



Discrimination/Harassment Complaint Procedure

Any Christopher Newport University student/employee who believes that he/she has been unlawfully discriminated against or harassed may file a complaint with me, the Director of Equal Opportunity. It has been made very clear to all employees at the University that any matters of this kind are to be directed to me immediately. Any delay in reporting alleged incidents makes it more difficult to establish the facts of a case and may contribute to the repetition of the alleged offensive behavior.

Students/employees must report alleged incidents of discrimination/harassment to me within 180 days of when the alleged incident occurred. Any incident reported after that time will not be investigated. Every effort will be made to complete investigations within 30 days of when a complaint is lodged with me. However, complex investigations could require more time due to various factors such as, but not limited to, the availability of witnesses or the number of witnesses to be interviewed. While I like to investigate and resolve situations as soon as possible, I want to make sure that adequate time and consideration is given to each investigation to ensure that the results are fair and accurate to the highest extent possible. It is my policy to conduct and conclude my investigation as soon as possible without compromising the thoroughness of it. In every investigation, I will consider all relevant evidence and will ask the student/employee to submit anything that he/she feels supports his/her claim. I will also objectively consider the complaint in relation to the total circumstances, including the nature of the conduct and the context within which the alleged incident occurred.

Once a student/employee notifies me that he/she would like to talk to me regarding a possible discrimination/harassment matter, I will schedule that meeting as soon as possible. The very first issue that I cover with the student/employee is my role at the University and how I proceed with complaints. It is my desire to make students/employees comfortable and to put them at ease and every effort is made to do so. I realize that coming forward with a complaint can be a very terrifying, uncomfortable, and stressful ordeal. I commend students/employees for possessing the courage to pursue action against behavior that they feel is inappropriate. By describing in detail what steps I will take from that point forward, I hope to ease the student's/employee's anxieties. With that being said, I also tell the student/employee that there are two sides to every story and that the accused party will be afforded the opportunity to talk to me.

I will then begin my inquiry into the matter by asking the student/employee to describe in detail what has occurred to him/her that he/she feels is discriminatory and/or harassing and why. I will ask a question when I feel it is appropriate in order to better my

understanding of the situation. I discuss with the student/employee if there are any possible witnesses to the alleged incident(s) or if there is anyone who may have information relevant to the situation. If the student/employee identifies anyone that he/she would like for me to interview, I will ask the student/employee to provide me with contact information for that person(s). I also encourage the student/employee to provide me with any documentary or non-interview evidence that he/she feels is relevant. I will also ask the student/employee what specific action he/she would like to see taken based on his/her complaint. I always preface this with the caveat that there is no guarantee that the University will take that specific action, but that it helps me to know what the student/employee would find appropriate in order to correct the problem. I will ask the student/employee to then fill out the Discrimination/Harassment Complaint Form (copy available on the Director of Equal Opportunity Web Site). This form is rarely completed when the student/employee first meets with me. Since it asks for a detailed written description of the nature of the claim, the student/employee normally asks to complete this form after the initial meeting and return it to me. This has been helpful in past situations because he/she tends to remember other important details that he/she forgot to tell me in our first meeting. I will gladly meet with the student/employee again when the form is returned so that he/she can clarify or point out any new evidence. If a student/employee does not return the completed form, I still continue with my investigation based on the information available to me. In that case, I can only rely on the information that the student/employee verbally told me. Whether or not the form is returned to me, I consider all complaints to be formal complaints.

There are several topics regarding discrimination/harassment investigations that I consider to be extremely important. I always discuss these with the student/employee at length. First, I tell the student/employee that the University does not tolerate any form of retaliation. It is strictly prohibited by the University and can subject the offender to disciplinary action independent of the merits of the discrimination/harassment allegation. I will explain in detail what retaliation means and provide the student/employee with various examples so that he/she will have a complete understanding of it and be able to recognize it. I define retaliation to be any act of interference, reprisal, restraint, or penalty against a student/employee for reporting what he/she believes to be discriminatory or harassing conduct on the part of the accused party. An example of retaliation could be illustrated by the situation where an employee returns to his/her work area and overhears co-workers saying, "Don't talk around her because she will go and rat on you," or "He is a tattletale." As a more extreme example of retaliation, a student could return to class after reporting a faculty member for possible inappropriate conduct, and have that faculty member openly ignore him/her, refuse to answer his/her questions in class, and/or treat that student in a hostile manner. The same would be true if an employee was subjected to similar treatment from his/her supervisor after reporting a claim of possible discrimination/harassment. I tell the student/employee to immediately report any behavior to me that is directed towards him/her that he/she feels is retaliatory. I will then investigate the alleged retaliation and take appropriate action if needed. It is my duty to foster an environment at the University where students/employees feel that they can come to me with situations without feeling that they will be subjected to negative repercussions. This goal will definitely not be achieved if retaliation is not

properly addressed. I tell the student/employee that I will also thoroughly explain retaliation to the accused party and how the University will not tolerate it.

Second, I discuss the importance of confidentiality in these matters. I tell the student/employee that all parties involved must observe confidentiality to the highest extent reasonably possible. To protect the privacy of both the complainant and the accused, complaints are handled with confidentiality insofar as it does not interfere with the University's duty to investigate and resolve the issue. I will only discuss the matter with people on a "need to know" basis. I explain that this means if the accused party were an employee, I would have to notify people in that employee's chain of command. If the accused party were a student, the necessary staff in the Office of the Dean of Students would have to be involved. It is my intention to keep the number of people involved to an absolute minimum. I tell the student/employee that I will also cover this topic with the accused party.

Third, I talk to the student/employee about corrective measures. The University will take appropriate action to stop or correct discrimination or harassment when it is found to have occurred. Possible corrective measures may include, but are not limited to, an apology, explicit agreement about future conduct, participation in training sessions about discrimination/harassment, changes in workplace assignments, disciplinary action, or other appropriate action including expulsion or termination of employment. I assure the student/employee that if discrimination and/or harassment are found, the University will take all necessary steps to correct the behavior and prevent it from reoccurring.

Fourth, I discuss with the student/employee the types of disciplinary action that could be taken against the accused party. As noted in the *University Handbook*, *Student Handbook*, *Commonwealth of Virginia Employee Handbook*, and other University publications, persons engaged in discrimination or harassment within the University community are subject to a full range of disciplinary action, including separation from the institution for employees or expulsion for students. The type of disciplinary action could vary based on whether the accused party is instructional faculty, administrative/professional faculty, a classified employee, or a student. Depending on the status of the accused party, I will tell the student/employee about more specific possibilities for disciplinary action if the complaint is founded.

Fifth, I point out to the student that one who knowingly brings false charges against another will be considered in violation of the University's Honor Code and expelled if convicted of the offense. I explain to the student that filing a discrimination/harassment complaint is a very serious matter. It should not be taken lightly or used as a vehicle to get back at someone. This is only to discourage a student/employee from filing a complaint that he/she knows has absolutely no basis or is only made up of knowingly false allegations.

Last, I inform the student/employee about the professional counselors on staff in the Office of Career and Counseling Services and the services and resources that it provides. I tell the student/employee that the office is located in Room 146 of the Student Center. I

will provide more detailed directions if they are unfamiliar with the Student Center. I stress to the student/employee that the Office of Career and Counseling Services is on campus to help students/employees, and he/she should not be embarrassed or hesitant to go there for assistance. I point out that the counselors are trained professionals who also abide by rules of confidentiality.

Before a student/employee leaves my office, I confirm with him/her that he/she fully understands how I will proceed with his/her complaint. I tell the student/employee that I will contact him/her once my investigation is complete. At that time, I will tell him/her what, if any, corrective measure(s) and/or disciplinary action(s) will be taken against the accused party. I will also give the student/employee my business card containing all of my contact information. I have an open door policy and encourage students/employees to contact me at any time. I will always meet with students/employees when I am available. If for some reason I am not available, I tell students/employees to please leave me a voice message or electronic mail message. It is my policy to get back in touch with them as soon as possible.

After meeting with a student/employee, I will contact and interview the witnesses and/or people that were believed to have relevant information. If I contact a potential witness and he/she refuses to meet or talk with me, I will make no further contact with that person.

Once I have spoken with the witnesses and obtained all the relevant information that I feel I can, I will meet with the accused party. I will inform the accused party of the allegations and immediately talk about retaliation. I will explain what retaliation is and provide the accused party with examples of potential retaliatory behavior. I stress that I have discussed retaliation with the student/employee at length and told him/her to report any possible retaliatory behavior to me as soon as possible. I emphasize that the University will not tolerate retaliation and that it can subject the offender to disciplinary action independent of the merits of the discrimination/harassment allegation. The accused party has the opportunity to provide me with his/her version of the situation. Again, I will ask a question when I feel it is appropriate in order to better my understanding of the matter. I will ask the accused party if he/she has any names of witnesses or people with relevant information that he/she would like me to interview. Once the accused party has finished with his/her account, I will cover the same information on confidentiality, corrective measures, and disciplinary action with him/her as I did with the student/employee. I also provide the accused party with my contact information before he/she leaves my office. The accused party is told that he/she will be notified with the result of the investigation once it is completed.

I will then contact the witnesses given to me by the accused party and meet with them. I will interview them and gather any other relevant information that they have regarding the matter. If I contact a potential witness and he/she refuses to meet or talk with me, I will make no further contact with that person.

At some point during the investigation, I may find it necessary to visit the site where the alleged occurrence took place. Observing the physical layout of the scene may provide me with useful information.

After I have spoken with all parties and witnesses, I will review all of the relevant information and evidence that has been presented to me. Based upon that review, I will make a determination as to whether the complaint has merit. I will then formulate my recommendations as to what I feel would be the appropriate corrective measure(s) and/or disciplinary action(s) that should be taken against the accused party. I will then forward a report to the Provost (Instructional Faculty), Chief of Staff (Administrative/Professional Faculty), Associate Vice-President for Human Resources (Classified Employees), or Dean of Students (Students) regarding the findings of my investigation and my recommendations. A copy of the recommendation is also forwarded to the General Counsel.

If I conclude that a complaint has merit, appropriate disciplinary proceedings will be instituted using the *University Handbook*, *Student Handbook*, *Commonwealth of Virginia Employee Handbook*, and/or any other applicable University publication as appropriate. Of course, the offending party will have the right to challenge my findings as part of the disciplinary process.

Once my investigation is completed, I will follow up with the student/employee as to my conclusion. I will inform the student/employee whether I find that the evidence substantiates the claim or not. If the claim is substantiated, I will inform the student/employee that appropriate action is being taken to correct the matter and to prevent it from occurring in the future. Furthermore, I advise the student/employee that if the accused party engages in any further conduct that he/she feels is inappropriate to please contact me as soon as possible.

If the claim is unsubstantiated, I will advise the student/employee of their right to file a complaint with either the Office for Civil Rights (student) or the Equal Employment Opportunity Commission (employee). I also provide him/her with the following contact information.

U.S. Department of Education
Office for Civil Rights
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20202

Telephone: 1-800-421-3481
Facsimile: 202-205-9862
TDD: 877-521-2172
E-mail: ocr@ed.gov

Equal Employment Opportunity Commission
Federal Building, Suite 739
200 Granby Street
Norfolk, VA 23510

Telephone: 757-441-3470
TDD: 757-441-3578

I continually emphasize to the University community that the University is fully committed to maintaining an environment free of discrimination and harassment by promoting awareness and prevention. Discrimination and harassment impair the effective function of the University, undermine the trust of students and employees, and compromise the integrity of the University. Faculty, staff, and students should demonstrate a standard of conduct consisting of mutual respect, civility, and common courtesy toward one another.

Michelle L. Moody
Director of Equal Opportunity