

# UNLAWFUL HARASSMENT/DISCRIMINATION PROCEDURES

## 1. Definitions

The Richmond Community College Unlawful Harassment/Discrimination Policy addresses all forms of unlawful harassment and discrimination related to students, employees, and third parties and employs the following definitions:

*Discrimination*—A general definition for discrimination is a situation in which an individual or a group is treated less favorably than another individual or group due to some characteristic specified under anti-discrimination legislation. These characteristics may include factors such as but not limited to sex, race, color, national origin, disability, and religion or creed.

Examples of discrimination may include giving preferential treatment to an individual based on one of the protected classes or denying access based on one of the protected classes.

*Harassment*—A general definition for harassment is unwelcome conduct based on race, color, religion, sex (including pregnancy), national origin, age, disability, or genetic information. Harassment becomes unlawful when enduring the offensive conduct becomes a condition of continued pursuit of education or employment or when the conduct is severe or pervasive enough to create an environment that a reasonable person would consider intimidating, hostile, or abusive.

Examples of harassment may include conduct such as offensive jokes, slurs, epithets or name calling, bullying, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with school or work performance. Harassment may occur face to face or on social networking sites.

*Sexual harassment* is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or written communication of a sexual nature that is intimidating, hostile, or offensive. Sexual harassment is considered to have occurred when accepting or rejecting such conduct is used as the basis for academic or employment decisions or when such conduct creates an intimidating, hostile, or offensive environment, or substantially interferes with a student's academic performance or with an employee's job performance.

A few examples of possible sexual harassment, if unwelcome, repeated, or severe include unwanted touching; sexually suggestive messages, pictures, or posters; comments about a person's clothing or personal appearance; or pressure for sexual activity.

*Gender-based harassment*—Gender-based harassment may be defined as acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping.

This disrespectful behavior targets someone for offensive, hostile, degrading, or insulting treatment. Conduct does not have to be sexual to violate the policy.

*Sexual assault or sexual violence* is defined as sexual intercourse without consent including rape (whether by acquaintance or stranger), sodomy, or other forms of sexual penetration. To constitute lack of consent, acts must be committed either by force, threat of force, intimidation, or through use of victim's mental helplessness of which the accused was aware or should have been aware. It includes incapacitation by alcohol or other drugs. Sexual assault also includes intentional touching, either directly or through clothing, of the victim's genitals, breasts, thighs, or buttocks without the victim's consent as well as touching or fondling of the accused by the victim when the victim is forced to do so against his or her will.

*Title VI of the Civil Rights Act of 1964* stipulates that no person in the United States shall; on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Education.

*Title VII of the Civil Rights Act of 1964, and 1991 as amended*, prohibits public and private employers from discriminating in employment against individuals because of race, color, national origin, religion or sex.

## **2. TITLE VI or VII Complaint Procedures**

Individuals filing a Title VI or VII complaint should follow Richmond Community College's Grievance Procedures. If the complainant is a student, he/she will file his/her complaint through the Student Grievance Procedures located in the Richmond Community College catalogue. If the complainant is an employee, he/she will consult the Director of Human Resources to determine the best procedure for resolution.

## **3. TITLE IX Complaint Procedures**

The College will take prompt (within three (3) school days) steps to correct, prohibit, and remedy sexual harassment and discrimination and to protect the student or employee from further harassment or discrimination. Retaliation or discrimination against a student or employee for reporting or complaining about sexual harassment or discrimination or otherwise participating in this process is also prohibited. Those who report policy violations must not fear reprisals. Disciplinary actions for employees will be based on the Employee Disciplinary Policy.

It should be noted that throughout the Title IX process any determination of a conflict of interest or perceived conflict of interest for individuals involved in receiving complaints, investigating, and determining the outcome of a complaint may be resolved by having

another individual substituted in the process as designated by the College President. If there is a conflict of interest involving the President, the matter will be referred to the Board of Trustees Chair.

#### **4. Reporting a Complaint**

Those who feel they have been subjected to unlawful sexual harassment/discrimination as noted in this policy by students, employees, or third parties (independent contractors, delivery/service personnel, or any member of the general public) or anyone aware of a policy violation should take the following steps:

To file a Title IX complaint, as soon as is reasonably possible, employees should contact the Director of Human Resources and students should contact the Title IX Student Coordinator:

##### **Employees:**

Gaye Clark, Director of Human Resources

Office Location: Dewitt Building, Office #202

Telephone: (910) 410-1804

Email: [agclark@richmondcc.edu](mailto:agclark@richmondcc.edu)

##### **Students:**

Crystal Shaw, Counselor

Office location: Lee Building, Student Services

Telephone: (910) 410-1729

Email: [crshaw@richmondcc.edu](mailto:crshaw@richmondcc.edu)

Mailing address: Richmond Community College, P O Box 1189, Hamlet, NC 28345

The Title IX Student Coordinator or the Director of Human Resources is responsible for taking the student's or the employee's initial complaint. The following minimum information must be provided as part of the initial complaint:

- The identity of the complainant (the person or persons making the complaint) and respondent (the person or persons named to have violated this policy);
- details concerning the incident(s) or conduct that precipitated the complaint including the date(s) of the incident(s) and location(s) of the incident(s);

- the identity and status of any witness(es) to the incident(s) with telephone numbers, email addresses, and street addresses if known; and
- the action(s) requested to resolve the complaint.

The above information may be given to the Title IX Student Coordinator or Director of Human Resources in person, by telephone, via email, or via US Postal Service. Should the complainant feel unable to prepare a written complaint, the Coordinator or Director will make a record of the complainant's oral statements and then ask the complainant to review, correct any inaccuracies, and sign.

The Title IX Student Coordinator or Director of Human Resources will provide the complainant with the College policy, procedural information, and Title IX information. The complainant will also be notified of the right to file a criminal complaint as appropriate or to lodge a complaint with other agencies if applicable. (See appendix for procedures for filing a complaint with the Office for Civil Rights or the Equal Employment Opportunity Commission.) In addition, a college-appointed counselor will be assigned to the student complainant and arrangements made for their first meeting. The counselor will serve as a college advocate for the student.

The Title IX Student Coordinator or Director of Human Resources is mandated to take action quickly (within three (3) school days) to coordinate an investigation. In the event of safety concerns for the individual, the College will take immediate action as deemed necessary. The complainant and the respondent will be separated if appropriate.

Should the complainant request that the complaint be withdrawn, the College must pursue the investigation.

## **5. Investigation Process**

The Title IX Student Coordinator will forward the complaint to the Title IX Investigation Team (Executive VP, VP for Student Services, and Campus Security Officer) to begin a preliminary review of the complaint. All reports of violation of this policy will be investigated promptly (investigation initiated within three (3) school days) and thoroughly through the leadership of the Title IX Investigation Team. Steps will be taken to correct, prohibit, and remedy sexual harassment and discrimination.

The Director of Human Resources will conduct the investigation based on college policies and procedures, (such as the Discipline Policy), as deemed appropriate.

The Title IX Investigation Team will begin a preliminary review of the complaint, which normally includes interviews with the complainant, respondent, and witnesses. A college-appointed counselor will be assigned to the student respondent. The counselor will serve as a college advocate for the student. The Title IX Investigation Team may request administrators

in areas connected to the complaint to participate in the investigation process on a need to know basis. Some complaints may use mediation to resolve the issue. Mediation may not, however be used in sexual assault or sexual violence complaints.

After the preliminary review, a determination will be made as to whether circumstances reported in the complaint warrant further investigation. If it is determined that the complaint does not warrant further investigation, the complainant and the respondent will be notified. The complainant will have the right to appeal the decision. (See Section 9 of this policy for the Appeal Process.)

If the Title IX Investigation Team determines that circumstances in the complaint warrant further investigation, the complainant and respondent will be notified. In addition to interviews with all parties, the Title IX Investigation Team will review all written statements, documentation and policies, and other necessary steps to thoroughly investigate the complaint to determine whether the alleged conduct constitutes sexual harassment or discrimination in violation of this policy. Neither the complainant nor the respondent may directly question the other during proceedings, as this may possibly escalate a hostile environment.

When determining whether a violation of policy has occurred, the College will use a preponderance of the evidence standard. This standard means that it is more likely than not that the circumstances represented in the complaint are accurate.

Although not required, both the complainant and the respondent may retain and have legal counsel present during any or all portions of the proceedings. The College will have an attorney present if either party exercises his/her right to have legal counsel present.

In some situations complaints may involve both violation of the college policy and criminal activity. Police investigations may be useful for fact-gathering. The College will, however, conduct its own independent investigation in determining whether a violation has occurred. As police investigations and violation of Title IX policy use different standards, police decisions cannot be used in determining resolution of college policy infractions. For example, police investigations may not find sufficient evidence of criminal activity for an action considered unlawful under Title IX. In addition, criminal investigations into allegations of sexual violence do not relieve the responsibility of the College to resolve such complaints under Title IX.

## **6. Retaliation**

The College will take appropriate interim measures during the investigation to ensure safety and non-retaliation for all persons involved. Retaliation or discrimination against a student or employee for reporting or complaining about sexual harassment or discrimination or

otherwise participating in this process is also prohibited and is a violation of this policy. The complainant will be told how to report any subsequent problems.

The filing of a sexual discrimination, harassment, or related retaliation complaint will not stop, delay, or have any effect on pending student disciplinary or personnel actions. This includes but is not limited to performance evaluations or disciplinary actions related to a complainant who has violated college policies or who is not performing at acceptable levels.

## **7. Confidentiality**

All parties involved in the complaint process are expected to maintain confidentiality in order to avoid interfering with the investigation and addressing of each complaint. The College will attempt to keep all information relating to complaints under this policy confidential and on a need-to-know basis to the extent consistent with the legal obligations of the College, its need to investigate allegations, and its need to take corrective and/or disciplinary actions.

Both parties will be notified in writing of the outcome of a complaint and any appeal. If a complaint involves a student, FERPA regulations prohibit disclosure of personal information from a student's education record; however, FERPA does permit the College to disclose to the complainant any information related to sanctions imposed on the respondent. Disclosure of any additional information is a FERPA violation.

If the respondent's conduct is a crime of violence, FERPA permits the College to disclose to the complainant the final results of disciplinary proceedings regardless of whether the College determined a violation was committed.

The Clery Act requires that both parties be informed of the outcome of proceedings related to sex offenses. Compliance with this level of notice does not constitute a FERPA violation. Limitations on disclosure do not apply to information the College must disclose under the Clery Act.

Should a complaint involve an employee or third party, FERPA and the Clery Act are not applicable. The College will, however, protect the privacy of individuals involved to the extent required by law.

## **8. Resolution**

Upon completion of the investigation, the Title IX Investigation Team will report findings to the Title IX Decision Maker. This individual will lead the College in taking appropriate disciplinary actions for conduct determined to constitute harassment or discrimination in

violation of this policy. The Decision-Maker may name individuals to assist in the resolution process on a need to know basis.

Disciplinary action may be taken for violation of this policy including dismissal from the educational program or from employment. In determining disciplinary action, the Student Code of Conduct and the Employee Disciplinary Policy will be utilized. A third party may be barred from campus or prohibited from engaging in future business dealings with the College. Should it be determined that a false claim has been made, the claimant will be subject to the same disciplinary actions designated for the respondent.

Once the Decision Maker has made necessary disciplinary decisions, the Title IX Coordinator will be notified of the decision in writing. The Coordinator will notify the President of the College, the complainant, and the respondent of the decision. The President will make a report to the Board of Trustees on a need to know basis. Should a case be brought against the President, the Board Chairman will refer the matter to the Board of Trustees for action.

Procedures for resolving complaints will adhere to the following points:

1. Throughout the Title IX investigation, both parties will have an equal opportunity to present relevant witnesses and other evidence and may have legal counsel present. The College reserves the right to have an attorney present if either party exercises his/her right to have legal counsel present.
2. Both parties will have timely access to any information that will be used at a hearing.
3. Parties will not be allowed to personally question each other during hearings.
4. Each investigation will be conducted and completed within a reasonable time frame (60 calendar days unless the Decision Maker deems further time is necessary to render a decision).
5. Both parties will receive periodic status updates.
6. Both parties will be notified in writing as to the outcome of the investigation.
7. Both parties may file an appeal.
8. Both parties have the right to due process during the resolution of a complaint.
9. Should a party waive the right to go through the process of resolving a complaint, a decision will be made based on information gathered by the Investigation Team.

10. Documentation of all stages of the process will be maintained by the Title IX Student Coordinator or Director of Human Resources.

The College is committed to maintaining a safe, healthy, and positive work and learning environment. All behavior that is prohibited by federal, state, and local laws is prohibited on the campus or off the campus during an institutional activity, function, or event and will be referred to the proper authorities for action. Students and employees may be suspended during the pendency of court action for any violation of a criminal law committed on campus or off campus at a College-sponsored or related function. Additionally, students may be removed from classes and employees may be removed from duty pending action on charges during an investigation or appeal for reasons related to the safety and well-being of others.

## **9. Appeal Process**

Either party may appeal the outcome of the investigation and disciplinary decisions. The appeal must be in writing and submitted to the Title IX Coordinator within 15 working days of the issuance of the decision. The appeal will be forwarded to the President.

The President will review the complaint, the investigation, and the recommended disciplinary actions. Within 15 working days following receipt of the appeal, a written recommendation will be issued by the President.

The decision is not subject to further review at this level.

## **10. Title IX Education Program**

Annual education programs will be available to all Richmond Community College students and employees through one of the following avenues:

1. Curriculum students will take a college student success class or module (ACA) during their first semester of enrollment, which will contain a section on Title IX. Active students will have access to the ACA class/module until graduation through their Moodle account.
2. College and Career Readiness (CCR) students will have a Title IX section embedded in the CCR Orientation. If the student remains with the CCR program longer than one year, the student will be provided a Title IX handout during the student's review of credits. The student will review the handout with his/her CCR advisor and sign indicating he/she understands Title IX.
3. Occupational Extension (OE) students will be provided a Title IX handout since the nature of the course may only be one hour. The student will review the handout with his/her instructor and sign indicating he/she understands Title IX.



4. All Richmond Community College employees will receive annual mandatory Title IX training along with other mandatory training via Moodle or at designated meetings. The mandatory employee training will be made available in a non-electronic format if requested.
5. In an effort to monitor and assure compliance, the Director of Human Resources and the Title IX Student Coordinator will, on a semi-annual basis, evaluate the College's compliance efforts and provide a report on the status of those efforts to the Leadership Team and the President of the College.

## **APPENDIX A: UNLAWFUL SEXUAL HARASSMENT/DISCRIMINATION**

### **1. Filing an Office for Civil Rights (OCR) Complaint**

Anyone who believes that an education institution that receives federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, age, or retaliation may file a complaint with the Office for Civil Rights (OCR). The person or organization filing the complaint need not be a victim of the alleged discrimination but may complain on behalf of another person or group.

A complaint must be filed within 180 calendar days of the date of the alleged discrimination, unless the time for filing is extended by OCR for good cause shown under certain circumstances.

Prior to filing a complaint with OCR against an institution, a potential complainant may want to find out about the institution's grievance process and use that process to have the complaint resolved. However, a complainant is not required by law to use the institutional grievance process before filing a complaint with OCR. If a complainant uses an institutional grievance process and also chooses to file the complaint with OCR, the complaint must be filed with OCR within 60 days after completion of the institutional grievance process.

Complainants wishing to file a complaint may do so by:

- **Mail or Facsimile:** Complainants may mail or send by facsimile a letter or use the OCR's Discrimination Complaint Form available from one of OCR's enforcement offices. Information to be provided include the complainant's name, address and telephone number where the complainant may be reached during business hours; information about the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required); the name and location of the institution that committed the alleged discriminatory act(s); and a description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age).
- **E-mail:** Complainants may file a complaint using the following e-mail address: [ocr@ed.gov](mailto:ocr@ed.gov). Use the same procedures as above.
- **Online:** Complainants may file a complaint with OCR using OCR's electronic complaint form at the following web site: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

## **2. Filing an EEOC Complaint**

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

An employee who believes he or she has been discriminated against at work because of race, color, religion, sex (including pregnancy), national origin, age, disability or genetic information, may file a complaint. All of the laws enforced by EEOC, except for the Equal Pay Act, require the individual to file a Charge of Discrimination before filing [a job discrimination lawsuit](#) against the employer. In addition, an individual, organization, or agency may file a charge on behalf of another person in order to protect the aggrieved person's identity. There may be [time limits](#) for filing a charge.

Charges are not accepted by telephone, but an employee may call 1-800-669-4000 to submit basic information about a possible charge to begin the process. The information will be forwarded to the appropriate EEOC field office.

COMPLAINT FORM: UNLAWFUL HARASSMENT/DISCRIMINATION POLICY

Please provide the following information:

Name:

Address:

Home Phone:

Mobile Phone:

Email Address:

Complaint Information:

Incident Date(s):

Location of Incident(s):

Incident Summary: In your own words briefly describe what happened to you that you believe was discriminatory, harassing, or retaliatory. (Include names of all parties involved along with witnesses or individuals who may have knowledge of the event(s).)

What action/remedy are you seeking?

Print and return form to Title IX Student Coordinator OR Send Electronically:

Crystal Shaw, Counsellor, Title IX Student Coordinator

Office location: Lee Building, Student Services

Telephone: (910) 410-1729

Email: [crshaw@richmondcc.edu](mailto:crshaw@richmondcc.edu)

Mailing address: Richmond Community College, P.O. Box 1189, Hamlet, NC 28345



APPEAL FORM: UNLAWFUL HARASSMENT/DISCRIMINATION POLICY

Please provide the following information:

Name:

Address:

Home Phone:

Mobile Phone:

Email Address:

Appeal Information: (An appeal must be filed within 15 calendar days of the complaint resolution.)

Date of Complaint Resolution:

Summary of Request to Review Decision: In your own words briefly describe why you are requesting a review of the complaint decision.

Print and return form to Title IX Student Coordinator OR Send Electronically:

Crystal Shaw, Title IX Student Coordinator

Office location: Lee Building, Student Service

Telephone: (910) 410-1729

Email: [crshaw@richmondcc.edu](mailto:crshaw@richmondcc.edu)

Mailing address: Richmond Community College, 1042 W Hamlet Ave, Hamlet, NC 28345