING

#### A. Student Complaints

Any student wishing to make a report related to Unlawful Discrimination and Harassment may do so by reporting the concern to the College’s Assistant Director of Student Success Counseling.

For Unlawful Discrimination and Harassment incidents between students and employees, the Assistant Director of Student Success Counseling will work in partnership with the Director of Human Resources to investigate and resolve the allegations.

*Tammy Cheek- Assistant Director of Student Success Counseling*  
*Student Services/Welcome Center*  
*336-633-0246*  
[twcheek@randolph.edu](mailto:twcheek@randolph.edu)

#### B. Employee Complaints

Any employee wishing to make a report related to Unlawful Discrimination and Harassment may do so by reporting the concern to the College's Director of Human Resources.

*Heather Clouston- Director of Human Resources*  
*Administration/Education Building*  
336-633-0256  
[hoclouston@randolph.edu](mailto:hoclouston@randolph.edu)

## **V. GRIEVANCE PROCEDURES**

### **A. Initial Investigation**

As these Procedures apply to both students and employees as either the Complainant or the Respondent, the administrator receiving the incident report will determine if the case should be handled by: (1) the Assistant Director of Student Success Counseling (student/student); (2) the Director of Human Resources (employee/employee); or both Assistant Director of Student Success Counseling and Director of Human Resources (student/employee).

#### **1. Students**

- a. Students filing complaints ("Complainants") are urged to do so in writing as soon as possible but no later than thirty (30) calendar days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will still be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Assistant Director of Student Success Counseling shall fully investigate complaints and will, as needed and if the complaint involves an employee, collaborate with the College's Director of Human Resources. During the investigation, the Assistant Director of Student Success Counseling may consult with other relevant College administrators and the College Attorney.
- b. During the investigation, and if applicable to the complaint<sup>1</sup>, the Assistant Director of Student Success Counseling shall meet with the Complainant and the alleged Perpetrator ("Respondent") separately and give each party an equal opportunity to provide evidence, including informing the Assistant Director of Student Success Counseling of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.
- c. During the investigation process, the Assistant Director of Student Success Counseling may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The temporary actions include but are not limited to: reassignment of class schedules; temporary suspension from campus (but be allowed to complete coursework); or the directives that include no contact between involved parties.
- d. A confidential file regarding the complaint shall be maintained by the Assistant Director of Student Success Counseling. To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to

maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.

- e. The Assistant Director of Student Success Counseling shall make every effort to conclude the investigation as soon as possible, but no later than thirty (30) business days. If the nature of the investigation requires additional time, the Assistant Director of Student Success Counseling may have an additional ten (10) business days to complete the investigation and shall notify the parties of the extension.
  - f. Complainants and Respondents will be notified of available counseling services and their options of changing academic situations and other interim protective measures.
  - g. If the Assistant Director of Student Success Counseling is named as a Respondent in the Complaint, the Vice President for Student Services may assign another College official to investigate the Complaint.
2. Employees
- a. Employees filing complaints (“Complainants”) are urged to do so in writing as soon as possible but no later than thirty (30) calendar days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will still be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Director of Human Resources shall fully investigate any complaints. During the investigation, the Director of Human Resources may consult with other relevant College administrators and the College Attorney.
  - b. During the investigation, and if applicable to the complaint<sup>1</sup>, the Director of Human Resources shall meet with the Complainant and the alleged Perpetrator (“Respondent”) separately and give each party an equal opportunity to provide evidence, including informing the Director of Human Resources of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.
  - c. During the investigation process, the Director of Human Resources may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The Director of Human Resources may suspend an employee with pay pending an investigation if such action is in the College’s best interest.
  - d. A confidential file regarding the complaint shall be maintained by the Director of Human Resources. To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.
  - e. The Director of Human Resources shall make every effort to conclude the investigation as soon as possible, but no later than thirty (30) business days. If the nature of the investigation requires additional time, the Director of Human

Resources may have an additional ten (10) business days to complete the investigation and shall notify the parties of the extension.

- f. Complainants and Respondents will be notified of available counseling services and other interim protective measures.
- g. If the Director of Human Resources is named as a Respondent in the Complaint, the President may assign another College administrator to investigate the Complaint. If the President is named as a Respondent in the Complaint, the Chair of the Board of Trustees may appoint a third party to investigate the Complaint.

## B. Recommendation and Appeal

### 1. Students

- a. After the investigation is complete, the Assistant Director of Student Success Counseling will put forward a recommendation of finding, based on the Standard of Evidence, and sanction(s) to both the Complainant and Respondent. If the recommendation is accepted by both parties involved, the recommendation and sanction(s) will become effective. The Assistant Director of Student Success Counseling will submit to each party a final outcome letter that will include, but not limited to, the following:
  - i. Determination if the Respondent is responsible, not responsible, or if the decision is deemed inconclusive, or shared responsibility.
  - ii. Sanction, if appropriate.
  - iii. Whether modification of academic schedules or workplace schedules is needed between the parties to ensure that the individuals involved are not in classes together (the Assistant Director of Student Success Counseling will assist in this process).
  - iv. Short-term College counseling services may be offered to each party.
- b. If the Assistant Director of Student Success Counseling's recommendations are not accepted by either the Complainant or the Respondent, both may appeal to the Vice President for Student Services. If the Assistant Director of Student Success Counseling recommends sanctions that he/she cannot impose (i.e., suspension, expulsion), the matter shall automatically be forwarded to the Vice President for Student Services for consideration. The process for the appeal is outlined below:
  - i. Appeals must be submitted in writing to the Vice President for Student Services within ten (10) business days of the action taken.
  - ii. Written notice including the date, time, and location of the meeting will be sent to each party within ten (10) business days of receipt of the written appeal.
  - iii. Each party shall have the right to meet with the Vice President for Student Services separately. Prior to the meeting with the Vice President, the Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses.
  - iv. At the meeting with the Vice President for Student Services each party shall have a right to speak and be questioned by the Vice President and present any written evidence to the Vice President.

- v. The Complainant and the Respondent are allowed to be accompanied by an advocate. The advocate may not present on behalf of either party unless otherwise instructed to do so by the Vice President for Student Services. If the Complainant or the Respondent chooses to have an advocate who is an attorney, notification must be provided to the Vice President at least five (5) business days prior to the hearing date. In this case, the College Attorney will also be present.
- vi. The Vice President for Student Services will review the evidence provided by each party, including the statements of the parties, and shall make a determination. The Vice President's determination will be based on the Standard of Evidence. Both parties have a right to a written notice of the Vice President's decision. The Vice President's written decision will be made within fifteen (15) business days of the appeal meeting. The Vice President's decision is final.
- vii. If the Vice President for Student Services is named as a Respondent in the original complaint, the Director of Human Resources will inform the President of the College who will assign another person to consider the appeal.

## 2. Employees

- a. After the investigation is complete, the Director of Human Resources will put forward a recommendation of finding, based on the Standard of Evidence, and sanction(s) to both the Complainant and Respondent. If the recommendation is accepted by both parties involved, the recommendation and sanction(s) will become effective. The Director of Human Resources will submit to each party a final outcome letter that will include, but not limited to, the following:
  - i. Determination if the Respondent is responsible, not responsible, or if the decision is deemed inconclusive, or shared responsibility.
  - ii. Sanction, if appropriate.
  - iii. Whether modification of academic schedules or workplace schedule is needed.
  - iv. Short-term counseling services may be offered to each party.
- b. If the Director of Human Resources recommendations are not accepted by either the Complainant or the Respondent, both may appeal to the President. If the Director of Human Resources recommends sanctions that he/she cannot impose (i.e., termination), the matter shall automatically be forwarded to the President for consideration. The process for the appeal is outlined below:
  - i. Appeals must be submitted in writing to the President within ten (10) business days of the action taken.
  - ii. Written notice including the date, time, and location of the meeting will be sent to each party within ten (10) business days of receipt of the written appeal.
  - iii. Each party shall have the right to meet with the President separately. Prior to the meeting with the President, the Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses.
  - iv. At the meeting with the President each party shall have a right to speak and be questioned by the President and present any written evidence to the President.

- v. The Complainant and the Respondent are allowed to be accompanied by an advocate. The advocate may not present on behalf of either party unless otherwise instructed to do so by the President. If the Complainant or the Respondent chooses to have an advocate who is an attorney, notification must be provided to the President at least five (5) business days prior to the hearing date. In this case, the College Attorney will also be present.
- vi. The President will review the evidence provided by each party, including the statements of the parties, and shall make a determination. The President's determination will be based on the Standard of Evidence. Both parties have a right to a written notice of the President's decision. The President's written decision will be made within fifteen (15) business days of the appeal meeting. The President's decision is final.
- vii. If the President is named as a Respondent in the original complaint, the Director of Human Resources will inform the Chair of the Board of Trustees who will assign another person to consider the appeal.

### C. Sanctioning

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. Expulsion
  - h. Other consequences deemed appropriate to the specific violation.
2. Employees
  - a. Verbal or Written Warning
  - b. Performance Improvement Plan
  - c. Required Counseling
  - d. Required Training or Education
  - e. Demotion (President must impose)
  - f. Suspend with or without pay (President must impose)
  - g. Termination (President must impose)
  - h. Other consequences deemed appropriate to the specific violation.

<sup>1</sup>The Complainant's complaint need not necessarily be against a specific individual but could concern an action, policy, procedure or decision that the individual believes constitutes Unlawful Discrimination and Harassment.

## 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 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.

## **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 unlawful discrimination and 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 unlawful discrimination and 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. ANNUAL TRAINING**

All employees shall be required to complete annual training that promotes prevention and awareness of unlawful discrimination and harassment.

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

### **XIV. RECORDKEEPING**

The College maintains all records of unlawful discrimination and harassment in accordance with records retention requirements.

For more information visit the [U.S. Department of Education - Office for Civil Rights](#).