

Office for Civil Rights-Harassment & Discrimination Policy

9/9/24- This policy supersedes any other policies in print and found digitally.

PART 1: Introduction and Terminology

A. Policy Statement

Randolph College is committed to maintaining a community in which learning and working can be conducted in an environment of human dignity and respect. The College stands opposed to all forms of harassment and discrimination and will work to prevent such behavior within the College community.

Randolph College does not tolerate discrimination or harassment on the basis of any of the following *protected categories*: race, color, national origin, sex, disability, religion, age, marital status, pregnancy, parental status, family status, military and veteran status, gender identity or expression, sexual orientation, or any other characteristic protected by applicable law in its employment, educational programs and activities, admissions policies, and scholarship and loan programs. Regulations promulgated under the following statutes provide the minimum protections against harassment and discrimination: *the Equal Pay Act of 1963; Title VI and Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973; Title I and II of the Americans with Disabilities Act (ADA) of 1990, the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 and the Genetic Information Non-discrimination Act of 2008.*

Questions about any aspect of the College's Harassment and Discrimination Policy should be directed to the Director of the Office for Civil Rights and Title IX Coordinator, Jaclyn Beard, jbeard@randolphcollege.edu, or Tricia Kirby-Wiggins, Office for Civil Rights and Title IX Case Manager, tkirbywiggins@randolphcollege.edu. Their offices are located in the Office for Civil Rights in Main 135.

B. Terminology

The **Complainant** is the person alleged to have experienced the Prohibited Conduct, regardless of whether that individual submits a Complaint or desires disciplinary action.

The **Respondent** is the person alleged to have violated this Policy. The Respondent is presumed not responsible for the alleged conduct until a determination of responsibility is made at the conclusion of the resolution process.

An **Investigator** is a neutral party in charge of handling the investigation of a Formal Complaint and who provides a detailed, unbiased report that fully summarizes significant findings.

A **Support Person** is an individual who may assist both the Complainant and the Respondent ("the Parties") throughout the resolution process. While a Support Person may attend any meeting or

proceeding under this Policy, they are not allowed to speak on behalf of the parties or participate in a manner that disrupts the process. The Director has the authority to remove any Support Person who does not comply with the expectations outlined in this Policy.

A **Report** is a notification of an alleged incident that occurred either on campus or as part of a College or College-recognized program or activity.

A **Formal Complaint or Complaint** is a document submitted and signed by a Complainant or the Director requesting that the College initiate a formal or informal resolution process for allegations of Prohibited Conduct.

Supportive Measures are non-disciplinary, non-punitive, individualized services provided to the Complainant and/or Respondent at no cost, as appropriate and reasonably available.¹ These measures can be offered either before or after a Formal Complaint is filed or even if no Formal Complaint is filed. These measures are designed to restore or preserve equal access to the College's educational programs or activities without unreasonably burdening the other party. They may also include efforts to protect the safety of all parties and/or maintain the College's educational environment. Supportive measures are available regardless of whether the Complainant pursues criminal action externally or disciplinary action through the College.

Business Days means when all College Offices are open. This does not include weekends, holidays, or inclement weather when College offices are closed.

Calendar Days means all days in a month, including weekends and holidays, regardless of whether College offices are open or closed.

A **Summary of Findings** contains a determination of responsibility based on the fact-specific investigative findings and dispositions of individual cases. This is sent to all parties following the conclusion of the investigation.

The Director of the Office for Civil Rights ("Director") holds ultimate oversight responsibility for managing Complaints and identifying and addressing any patterns or systemic issues related to Prohibited Conduct. The Director is available to answer questions about the process for reporting, investigating, and resolving Complaints of Prohibited Conduct. Additionally, the Director is available to meet with individuals involved in or concerned about incidents, patterns, or issues related to Prohibited Conduct within the College's campus or programs.²

¹ Supportive measures may include, but are not limited to: counseling services, academic adjustments and support, campus escort services, no-contact orders, modifications to housing or work schedules, and increased security or monitoring in specific areas of campus.

² For information about the Director of the Office for Civil Rights, please visit the Randolph College website under Reporting Officers: <https://www.randolphcollege.edu/titleix/support-and-resources/officers/>

PART 2: Prohibited Conduct and Jurisdiction

A. Prohibited Conduct

The following constitutes prohibited conduct under this policy:

Discrimination is the inequitable treatment that occurs: (1) because of an individual's actual or perceived membership in one or more of the protected categories listed above and/or in the College's non-discrimination statement; and (2) which has the effect of excluding an individual from participation in, denying an individual the benefits of, or otherwise adversely affecting a term or condition of an individual's employment, education, living environment, or participation in a College educational program or activity.

Harassment is unwelcome verbal, visual, or physical conduct which creates a hostile environment because of an individual's actual or perceived membership in one or more of the protected categories. Generally, unwelcome conduct based on one or more of the protected categories creates a hostile environment when, based on the totality of the circumstances³, it is:

- subjectively and objectively offensive; and
- so severe or pervasive that it
- limits or denies a person's ability to participate in or benefit from the recipient's education program or activity.

Harassing conduct need not always be targeted at a particular person to create a hostile environment. The conduct may be directed at anyone, and the harassment may also be based on association with others of a different race, color, or national origin (e.g., the harassment might reference the race of a sibling or parent/guardian because it is different from the race of the person being harassed whose access to the school's program is limited or denied). Additionally, a single victim may experience a hostile environment when the conduct of multiple offenders, taken together, is determined to meet the definition above.

The following conduct is not covered under this Policy:

- Minor and isolated incidents (unless extremely serious) generally will not rise to the level of prohibited conduct. To be prohibited, the conduct must create an academic, working, or living environment that would be intimidating, hostile, or abusive to a reasonable person.⁴

³ Relevant factors for consideration whether harassing conduct creates a hostile environment may include, but are not limited to, the context, nature, scope, frequency, duration, and location of the harassment, as well as the identity, number, age, and relationships of the persons involved. See [*Harassment based on Race, Color, or National Origin on School Campuses July 2, 2024, at 2.*](#)

⁴ Generally, the less pervasive the harassing conduct, the more severe it must be to establish a hostile environment. For example, in most cases, a single isolated incident would not be sufficient to establish a violation. However, in some cases, a hostile environment may result from a single severe incident if the conduct is subjectively and objectively offensive and so severe that it limits or denies a student's access to the education program or activity. See [*Harassment based on Race, Color, or National Origin on School Campuses July 2, 2024, at 2.*](#)

- Unwelcome conduct that does not create a hostile environment will be addressed through the appropriate office. This may include verbal abuse, graphic or written statements, physical assault, or other actions that are threatening, harmful, or humiliating.

In considering whether a policy violation has occurred, the College will evaluate whether the conduct implicates concerns related to academic freedom or protected speech.

Please note that reports of the following conduct are governed separately by the College's Title IX and Sexual Misconduct Policy: (a) Title IX Prohibited Conduct (Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking); and (b) Non-Title IX Prohibited Conduct (Sexual harassment; gender-based harassment; sexual assault; Exploitation; Intimate Partner Violence; Physical Assault; Stalking; and Retaliation). Randolph College's Title IX & Sexual Misconduct Policy and related procedures supersede any conflicting information in this policy.

B. Jurisdiction and Applicability

The College will respond to Prohibited Conduct when the conduct:

- occurs on the College's campus or other property owned or controlled by the College;
- occurs in the context of the College's employment or education program or activity, or
- occurs off-campus or outside of the College's program or activity but has continuing adverse effects on or creates a hostile environment for the College's community members while on the College's campus or other property owned or controlled by the College or in an employment or education program or activity of the College.

This Policy applies to acts of Prohibited Conduct committed by or against students, faculty, staff, or third parties, such as alumni, volunteers, independent contractors, and visitors.

PART 3: Reporting Prohibited Conduct

Any individual who experiences or witnesses Prohibited Conduct should report the incident(s) as soon as possible to the Office for Civil Rights, a supervisor, manager, or human resources professional. The Office for Civil Rights's Formal Complaint Form can be found here: [Formal Complaint Form](#).

Any person may report Prohibited Conduct in person, by mail, by telephone, or by electronic mail, using the contact information listed above, or by any other means that results in the Director receiving the person's verbal or written report. A report may be made at any time (including during non-business hours) to the Director or case manager.

A. Filing a Formal Complaint

To initiate the formal or informal resolution process, a Formal Complaint form alleging Prohibited Conduct must be submitted to the Office for Civil Rights within **180 calendar days** of the alleged discrimination or harassment. Any request to proceed with an Informal or Formal

Resolution Process must be in writing and signed by the Complainant or the Director of the Office for Civil Rights. The College's Office for Civil Rights may accept Complaints filed outside the 180-day timeframe for a good cause shown. The Formal Complaint must include the following:

- Complainant's name and contact information.
- Date of the Complaint.
- Date & description of the Prohibited Conduct.
- Notation of any prior steps taken to address the issue.
- Supporting documentation and/or other relevant information if available.

Note: Assistance is available to file a Formal Complaint.

Upon receiving a Formal Complaint, The Office for Civil Rights will review the Complaint and, if necessary, gather additional evidence and information from the Complainant to determine if a potential violation of this Policy has occurred. The Office will also assess the need for supportive measures. Based on this initial review, the Office will proceed with one of the following actions:

1. If the Office determines that the Complainant's allegations do not violate this Policy, it will provide the Complainant with a written notice explaining the decision. The Office may also inform the Complainant of other possible avenues for redress.
2. If the Office determines that the Complaint alleges a potential violation, it will notify the Complainant and meet with them to confirm the specific factual allegations underlying the Complaint. During this meeting, the Office will also review the Complaint procedures and discuss whether the matter may be suitable for Informal Resolution.
3. Complaints that also implicate conduct prohibited by the Title IX & Sexual Misconduct Policy will be investigated under the appropriate Title IX Procedures. In these situations, the Office for Civil Rights will notify the Complainant in writing to identify under which policies and procedures their reported allegations will be resolved.

PART 4: Informal Resolution Process

A. Overview of Informal Resolution

Informal Resolution provides an opportunity for the Complainant and Respondent to address allegations of Prohibited Conduct without a formal investigation. Participation in Informal Resolution, as an alternative to the Formal Resolution Process, is entirely voluntary. The Director has the discretion to determine the appropriate form of Informal Resolution and the procedures to be followed. The use of Informal Resolution requires the Director's approval, which may be withheld if the nature of the allegations or other relevant factors makes Informal Resolution inappropriate. Both the Complainant and Respondent must provide written consent to participate in the Informal Resolution process.

Employees and students are encouraged to first attempt to resolve Complaints at the lowest level through the appropriate administrative structure within their office or academic department. Randolph College reserves the right to initiate a formal investigation at any time. Pursuing Informal Resolution does not prevent parties from later utilizing the Formal Resolution Process if the issue is not adequately resolved. **There is no requirement to attempt Informal Resolution before beginning formal procedures.**

B. Prior to Initiating Informal Resolution

Before the process begins, the Director will provide both parties with a written notice that includes the following:

- The specific allegations and the conduct alleged to have occurred.
- The right of either party to withdraw from the Informal Resolution process at any time before a resolution is agreed upon and return to the Formal Resolution Process.
- A statement that any information shared during Informal Resolution is confidential and will not be considered if the parties later revert to the Formal Resolution Process.
- Clarification that accepting a Complaint does not imply the alleged conduct has occurred. The Respondent is presumed not responsible unless and until responsibility is determined at the conclusion of the formal investigation and resolution process.
- An opportunity for both parties to meet with the Director to learn more about the Informal Resolution process and the formal adjudication process.
- Information on Supportive Measures, which are available equally to both the Complainant and Respondent.
- An explanation that the Informal Resolution process is generally expected to be completed within thirty (30) business days, though this timeframe may be extended for good cause by the Director. Any extensions will be communicated in writing to all parties, along with the reason for the extension.

C. Conducting Informal Resolution

Informal Resolution may begin at any point prior to the conclusion of the Formal Resolution Process. It may be facilitated by an Informal Resolution Facilitator appointed by the Director. The Complainant, Respondent, Director, or Facilitator may terminate the Informal Resolution process at any time prior to its completion. If Informal Resolution is terminated, the Formal Resolution Process will promptly commence or resume. Informal Resolution may take various forms agreed upon by the Complainant, Respondent, and Director, including but not limited to:

- **Mediation:** This may involve both parties meeting in the same or separate rooms. Mediation typically does not require the Respondent to admit responsibility for the alleged Prohibited Conduct.

- **Restorative Justice:** This option may involve both parties who can but are not required to, meet in the same room. Restorative Justice generally requires the Respondent to admit responsibility for the Prohibited Conduct or certain allegations.
- **Educational Programming/Training:** The Director or a Facilitator of their choice may provide specific or broad-based educational programming or training to relevant individuals or groups, based on the agreement of the involved parties.

D. Outcome of Informal Resolution

The outcome of the Informal Resolution will be documented in an agreement signed by both the Complainant and Respondent. While these agreements are confidential, if a pattern of behavior continues, further investigation may be warranted.

If a mutually agreeable resolution cannot be reached, the Facilitator will notify both parties in writing, and the Director will resume the formal resolution process. The Director will maintain a copy of the written notification in a confidential file.

The Informal Resolution process is typically expected to be completed within thirty (30) business days of the parties agreeing to participate. This period may be extended at the Director's discretion. The Director will also keep records of all reports referred for Informal Resolution.

A resolution reached pursuant to the Informal Resolution Process is final and not subject to appeal.

PART 5: Formal Resolution Process

A. Initiating the Formal Resolution Process

If the Director determines that Informal Resolution is not appropriate, if the Complainant chooses not to pursue the Informal Resolution Process, or if the Informal Resolution Process is unsuccessful, the Office for Civil Rights will proceed with a formal investigation in accordance with the following procedures. This Formal Resolution Process applies to all students and employees of the College and is designed to ensure a fair and thorough response to Complaints involving Prohibited Conduct, whether the Complaint is raised against a student, employee, contractual employee, or third party.

B. Investigation Process

Once the Formal Resolution Process begins, the Office for Civil Rights will initiate a thorough and unbiased investigation of the Complaint, utilizing a variety of fact-finding techniques. These techniques may include reviewing documentary evidence submitted by both parties, conducting interviews with the Complainant, Respondent, and other relevant witnesses, and using other investigative measures as appropriate.

Upon initiation of the investigation, both the Complainant and Respondent will be contacted by an Investigator. Throughout the investigation, the Office for Civil Rights will ensure that:

- The burden of proof and the responsibility for gathering sufficient evidence to make a determination regarding responsibility rests with the College, not with the parties.
- Privacy is maintained as needed, and unless waived by a party, medical records will not be accessed, considered, or disclosed without consent.
- Both parties have an equal opportunity to present witnesses and any other relevant evidence, whether it supports or contradicts the allegations.

At the conclusion of the investigation, the Office for Civil Rights will assess each allegation and determine whether:

- There is insufficient evidence to conclude that the alleged conduct violates this policy, or
- A preponderance of the evidence supports a finding that the Respondent violated the policy.

C. Determination Regarding Responsibility & Sanctions

At the conclusion of the investigation, the Office for Civil Rights will issue a written determination within fifteen (15) business days to the Complainant and Respondent regarding responsibility, applying a preponderance of evidence standard. The determination will include:

- A summary of the allegations.
- A description of the procedural steps followed.
- Findings of fact and application of policy to those facts.
- The result for each allegation and whether there is a preponderance of the evidence that supports a finding that the Respondent violated the policy.

If the investigation reveals misconduct, the Director will refer the matter along with the Summary of Findings to the appropriate administrative structure within their office or academic department (e.g., Office of the Provost or Human Resources for employee misconduct, or Dean of Students Office for student misconduct) and that office or department will determine appropriate sanctions and/or remedies, including academic or workplace adjustments, will be applied and will be responsible for the effective implementation of any remedies. The sanctions will then be reported to the Office for Civil Rights for recordkeeping purposes.

The determination regarding responsibility is final and not open to appeal. The Complainant or Respondent may appeal the imposed sanctions in accordance with the policies and procedures of the respective office or department that issues the sanctions and/or remedies.

PART 6: Additional Provisions

A. Retaliation

Neither the College nor any of its personnel, or any parties shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by aforementioned Federal laws and applicable state laws or because the individual has made a report or Complaint, assisted, participated, or refused to participate in any manner in accordance with this policy.

For the purposes of this Policy, exercising rights protected under the First Amendment does not constitute retaliation. Additionally, charging an individual with a code of conduct violation for making a materially false statement in bad faith during a resolution proceeding is not considered retaliation. However, a determination of responsibility alone is not enough to conclude that any party made a materially false statement in bad faith. **Complaints alleging retaliation may be filed according to the procedures for Prohibited Conduct.**

B. Obligation to Provide Truthful Information

All members of the College community are expected to provide truthful information in connection with any report made under this Policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or to intentionally harm another in connection with a Complaint under this policy is prohibited and subject to disciplinary sanction. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

C. Discussion and Sharing of Evidence

The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence in support of their case. However, to protect the integrity of the investigation and the privacy of all involved, parties are prohibited from sharing, disclosing, or disseminating any evidence, reports, or other work products generated by the Office for Civil Rights during the resolution process. This includes, but is not limited to:

- Written statements, reports, or summaries provided by witnesses or the parties involved.
- Evidence gathered during the investigation.
- Drafts or final copies of investigative reports and findings.

The distribution or use of this information for any purpose outside the resolution process, including to individuals or entities not involved in the process, may result in disciplinary action. Both parties may be required to sign a Non-Disclosure Agreement (NDA) to ensure compliance with these confidentiality provisions. The NDA will emphasize that while parties can discuss the subject matter of the allegations, the dissemination of confidential materials produced during the investigation is prohibited. Violations of the NDA may result in sanctions, including, but not

limited to, removal from the resolution process or other disciplinary actions in accordance with College policy.

D. Complaints Involving Members of the President's Leadership Team

In cases where a member of the President's Leadership Team is involved in a Formal Resolution Process as a Complainant or Respondent, the investigation and determination of responsibility will be handled by external parties to ensure impartiality and fairness.⁵ Additionally, any Complaints involving any member of the Office for Civil Rights staff will also follow this External Resolution Process.

External Resolution Procedures:

- **Investigation:** An external investigator, hired by the College, will conduct the investigation. This investigator will be an impartial third party with no conflicts of interest to the College or the individuals involved in the Complaint.
- **Determination of Responsibility:** After the investigation, an external decision-maker, also hired by the College, will determine the findings and responsibility. In some cases, the investigator and the decision-maker may be the same individual.

Both the external investigator and decision-maker will adhere to the procedures outlined in this Policy to ensure a fair and thorough investigation and resolution. This process is designed to remain unbiased, with no conflicts of interest influencing the investigation or the final determination.

C. Reporting to the U.S. Department of Education or the Equal Employment Opportunity Commission

The District of Columbia office of the Office for Civil Rights serves as the regional field office for the Commonwealth of Virginia. The postal mail address is 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (800)421-3481, Email: ocr@ed.gov. The postal mail address for the Richmond Office of the EEOC is 400 N. Eight Street, Suite 350, Richmond, VA, 23219. Telephone: 1-800-669-4000. Email: info@eeoc.gov.

⁵ See the Randolph College President's Leadership Team website for a full listing of its members: [\[https://www.randolphcollege.edu/president/leadership-team/\]](https://www.randolphcollege.edu/president/leadership-team/)