

Source: <http://www.virginia.edu/eop/complaint.html>



Equal Opportunity Programs (EOP) Complaint Procedures (Revised 5/6/2011)

[Complaint Form link](#) (PDF 145 KB)

As an employer and institution of higher learning, the University seeks to discharge its legal responsibilities and serve its diverse and talented community through fair and responsible application of its Preventing and Addressing Discrimination and Harassment Policy. Accordingly, the University will not tolerate in the workplace, academic setting or in its programs or activities discrimination or harassment on the basis of age, color, disability, marital status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status or family medical or genetic information. Additionally, through its Preventing and Addressing Retaliation Policy, the University prohibits retaliation against any University employee or student who, in good faith (holding a genuine belief in the truth of one's allegations), complains of discrimination and/or harassment or who participates in EOP's complaint process.

These Policies are intended to be consistent with University policy and federal and state laws, including, but not limited to, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Title IX of the Education Amendments of 1972, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended, the Genetic Information Nondiscrimination Act of 2008, the Virginia Human Rights Act, and the Governor's Executive Order Number One (2014).

EOP is responsible for enforcing these Policies on behalf of the University through the EOP Complaint Procedures (Procedures). Both informal and formal complaint procedures are available and EOP can help you to determine which course of action to take. You may choose to follow either or both procedures. You are not required to follow the informal procedures before filing a formal complaint.

- I. Informal Procedures. Though not required, employees and students are encouraged to attempt initially to resolve complaints at the lowest level through the administrative structure of the employment unit or academic department. Supervisors or administrators, including faculty, always should contact EOP before attempting to resolve any complaints.¹
 - A. One-on-One Communication
 1. If you feel comfortable dealing with the situation without the direct involvement of a third party, you can communicate directly with the person whose behavior is unwelcome.
 2. It is appropriate to use face-to-face, individual communication only when you do not feel threatened, there is no risk of physical harm and you believe the other person will be receptive.
 3. E-mail is the preferred method of communication. If you choose to communicate face-to-face, you also should send an e-mail, if possible. Keep copies of any written communication.
 4. The communication should include:
 - a. A factual description of the incident(s) including date, time, place, witnesses and a description of the specific unwelcome behavior.
 - b. A description of any consequences you may have suffered due to the unwelcome behavior.
 - c. A request that the unwelcome behavior cease.

- d. If you do not feel comfortable with individual communication or you believe the communication was not successful, you should consider other informal or formal procedures, as outlined below.
- B. Communication with the Assistance of a Third Party
1. If you would like to proceed informally, but with the assistance of someone else, you may ask one of the following individuals or offices to intervene:
 - a. Your supervisor or the other person's supervisor;
 - b. The Human Resources Director for your department and/or the other person's department (if different);
 - c. The University Human Resources Office of Faculty and Staff Employee Relations (Academic) or the Health System Human Resources Office of Employee Relations (Medical Center);
 - d. The Office of Equal Opportunity Programs; or
 - e. *University Ombudsman.

NOTE: If the alleged behavior is severe or there is threat of imminent harm, these offices or individuals may have to take further action.

*Contacting the Ombudsman does not constitute official notice being made to the University.

2. Do not rely upon other co-workers or individuals who are not familiar with University policy to intervene on your behalf when discussing your concerns with the person whose behavior is unwelcome and/or offensive.
- C. Mediation
1. Mediation consists of facilitated discussion conducted with the assistance of a trained third party. It is designed to help the parties to reach a mutually agreeable resolution of a dispute.
 2. Mediation may be appropriate when:
 - a. the parties wish to continue to work together;
 - b. the facts are not disputed, but the behavior was perceived as unwelcome and/or offensive;
 - c. no one has been physically harmed;
 - d. the complaining party is able to articulate a desired outcome; and
 - e. the parties are committed to resolving their dispute and not "winning" an argument.
 3. More information about the mediation process may be obtained at: www.virginia.edu/mediation.

II. Formal Procedures. You may initiate formal complaint procedures by filing a complaint with EOP whether or not you have attempted resolution through informal procedures. The individual who files the complaint is referred to as the "Complainant". The individual against whom the complaint is filed is referred to as the "Respondent". Collectively, these individuals are referred to as the "Parties".

- A. Filing a Complaint with EOP. EOP responds to complaints in accordance with the procedures outlined below. However, there may be exceptional circumstances which justify a departure from these procedures, and should such circumstances arise, EOP will advise the Parties as soon as possible.
1. A complaint may be filed with EOP by any Academic Division, Medical Center or College at Wise present or former employee or student, applicant for admission or employment, or participant in the University's programs or activities who believes that (s)he has been **unlawfully discriminated against or harassed** on the basis of age, color, disability, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status, or family medical or genetic information, or who believes that (s)he has been **retaliated against** for reporting discrimination or harassment or for assisting or participating in a complaint investigation.
 2. Complaints of sexual misconduct (including sexual harassment, sexual violence, and sexual assault) by a University student against another University student should be reported to the Dean of Students (by phone 434-924-7429 or 434-924-7133, by email DeanofStudents@virginia.edu, or in person at the Office of the

Dean of Students, Peabody Hall, Second Floor). Student sexual misconduct complaints are addressed by the University's Student Sexual Misconduct Board and are governed by the "Policy and Procedures for Cases of Student Sexual Misconduct," a copy of which may be found at http://www.virginia.edu/sexualviolence/documents/sexual_misconduct_policy070811.pdf

3. Complaints to EOP must be in writing and filed with EOP within 300 days of the most recent alleged discriminatory, harassing and/or retaliatory act. In certain circumstances, at the discretion of EOP, complaints filed outside of the 300-day timeframe and/or that are not in writing may be investigated informally. In addition, all other time limits set forth in these procedures may be extended by EOP for good cause. The Complainant also may file a formal charge of discrimination, harassment and/or retaliation with a state or federal agency authorized by law to receive such complaints.
4. When filing a complaint, EOP strongly encourages the use of its Complaint Form which can be found at <http://www.virginia.edu/eop/pdfs/EOPComplaintForm.pdf>. However, EOP also will accept a written document which includes: the Complainant's name, contact information and signature, a description of the conduct believed to be discriminatory, harassing and/or retaliatory with approximate date(s) when these actions occurred, and the name(s) of the Respondent(s). EOP will accept oral complaints ONLY when made in-person to EOP. EOP reserves the right not to accept complaints which are unsigned, transmitted via telephone only and/or lacking sufficient information.
5. Complaints should be directed to the Office of Equal Opportunity Programs, Washington Hall, East Range, P.O. Box 400219, Charlottesville, Virginia, 22904-4219, phone (434) 924-3200, fax (434) 924-1313.

B. Receipt of a Complaint

1. Upon receipt of a written complaint, if EOP has not previously spoken with the Complainant, EOP will meet with the Complainant within five (5) working days to review EOP's complaint procedures, discuss the Complainant's allegations, and determine, if appropriate, whether the Complainant is amenable to resolving the complaint through one or more of the informal procedures outlined in section I of these Procedures.
2. If the Complainant is willing to first proceed informally, EOP will stay the complaint and contact the Respondent to ascertain his/her willingness to participate in an informal resolution.
3. If the Complainant wishes to proceed directly under EOP's formal complaint procedures, OR the Respondent declines to participate in an informal resolution, OR attempts to resolve the complaint through one or more of the informal procedures are unsuccessful, EOP will assess the Complainant's written complaint to determine whether the allegations state a violation of federal or state laws and/or University policies.

C. Acceptance of a Complaint

1. Within five (5) working days of (1) EOP's receipt of the complaint; (2) EOP's initial meeting with the Complainant; or (3) EOP's determination that an informal resolution of the Complainant's complaint is no longer feasible - whichever event is later - EOP shall decide whether the written complaint states a potential violation of University policies or federal and state laws and shall notify the Complainant in writing of its decision.
2. If EOP determines that the Complainant's allegations, if true, do not state a violation of University policies or federal or state laws, the written notice of this decision shall explain why the complaint does not state a violation and may inform the Complainant of other possible avenues of redress, such as contacting the University Ombudsman, if appropriate.
3. If EOP concludes that the allegations of the complaint state a potential violation, EOP will notify the Complainant that it has accepted his/her complaint and within ten (10) days thereafter meet with the Complainant to determine the specific factual allegations upon which the complaint is based, discuss EOP's complaint procedures, including whether the complaint is suitable for negotiated resolution.

D. Negotiated Resolution. Negotiated resolution is a process by which EOP attempts to resolve complaints quickly and to the satisfaction of all parties without reaching formal findings,

while protecting confidentiality to the extent possible. In contrast to mediation, negotiated resolution is undertaken after the filing of a complaint with EOP.

1. If EOP determines that a complaint is suitable for negotiated resolution, then this option will be discussed and offered to the Complainant who will be given five (5) working days to decide whether to exercise this option.
 2. If EOP deems the complaint suitable for negotiated resolution and the Complainant opts for negotiated resolution, within ten (10) working days of the Complainant's decision to proceed with negotiated resolution, EOP will notify the Respondent that (s)he has been named in a complaint and advise him/her of the nature of the allegations. Such notification will provide information regarding EOP's complaint procedures and will offer the negotiated resolution option to the Respondent who will be given five (5) working days to decide whether to exercise this option.
 3. Negotiated resolution should be completed no later than thirty (30) days from the date the Respondent agrees to this process.
 4. If EOP deems the complaint unsuitable for negotiated resolution or if either party declines to participate in or to make a decision regarding negotiated resolution, then EOP will conduct an investigation in accordance with the procedures outlined below.
 5. At any time during the negotiated resolution process, either party may elect to terminate the process. Upon termination of the process, EOP will investigate the complaint in accordance with the procedures outlined below. EOP reserves the right not to proceed with an investigation if, during negotiated resolution, the Complainant was offered and refused all of the relief to which (s)he would be entitled even if a formal investigation was conducted.
 6. Generally, EOP will not involve anyone other than the Complainant and Respondent in the negotiated resolution process. Likewise, the parties will be asked to respect the confidentiality of the process. In some cases, it may be necessary to consult with or otherwise involve other University officials regarding University policies and procedures or available remedies. However, information will be provided solely to these persons on a need-to-know basis.
 7. If the complaint is successfully resolved, the parties will sign a "Negotiated Resolution Form" prepared by EOP, setting forth the agreed-upon terms. Upon the parties' execution of the Negotiated Resolution Form, EOP will destroy all other documents and notes except the original complaint. Copies of the complaint and the Negotiated Resolution Form will be provided to the Complainant and Respondent upon request and maintained by EOP in accordance with University policies and state and federal law.
- E. Complaint Investigation. If EOP determines that negotiated resolution is not suitable, or if a negotiated resolution is not agreed to by both parties or is not successful, EOP will conduct an investigation in accordance with the following procedures.
1. The investigation conducted by EOP may include, but is not limited to:
 - a. Interviewing material witnesses;
 - b. Reviewing relevant files and records;
 - c. Comparing the treatment of the Complainant to that of others similarly situated in the department or unit; and/or
 - d. Reviewing applicable policies and procedures.
 2. In addition to the notice provided to the Respondent, at or near the time that the investigation is commenced, EOP will notify the Respondent's immediate supervisor and a designee within the appropriate Human Resources division that a complaint has been filed. In some cases, EOP may determine that it is necessary to contact other University officials to protect against imminent risk of physical harm or to investigate potential crimes. However, information will be provided strictly on a need-to-know basis.
 3. The investigation shall normally be concluded within sixty (60) working days of inception, at which time EOP shall issue a written report to the appropriate Vice President. The report will include findings of fact as well as appropriate recommendations.
 4. If EOP concludes that the Complainant's allegations are substantiated, then the report will recommend, as appropriate, that:
 - a. A directive be issued to stop any ongoing discriminatory, harassing and/or retaliatory behavior/practice;

- b. Disciplinary or other corrective action be taken against the Respondent and/or others; and/or
 - c. Relief be granted to the Complainant, such as reinstatement, hiring, reassignment, promotion, training, back pay or other compensation and/or benefits.
 5. If EOP concludes that the Complainant's allegations do not establish a violation of EOP policies, but possibly other University policies, then the report may suggest other avenues which the Complainant may pursue to resolve the matter.
 6. The Vice President to whom the report is sent may accept or reject the findings and recommendations. The Vice President's decision with supporting reasons shall be communicated in writing to EOP within ten (10) working days after the Vice President receives the report from EOP unless the Vice President requires additional time for further investigation or other good cause. EOP will communicate the Vice President's decision to the Complainant and the Respondent within five (5) days of receipt of the decision. This decision is final under these procedures unless another appeal is provided by University policy. The Complainant maintains the right to file a formal charge of discrimination, harassment and/or retaliation with a state or federal agency authorized by law to receive such claims.
 7. Disciplinary action up to and including termination may be taken against any person who files a complaint with EOP in bad faith or who maliciously or knowingly files false charges. In cases in which allegations are not substantiated, if appropriate, the University may take reasonable steps to restore the reputation of the Respondent, such as expungement of records and/or notification to all persons who participated in the investigation of the outcome of the complaint.
 - III. Administrative Review: EOP has the authority to initiate an administrative review of a department or area at any time, in absence of a formal complaint, when in the judgment of the Director, such action is warranted, or when requested by a manager/supervisor/chair, Human Resources/Employee Relations official, or a Vice President or Dean who has become aware of alleged discrimination or harassment in her/his area.
 - A. Upon commencing an administrative review, EOP will notify the appropriate manager/supervisor/chair, Human Resources/Employee Relations consultant, and the appropriate Vice President.
 - B. Administrative reviews will include interviewing witnesses and reviewing pertinent documents.
 - C. Administrative reviews will normally be completed within 60 working days from inception and will result in a written report. The report will be shared with the appropriate Vice President.
 - D. The same level of confidentiality applicable in complaint investigations will apply to administrative reviews.
- ¹Complaints involving allegations of sexual or physical assault and/or particularly severe behavior should not be resolved informally and must be referred to EOP immediately.

For additional information, contact:

Office of Equal Opportunity Programs

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Phone: (434) 924-3200
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Health System Office

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