



Richard Bland College

of WILLIAM & MARY

**DISCRIMINATION, HARASSMENT, SEXUAL
MISCONDUCT, AND RETALIATION COMPLAINT
RESOLUTION PROCESS GUIDELINES**

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I. INTRODUCTION AND GENERAL PROCEDURES

Introduction

Richard Bland “College” is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law.

The College’s Discrimination, Harassment, Sexual Misconduct, and Retaliation “Policy” prohibits sexual assault, sexual exploitation, stalking, dating violence, domestic violence, sexual harassment, and retaliation. The procedures below outline the process the College follows when it receives a report alleging a violation of the Policy. The Title IX Coordinator is responsible for handling reports alleging discrimination, harassment, sexual misconduct, or retaliation. All reports will be handled in a prompt, fair, and impartial manner in accordance with Title IX, The Violence Against Women Act, and other relevant laws and regulations, applicable College policies, and these guidelines.

The process below is Richard Bland’s internal process to determine whether Richard Bland’s policy has been violated; it is not part of the criminal justice system and operates independent of Dinwiddie or Prince George County courts. As such, Richard Bland’s process does not use the same rules for procedures and evidence as those used by courts or law enforcement to investigate or adjudicate criminal or civil legal violations. A victim of sexual violence or other crime has the right to simultaneously file and pursue a criminal complaint with law enforcement and a complaint with the College if he or she chooses, and to be assisted by the College in notifying law enforcement authorities if he or she chooses, or to decline to notify such authorities. Parties may also have options to file civil actions in court.

Because allegations of sexual misconduct can sometimes raise challenging new issues and involve competing interests, the College reserves discretion to take reasonable actions to address those issues in a manner consistent with the spirit of the applicable policies and these guidelines, while preserving fairness for both parties and maintaining the integrity of the resolution process.

Participant Roles

- A **“reporting party”** is the person who reports a concern and/or who has been impacted by an alleged policy violation.
- A **“respondent”** is the person who is alleged to have violated College policy.
- **“Parties”** is a term that refers to the reporting party and the respondent collectively.

- A “**witness**” is a person who has direct or indirect knowledge related to specific aspects of a case.
- An “**advisor**” is a support person who may be present to provide support to a reporting party or respondent throughout an investigation and/or hearing. An advisor may not also serve as a witness in the same matter.

Participation in the Process

The College invites the reporting party and witnesses to participate fully in the complaint resolution process. In order for the College to investigate a complaint and/or enable a respondent to respond fully to the allegations, most situations will require the reporting parties’ participation and that their identity be disclosed to the respondent. If a reporting party decides not to participate, but wants disciplinary action to be taken, the College will determine whether it is possible to move forward with a case without the participation of the reporting party. In some cases, it will not be possible for the disciplinary action to be taken without the participation of the reporting party.

When individuals report allegations of sexual misconduct to the College and do not consent to disclosure of their names and/or do not disclose the identity of the alleged offenders or identifiable information about the alleged offenders, the College’s ability to respond to the complaints may be limited. In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, the College will attempt to honor that request but, in some cases, the Title IX Coordinator or Deputy Title IX Coordinator may determine that the College needs to proceed with an investigation based on concern for the safety or well-being of the broader College community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). Richard Bland reserves the right to take appropriate action in such circumstances, including in cases when the individual reporting misconduct is reluctant to proceed.

The College expects respondents to participate fully in all aspects of the complaint resolution process. If a respondent elects not to participate in any part of the process, the College may proceed without the respondent’s participation. Respondents will be held accountable for any outcomes issued, even if they decline to participate.

All participants have the responsibility to be completely truthful with the information they share at all stages of the process. Any individual who knowingly or intentionally provides false information as part of a report or investigation will be subject to discipline in accordance with the procedures set forth in the applicable Student Handbook, Policy Manual, or Faculty Handbook. This provision does not apply to a good faith report that is not substantiated or proven by a preponderance of the evidence.

Privacy and Sharing of Information

The College considers complaints and investigations of sexual misconduct to be private matters for the parties involved. For that reason, the College will protect the identity of persons involved in reports of sexual misconduct to the best of its ability. The College will share personally identifiable information only with persons with a need-to know in order for the College to investigate and respond or to deliver resources or support services. The College does not publish the names nor post identifiable information about persons involved in a report of sexual misconduct. The College does not confirm to outside parties the identity of an individual who may be involved in a report of sexual misconduct without that individual's consent. However, by law depending on the circumstances, the College cannot promise complete confidentiality or privacy in the handling of sexual misconduct reports or complaints.

All participants in an investigation of sexual misconduct will be informed that confidentiality helps enhance the integrity of the investigation, protect the privacy interests of the parties and protect the participants from statements that might be interpreted to be retaliatory or defamatory. For these reasons, the reporting party and respondent will be asked at the beginning of the investigation to keep the information related to the investigation and resolution private, to the extent consistent with applicable law. Witnesses and advisors will be asked to maintain complete confidentiality, to the extent consistent with applicable law.

The College reserves the right to share information regarding the case with other appropriate parties on a need-to-know basis in accordance with FERPA and other applicable law.

Retaliation

Any participant in a sexual misconduct complaint who is aware of possible retaliation or has other concerns regarding the matter should report these concerns to the Title IX Coordinator, who shall take appropriate action to address such conduct in a prompt and equitable manner. Retaliation is explained on page 7 of the Discrimination, Harassment, Sexual Misconduct, and Retaliation "Policy" (<http://www.rbc.edu/wp-content/uploads/2016/09/RBC-Discrimination-Harassment-Sexual-Misconduct-and-Retaliation-Policy-2016-Final-00000003.pdf>).

Case Resolution Timeline

In most cases, the College investigates and resolves complaints of sexual misconduct, including determining what sanctions and/or corrective actions will be taken, within 60 days of receiving a complaint, though this may vary based on the availability of the parties and witnesses, the scope of the investigation, provision of interim protective measures or accommodations, or unforeseen circumstances. Many cases are resolved in a much shorter time. Extensions of time beyond this 60-day timeframe may occur for good cause. In cases where there is a simultaneous law enforcement investigation, the College may need to temporarily delay its investigation while law enforcement gathers evidence. However, the College investigation generally will proceed with its investigation and resolution of a complaint during any law enforcement investigation.

Standard of Evidence

The College uses the preponderance of the evidence standard in investigations of complaints alleging sexual misconduct and any related violations. This means that the investigation must result in a determination that it is more likely than not that a violation of the Policy occurred. A

“preponderance of the evidence” means that over 50% of the evidence supports a finding that the misconduct occurred.

Advisor/Legal Counsel

Reporting Parties and respondents may be accompanied by one advisor throughout the investigation. An advisor is a support person who is present to provide support to a complainant or respondent throughout an investigation or appeal. An advisor may not speak, write, or otherwise communicate with an investigator or an appellate authority on behalf of the complainant or respondent. Advisors who do not abide by these guidelines may be excluded from the process. In any matter involving a complaint of sexual assault, stalking, or dating or domestic violence, the advisor may be any person of the party’s choosing, including an attorney. However, an advisor may not also serve as a witness in the same matter. Further, the advisor is limited to the supportive and not participatory role described above.

II. REPORTING SEXUAL MISCONDUCT, DISCRIMINATION, HARASSMENT, OR RETALIATION

Time Limitations for Reporting Sexual Misconduct, Discrimination, Harassment, or Retaliation

All reports should be made as soon as possible after an incident because the passing of time makes a review of the evidence more difficult and the memories of involved parties become less reliable. There is no time limit for when an incident of sexual misconduct may be reported. The Title IX Coordinator reserves the right to conduct an initial inquiry, investigate, or otherwise address any report, regardless of the time it is made, based on concern for the safety or well-being of the College community.

Reporting Sexual Misconduct, Discrimination, Harassment, or Retaliation

A report of a violation can be submitted by anyone by any means. Reports of sexual misconduct, discrimination, harassment, or retaliation may be submitted electronically using an incident report form, which can be found at:

https://richardblandcollege.formstack.com/forms/sexual_misconduct_incident_reporting_form

Reports also can be submitted by email to: titleix@rbc.edu, in person to the Title IX Coordinator (11301 Johnson Road, South Prince George, VA 23805, 1st Floor Library Rm. 104) or Deputy Title IX Coordinator (11301 Johnson Road, South Prince George, VA 23805, 1st Floor Library, Rm. 132) or by calling the Title IX phone number (804) 481-0522. While anonymous incident reports will be reviewed by the Title IX Coordinator, the College’s ability to address alleged misconduct reported by anonymous sources is significantly limited.

Upon receipt of a report of a violation, either from someone other than the alleged victim (e.g., a witness or a colleague), or directly by the alleged victim, a Title IX staff member will contact the alleged victim to provide information about resources and options. The information provided by the Title IX staff member generally will include information about medical and confidential counseling and support resources; options for pursuing a complaint and/or reporting the incident to law enforcement; how to request a protective order or no-contact directive; how to request interim

protective measures and accommodations; how to preserve evidence; where to access more information; and an invitation to meet with or speak to a Title IX staff member.

III. INITIAL INQUIRY

When the Title IX Coordinator receives a report of sexual misconduct, discrimination, harassment, or retaliation, Title IX staff will begin an initial inquiry as soon as practicable, generally within one week. This most frequently will begin with an attempt to gain additional information from the complainant or alleged victim, preferably through an in-person meeting. The scope and timing of further action will depend upon a number of factors, including but not limited to, whether the identity of the alleged victim is known; whether the reporting party/alleged victim is willing to participate in an investigation; whether the reporting party/alleged victim requests anonymity or confidentiality; whether the respondent is affiliated with the College; and whether the College has an obligation to proceed with an investigation based on concerns for the safety of the broader College community, regardless of the complainant's wishes. Following an Initial Inquiry, possible next steps include:

- **Close the Case:** In order for a case to be referred for a full investigation, there must be sufficient information to believe a Policy violation may have occurred and the respondent may be responsible. The Title IX Coordinator/Review Committee may dismiss a case when insufficient information exists to move forward or when the alleged misconduct—even if substantiated— would not be a violation of the Policy. The Title IX Coordinator/Review Committee may, in its discretion, reopen a case in the future if additional information becomes available or a reporting party who was unwilling to pursue formal resolution changes his/her mind, (consistent with the time limitations discussed above).
- **Informal Resolution:** Informal resolution involves action taken by the College in response to a situation or report of sexual misconduct or other Policy violation when formal resolution is not desired by the complainant or when there is not enough information to proceed with a formal resolution process. Examples of informal resolutions can include, but are not limited to, a warning to cease current behaviors, no-contact directives, an educational conversation with the respondent or others, and changes in academic, work, or living arrangements. Mediation will not be used to resolve complaints involving sexual misconduct. See below for further information.
- **Formal Resolution:** When the Title IX Coordinator or Deputy Title IX Coordinator, determines that there is sufficient information to suggest a Policy violation may have occurred, the complaint will proceed to further investigation and formal resolution.

INTERIM MEASURES

The Title IX Coordinator or Deputy Title IX Coordinator also will determine whether interim measures should be taken while the case is pending. Interim measures may include measures taken to ensure the safety and security of the campus community. Interim measures may be applied to the reporting party, the respondent, or the broader College community and include, (but are not limited to):

- A no-contact directive placed between members of the community;
- Changes in academic, work, or living arrangements;

- Assistance in requesting academic allowances;
- A formal request or warning that a community member cease certain behaviors;
- Removal of privileges or suspension of activity (including attendance in a specific class);
- Interim relocation or removal from campus housing (pursuant to the procedures set forth in the Student Handbook); and/or
- Interim suspension or administrative leave pending resolution (pursuant to the procedures set forth in the applicable Student Handbook, Faculty Handbook, or Policy Manual).

IV. INFORMAL RESOLUTION

Informal resolution can be used in certain sexual misconduct cases as a way to prevent the recurrence and remediate the impact of alleged sexual misconduct. Informal resolution is most commonly used in cases where the identities of the reporting party or respondent are not known or when the complainant wishes to remain anonymous or requests that further action not be taken and the College is able to honor this request. Informal resolution also may be used when the Title IX Coordinator/Review Committee determines there is not enough information to proceed to a formal resolution but still believes some action is necessary to address the impact on the College community. Informal resolution is not used when formal resolution is desired by a reporting party and the respondent's identity is known. A matter initially resolved through informal resolution may later be referred for formal resolution if additional information becomes available or a reporting party who was unwilling to pursue formal resolution changes his/her mind.

Informal resolution does not result in findings related to responsibility or sanctions. Options for informal resolution include, but are not limited to:

- A no-contact directive placed between members of the community;
- Changes in academic, work, or living arrangements;
- An educational meeting with the respondent;
- Training for a group or unit;
- A formal advisory letter; and/or
- Permanent relocation or removal from a residence hall.

V. FORMAL RESOLUTION

Notification to Respondent

The sexual misconduct, discrimination, harassment, or retaliation complaint resolution process operates under a standard of fairness, which includes an opportunity for the respondent to be notified of the alleged misconduct and the policy violations under consideration and an opportunity to be heard. As such, if a case is referred for formal resolution, the Title IX Coordinator will notify the respondent of the alleged misconduct and the respondent will be given an opportunity to respond.

The notification will typically include a brief description of the alleged misconduct, a list of any College policies allegedly violated, and a description of the steps toward resolution. The College may modify the list of policies allegedly violated based on additional information revealed during investigation.

Investigation

The College will investigate complaints proceeding through formal investigation. Depending upon the circumstances, one or more investigators will be assigned. All investigators have been trained to conduct Title IX investigations and on the College's policies and procedures.

During an investigation, the reporting party will have the opportunity to describe their allegations and present supporting evidence to the investigator. The respondent will have the opportunity to hear the allegations, respond to them, and present supporting evidence to the investigator. Parties and witnesses may take notes during investigation meetings. Generally, the investigator will meet with each party and each witness separately. In some cases, the investigator may interview the parties and/or witnesses more than once. The parties may submit additional materials or information to the investigator following their interview(s). In all cases, both the reporting party and respondent will have equal opportunities to share information and have their information considered.

The reporting party and the respondent will both have the opportunity to present names of witnesses they suggest the investigator solicit information from and questions they request that the investigator ask the other party. The reporting party and respondents may only present factual witnesses and may not present character or expert witnesses. The investigator will take the lists provided by the reporting party and respondent into consideration when identifying whom they will interview and what questions they will ask, but these decisions remain in the investigator's discretion. The investigator also may choose to interview other witnesses not identified by the parties.

Following investigation, the matter will be resolved using Administrative Resolution/Standard of Review.

A. Complaint Resolution

The reporting party and the respondent both will be notified simultaneously in writing of the findings of the complaint resolution. In the event a violation is found, Title IX Coordinator also will provide his/her findings to the appropriate College office.

- If the Title IX Coordinator does not find by preponderance of the evidence that a violation of the Policy occurred, the matter will be documented as closed for purposes of the Policy, unless the reporting party or respondent file an appeal.
- For student respondents, in the event a Policy violation is found, the Title IX Coordinator or Deputy Title IX Coordinator, in consultation with the Associate Dean of Residence and Student Life or Designee, will determine what sanctions or corrective actions should be imposed on the respondent in accordance with the Sanctions section of the Student Handbook.

- For staff respondents, in the event a Policy violation is found, the Title IX Coordinator will provide findings to the Office of Human Resources and the respondent's manager(s), who are responsible for deciding what sanctions or corrective actions should be imposed on the respondent, in accordance with the procedures set forth in Policy Manual.
- For faculty respondents, in the event a Policy violation is found, the Title IX Coordinator will provide findings to the Dean of Faculty. Any sanctions or corrective actions imposed will be determined in accordance with the procedures set forth in the Faculty Handbook.
- For third party respondents, findings of a violation will be provided to the appropriate College office for further action consistent with the findings.

Notification of findings and sanctions will be provided to the reporting party and the respondent in separate correspondence from the Title IX Coordinator imposing the sanction. Notification to the complainant will include findings related to violations of policy, remedies offered or provided to the reporting party, sanctions imposed on the respondent that directly relate to the reporting party, and any other steps the College has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. In a case related to alleged sexual assault, stalking, or dating or domestic violence, the notification of outcome will also include the rationale for the findings related to violations of Policy and all sanctions imposed on the respondent, not just those directly related to the complainant. The respondent generally will not be notified of the individual remedies offered or provided to the reporting party. Reporting parties and respondents are informed of appeal procedures and any changes to the outcome that occur prior to the time that such outcome becomes final. The College encourages the parties to maintain confidentiality of all communication related to findings and sanctions.

VI. SANCTIONS

When a violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy is found, sanctions are determined based on several factors, including the severity of the conduct and any prior state or College policy violations. In addition, the College may take steps to address the effects of the conduct on victims and others, including, but not limited to, counseling and support resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures. Sanctions and remedial actions aim to eliminate any hostile environment, prevent sexual misconduct from recurring, and remedy any discriminatory effects on a complainant or others. Sanctions and corrective actions can include, but are not limited to:

- Verbal warning;
- Written warning;
- Advisory Letter;
- Monitoring;
- Disciplinary hold on academic and/or financial records;
- Performance improvement/ management process;
- Required counseling or therapy;

- Required training or education;
- Campus access restrictions;
- Loss of oversight, teaching or supervisory responsibility;
- Probation;
- Demotion;
- Loss of pay increase;
- Transfer (employment);
- Revocation of offer (employment or admissions);
- Disciplinary suspension;
- Suspension with pay;
- Suspension without pay;
- Expulsion;
- Degree revocation;
- No trespass order issued by Campus Police;
- No contact directive (with respect to an individual);
- Loss of privileges;
- Termination of employment;
- Revocation of tenure; and/or
- Termination of contract (for contractors).

VII. APPEALS

Once a written notification of the outcome of the investigation and sanctions has been provided, the reporting party and respondent have seven (7) business days from the date notice is hand-delivered to the party or received into the parties' email account to file a written request for an appeal. The appeal request must include the basis(es) for the appeal. All appeals will be reviewed by the Provost.

An appeal is available only based on one or both of the following:

1. A procedural or substantive error in the process resulted in fundamental unfairness; and/or
2. New evidence unavailable during the original investigation that could substantially impact the original finding.

The sufficiency of the evidence and the severity of the sanction are not available as grounds for an appeal.

- A request for an appeal must be addressed to: Lashrecse Aird, Title IX Coordinator, 11301 Johnson Road, South Prince George, VA 23805 or laird@rbc.edu.
- The Coordinator shall confirm that the appeal is timely and shall forward it within three (3) business days of receipt to the Provost or designee who shall assign the appeal to the appropriate Richard Bland College Senior Administrator(s) within three (3) business days of receipt.
- If adequate grounds for the appeal have been stated, the Senior Administrator(s) will consider the merits of the appeal. Any information included in the appeal that does not support one of the above two reasons for filing an appeal shall not be considered in the appeal process.
- The Senior Administrator(s) may temporarily suspend the imposition of sanction(s) while the appeal is pending.
- The decision of the Senior Administrator(s) shall be final. The final decision shall be provided in writing to the party who filed the appeal and to the Coordinator within ten (10) business days from the Senior Administrator(s) receiving the appeal.
- If an appeal is not filed within the appeal period, the findings of the investigation become final and are not subject to further review.