



Office for Civil Rights Compliance
and Prevention Education

NONDISCRIMINATION COMPLAINT PROCEDURES

Addressing Prohibited Discriminatory Conduct by University Employees

Nondiscrimination Complaint Procedures

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The University is subject to Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended, the Age Discrimination in Employment Act, the Equal Pay Act, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, Genetic Information Nondiscrimination Act of 2008 (GINA), Virginia Executive Order(s), and other rules and regulations as applicable.

This document outlines the process that the University's Office for Civil Rights Compliance and Prevention Education (CRCPE) follows to address any allegation that employee conduct or department practice or policy violates Virginia Tech's Policy on Harassment, Discrimination, and Sexual Assault (Policy 1025).¹ These procedures are not used to respond to or investigate conduct defined as Title IX Sexual Harassment occurring within the scope described in the University's Policy on Title IX Sexual Harassment and Responsible Employee Reporting (Policy 1026).

Virginia Tech's Policy 1025 prohibits discrimination and harassment on the basis of age, color, disability, gender (including pregnancy), gender identity, gender expression, genetic information, ethnic or national origin, political affiliation, race, religion, sexual orientation, military status, or any other basis protected by law. This prohibition applies to all levels and areas of University operations and programs, to undergraduate and graduate students, administrators, faculty, staff, volunteers, vendors, and contractors. Policy 1025 also describes reporting obligations for employees relating to reports of discrimination.² Anyone who has been subjected to discrimination on any of the above bases may file a complaint under these procedures.

CRCPE strongly encourages the use of its online [complaint form](#). Complaints may also be submitted to CRCPE in any of the following ways:

- Email to civilrights@vt.edu;
- Hand-delivery to CRCPE at 220 Gilbert Street, Suite 5200; or
- Mail to Virginia Tech, Gilbert Place, Suite 5201 (0150), 220 Gilbert Street, Blacksburg, VA 24061.

If a reasonable accommodation or other assistance is needed to report discrimination, please contact CRCPE at 540-231-2010.

¹ The procedures described in this document do not constitute policy and are subject to change. The procedures neither confer rights onto any party involved in an investigation, nor create any responsibilities for the University.

² See Policy 1025 for a complete description of the University's nondiscrimination policy and responsible employee reporting obligations.

I. Introduction

CRCPE's process is broken up into two stages: (1) what happens after CRCPE receives a report of a possible violation of Policy 1025 (Section II: Intake) and (2) what happens after CRCPE receives a complaint requesting an investigation or determines that a matter must be investigated (Section III: Formal Resolution). In addition to the two stages, CRCPE may occasionally need to proceed with an investigation despite not having received a complaint from a complainant (Section IV: Administrative Review). Also, some concerns may be able to be resolved through a voluntary informal resolution process (Section V: Informal Resolution). Finally, anyone can choose to explore resolution to concerns by filing a complaint with a state or federal civil rights agency (Section VI: External Reporting Options).

These procedures use terms that carry specific meanings. Definitions of some of those terms are as follows:

- **Complainant** means an individual alleged to be impacted by a report of discrimination, harassment, or retaliation.
- **Complaint** means a formal request from a complainant for CRCPE to resolve an alleged matter or situation. A complaint can consist of a completed complaint form and any additional information collected to clarify allegations in the completed complaint form.
- **Discrimination** is defined in Policy 1025. For brevity, these procedures may use the term to also include conduct meeting the University's definition of harassment, which is a form of discrimination, and retaliation.
- **Preponderance of the evidence** is the University's standard of evidence for making determinations and, when met, means that the available evidence supports that the alleged act or discrimination is more likely to have occurred than not. The standard is sometimes described as 50% plus a feather, or 50.001%.
- **Prohibited conduct** means discrimination, harassment, and/or retaliation as those terms are defined in Policy 1025.
- **Report** means a concern, matter, or issue brought to the attention of CRCPE.
- **Respondent** means an individual alleged to have engaged in conduct that violates Policy 1025.
- **Party** or **parties** refers generally to either the complainant or respondent or both.

II. Intake

The goal of CRCPE's intake process is to (1) identify University community members who may have been impacted by discrimination (2) provide those impacted parties with resources and support, or avenues to seek support; (3) empower impacted parties to determine the best approach to stop, prevent, and remedy any discrimination or harassment; and (4) promptly proceed to the resolution stage as necessary.

A. Reporting Options

The University will promptly review and respond to all reports of discrimination, harassment, and retaliation. Complainants are encouraged to report incidents directly to CRCPE using CRCPE's [online reporting form](#). Reports can also be made in person, by telephone, in writing, or by email. Upon receipt of a report, CRCPE will promptly contact the complainant(s) to provide information on their rights, resources, and resolution options—including information about how to file a formal complaint (described in more detail below). A complainant does not have to immediately decide whether to request any particular course of action. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. CRCPE provides support that can assist everyone in making these important decisions. To the extent possible, CRCPE will respect a complainant's autonomy in deciding how to proceed. In some cases, the University will need to take action in response to a report regardless of a complainant's preferences, such as when necessary to comply with the law or to fulfill its obligation to provide a safe and nondiscriminatory environment for all members of the University community.

CRCPE is not an emergency-response office. CRCPE encourages anyone who feels in danger or physically unsafe or threatened by another person's conduct to contact local law enforcement. For any students or employees on campus or off-campus, contact information for local law enforcement is below:

Virginia Tech Police Department

911 (Emergency number from a landline)

(540) 231-6411 (Central Dispatch; cell phone emergency number)

www.police.vt.edu

Blacksburg Police Department

911 (Emergency number)

(540) 961-1150 (Office; Central Dispatch)

Complainants may pursue a complaint with CRCPE and law enforcement simultaneously, and CRCPE and law enforcement investigations can proceed concurrently. Rarely, CRCPE may need to briefly suspend an investigation at the request of law enforcement so as not to impact law enforcement's ability to collect evidence; if delay is necessary, CRCPE will promptly inform the parties of the reasons for the delay and will resume investigation as soon as possible.

CRCPE may refer any allegations that do not fall under the University's nondiscrimination policy to the appropriate supervisor, manager, or human resources professional. In response to a report, CRCPE may coordinate with supervisors, managers, or human resources as necessary to prevent discrimination or retaliation from occurring.

B. Protection Against Retaliation

The prohibition on retaliation is a key component in the University's system for providing a fair and impartial process for resolving complaints of sexual harassment. The University prohibits

retaliation through Policy 1025. Complainants, respondents, and anyone involved in or connected to a CRCPE investigation are encouraged to refrain from any activity that may be perceived as retaliation as much as possible without interfering with work responsibilities. The protection against retaliation applies to both parties and all witnesses.

Retaliation can occur at any time prior to, during, or after CRCPE opens a complaint for investigation. Retaliation may constitute a separate cause for complaint and investigation. CRCPE encourages anyone who has concerns about retaliation to contact CRCPE immediately.

C. Confidential Resources and Privacy

The University designates certain on-campus offices as confidential resources. Examples of confidential resources include Cook Counseling Center, Schiffert Health Center, the Virginia Tech Women's Center, the University Ombuds Office, and the Graduate School's Office of the Ombudsperson.

Because confidential resources are specifically excluded from the University's Responsible Employee policy, designated-confidential resources will not share a complainant's report of discrimination with CRCPE without the complainant's express permission. Sharing information with a confidential resource does not put the University on notice of alleged discriminatory conduct.

CRCPE will make every effort to protect all individuals' privacy while also conducting a careful assessment of the allegation(s) and taking or coordinating with partners on any steps needed to stop the harassment and prevent its recurrence. Reports and formal complaints of discrimination involving employees often require CRCPE to share a limited amount of information with select University administrators and supervisor(s) and manager(s) in the respondent's direct chain of command.

D. Support Measures and Interim Actions

When CRCPE receives report of discrimination, the first priority is to provide support to the complainant, preserve the wellbeing of the complainant, and restore the complainant's access to University programs and activities. One way CRCPE can help to accomplish these goals is through implementation of appropriate supportive measures. Supportive measures are actions that the University may be able to take to improve or restore the complainant's ability to access University programs or activities without burdening or taking punitive action against another member of the University community. Supportive measures for employees could include, for example, facilitating a conversation with the complainant's supervisor about changing the complainant's worksite or hours. Supportive measures for students could include, for example, providing access to counseling services; providing academic assistance; changing housing assignment; facilitating a voluntary leave of absence; and others. Supportive measures may be available regardless of whether a complainant chooses to file a complaint.

Supervisors, managers, and unit leaders may put in place interim measures in consultation with CRCPE in response to a report. The decision to take interim action is fact-dependent. An

example of an interim action is placement of a respondent on administrative leave or other leave-with-pay status.

E. Filing a Complaint:

CRCPE strongly encourages use of its [online complaint form](#). CRCPE will also accept complaints verbally or in writing where the complainant:

- 1) clearly requests consideration of the allegations under these formal procedures to an CRCPE investigator or the Director of Compliance and Conflict Resolution or designee; and
- 2) Provides, at a minimum (to the extent known), the complainant's name and contact information, the name of the respondent, a description of the conduct believed to constitute prohibited conduct, and a brief description of why the complainant believes that the alleged conduct at issue is based on one or more protected characteristics under Policy 1025.

Where a complaint is made verbally to a civil rights investigator or Director of Compliance and Conflict Resolution or designee, that CRCPE official will reduce the complaint to writing and confirm the allegations in the written complaint with the Complainant before the complaint is considered received by CRCPE.

III. Formal Resolution

The purpose of the formal resolution process is to provide an impartial and thorough consideration of any complaint filed with CRCPE, or any report opened for investigation, to determine whether a preponderance of evidence supports that a violation of the University's nondiscrimination policy occurred.

A. Complaint Evaluation

When CRCPE receives a complaint that may include an allegation of discrimination, CRCPE will evaluate the complaint and any relevant supplemental information to determine whether the complaint states a potential violation of Policy 1025. If CRCPE lacks sufficient information to move forward with a decision, CRCPE will attempt to contact the complainant to offer the complainant an opportunity to provide additional information.

CRCPE *may* close a complaint or any complaint allegations for any of the following reasons:

- The allegation does not state a potential violation of Policy 1025;
- The allegation falls outside of the scope of Policy 1025;
- Despite CRCPE's efforts to obtain the information, CRCPE lacks sufficient information to infer that alleged conduct was based on a protected class, trait, or characteristic;
- The respondent has left the University and is no longer subject to Policy 1025;
- The complainant requests to withdraw the complaint; or

- The most recent incident of alleged Prohibited Conduct occurred more than 300 days prior to the date the complaint was filed.

If CRCPE closes one or more allegations, CRCPE will communicate its decision to the complainant. CRCPE may also communicate its decision to the respondent when CRCPE knows or has reason to believe the respondent has awareness of the pending complaint. CRCPE may refer the concerns identified in the complaint to an appropriate supervisor, manager, or to human resources.

B. Investigation

If CRCPE determines that a complaint contains at least one allegation of prohibited conduct and a complainant requests an investigation, then CRCPE will investigate using the procedures below.

Notices of Investigation

As soon as practicable, CRCPE will communicate notice to both the complaining and responding parties of the commencement of its investigation. CRCPE will provide all parties with sufficient notice to allow the parties an equal opportunity to participate in the investigation. Typically, a notice of investigation will include the date CRCPE received a complaint; a brief description of factual allegations; and a brief statement of issues that CRCPE intends to investigate. The notice will also identify the CRCPE investigator assigned to the complaint.

Investigation Overview

Parties have an equal opportunity to submit information and evidence and identify witnesses who may have relevant information. CRCPE will normally conclude its investigation within seventy (70) days of communicating notice of the investigation to parties. This timeframe is dependent on the availability of witnesses, the timing of the investigation around scheduled University breaks, the complexity of a particular case, and other legitimate causes of a delay, such as requests from law enforcement or requests to allow other pending internal investigations to proceed first.

Support Persons

Parties are permitted to bring one support person to any meeting or interview with CRCPE. The support person can be an attorney. If a party plans to bring an attorney to a meeting with CRCPE, the party should provide notice in advance of the meeting so that CRCPE can coordinate with University legal counsel. Otherwise, the meeting may need to be postponed.

The support person is expected to be a passive observer of the process. If the support person interrupts or otherwise interferes with the process, CRCPE may prohibit the support person from further participation. The support person cannot participate in the investigative process as a witness.

Opportunity to Review and Respond to Relevant Evidence

CRCPE will provide parties with an equal opportunity to review relevant evidence or a summary of relevant evidence prior to the conclusion of its investigation. Parties will also have an equal opportunity to respond to the relevant evidence.

Final Report

At the conclusion of an investigation, CRCPE will provide parties with a final report that states the findings and outcome of the investigation. The report will include an analysis of the information collected during the investigation, applying the University's nondiscrimination policy to factual findings. Ultimately, the report will provide a determination as to whether CRCPE found sufficient or insufficient evidence to support a violation of a University nondiscrimination policy, applying a preponderance of the evidence standard. There is no appeal process. Questions or concerns about a final report can be directed to the assigned investigator or the Director of Compliance and Conflict Resolution or designee. Appropriate University personnel in the respondent's reporting line, as well as select University administrators in need-to-know positions, will receive a copy of the final report.

If CRCPE finds sufficient evidence to support a policy violation, then CRCPE will encourage the respondent's supervisor or unit leader to work with CRCPE and other University administrators to ensure that appropriate action is taken to prevent the recurrence of prohibited conduct and remedy its effects. Respondents who are found to be responsible for violating Policy 1025 may be subject to disciplinary action ranging from formal documentation of the violation to termination of employment. For a period of time consistent with all applicable laws and University policies, CRCPE will retain records of all complaints of discrimination, including investigative records and reports.

IV. Administrative Review:

CRCPE retains discretion to conduct investigations as necessary to stop ongoing discrimination, prevent its recurrence, and remedy its effects—even in the absence of a participating complainant. When making the determination about whether to conduct an administrative review, CRCPE considers the following factors: the severity of the reported concern; the pervasiveness of the reported concerns; the likelihood that others may continue to be adversely impacted in the future if no action is taken; whether a resolution can be effectively achieved through other means; the history of complaints or concerns regarding the same employee(s) or department; and any other pertinent information.

In most situations, CRCPE's administrative review will follow the procedures outlined in the formal resolution section above with CRCPE serving in lieu of a named complainant. One unique situation that may merit administrative review is when CRCPE learns of a possible violation of the University's responsible employee rules as described in Policy 1025 and Policy 1026. If, based on information gathered during the course of CRCPE's response to a report of discrimination, CRCPE has sufficient cause to believe that an employee failed to report discrimination or harassment as required by Policy 1025, then CRCPE may conduct an

administrative review to determine whether the employee failed to report. Upon finding a violation, CRCPE will draft a memorandum documenting its findings and send the memorandum to the appropriate University supervisors and managers for corrective action.

V. Informal Resolution

Informal resolution offers complainants and respondents an opportunity to resolve concerns without a formal investigation and determination from CRCPE. For both parties, informal resolution can sometimes offer the potential to repair deteriorating relationships and move forward in a way that formal resolution may not. Informal resolution is more flexible than formal resolution, as some concerns or issues may not be able to be resolved through formal resolution. For instance, a complainant may have concerns about behavior that is perceived as discrimination or harassment that violates University policy but may know that there's a lack of evidence that the behavior is connected to one of the traits protected under Policy 1025. Or a complainant may have concerns about an isolated incident or comment that might not rise to the level of a policy violation. In those situations, formal resolution may not be an avenue that can resolve an issue or concern. For respondents, informal resolution offers a way to maintain some control over the outcome of a complaint without risk of a formal determination of responsibility from the University.

Ultimately, CRCPE makes the decision about whether informal resolution is available on a case-by-case basis. Informal resolution can be initiated at any time prior to the conclusion of an investigation.

If a party expresses interest in informal resolution options, CRCPE may refer the matter to CRCPE's Assistant Director for Education, Outreach, and Conflict Resolution for follow up and to provide additional information about CRCPE's conflict resolution program. The following is a non-exhaustive list of ways CRCPE may be able to resolve a complaint or concern informally.

- **Conflict Coaching Resolution:** Conflict coaching is a one-on-one process led by an individual trained to help people effectively engage in conflict. Conflict coaching is not necessarily aimed at resolving a particular conflict but instead is focused on providing tools to keep conflicts from escalating unnecessarily.
- **Outreach and Education Resolution:** If a complainant agrees, CRCPE may be able to resolve some concerns or complaints by contacting the respondent, the respondent's supervisor, or human resources to discuss the behavior alleged with the goal of educating the respondent on University policy, the impact of actions on the complainant, and, ultimately attempting to prevent recurrence of the alleged conduct. This resolution can also include offering a training, either an informal one-on-one session or the University's Respect in Employment and Anti-Discrimination (READ) training.

- **Facilitated Resolution:** Facilitated resolution is just that—a resolution that is facilitated by an CRCPE-designated, trained facilitator. Usually, facilitated resolution involves both the complainant and respondent agreeing to meet with the facilitator (whether together or separately) to brainstorm ways to effectively resolve a dispute.
- **Voluntary Resolution:** Under voluntary resolution, a respondent often agrees, either verbally or in writing, to take certain steps or actions that will ameliorate the alleged behavior and take steps to prevent its recurrence. A respondent need not admit to alleged behavior to resolve a complaint through voluntary resolution. CRCPE may, in some instances, require both parties to sign a document stating that the complaint was resolved to each party's satisfaction through voluntary resolution.

CRCPE is not limited by the above-described categories of informal resolution strategies. Often, the categories can also be combined to fit a particular situation. If a matter fails to resolve through informal resolution, CRCPE may then proceed with its formal process if appropriate.

VI. External Reporting Options

Individuals also have the right to file complaints with certain federal or state agencies. Please be advised that each of the agencies below may have their own deadlines, time limitations for filing complaints, and jurisdictional limitations. CRCPE's process may not toll or otherwise suspend these deadlines or time limitations. Please contact the following agencies for more information about the applicable deadlines:

Equal Employment Opportunity Commission

1-800-669-4000

info@eeoc.gov

www.eeoc.gov

U.S. Department of Education's Office for Civil Rights

1-800-421-3481

ocr@ed.gov

www.ed.gov

Commonwealth of Virginia Division of Human Rights

(804) 225-2292

human_rights@oag.state.va.us

www.oag.state.va.us/citizen-resources/civil-rights