

Virginia State University  
Policies Manual

Title: Discrimination Grievance Procedures

Policy: 1103

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**Purpose**

These procedures provide a prompt and equitable resolution for complaints or reports of 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, including complaints alleging sexual harassment or sexual misconduct prohibited by Virginia State University (“VSU” or “University”) policy on Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy. Any person who believes he or she has been subjected to discrimination or harassment on any of these bases may file a complaint with The University as outlined in these procedures. These procedures also address any complaints or reports of retaliation against individuals who have filed complaints or reports of discrimination, who have opposed discriminatory practices, and those who have testified or otherwise participated in investigations or proceedings arising from complaints or reports of discrimination. Questions regarding discrimination prohibited by Title IX of the Education Amendments of 1972, or other federal law, may be referred to the VSU Title IX Coordinator, Virginia Hall, 804-524-1007 or 804-524-5090, [jwalker@vsu.edu](mailto:jwalker@vsu.edu), or to the U.S. Department of Education’s Office for Civil Rights.

**Authority, Responsibility, and Duties**

These procedures govern the process for addressing complaints or reports of discrimination from University employees (faculty, administrators, and staff) and students when on the campus of Virginia State University, or on other University property, or in facilities, owned, or controlled by Virginia State University, or being used for a university-related event. Any exceptions in the application or enforcement of these procedures must be approved by the President or his designee. The Associate Vice President for Human Resources is responsible for the official interpretation of these procedures. Questions regarding the application of these procedures should be directed to the Office of Human Resources.

**Complaints and Reporting**

Complaints and reports of discrimination, retaliation and sexual harassment should be made to the Title IX Coordinator. Complaints and reports of sexual misconduct or violence (sexual assault, stalking and relationship violence) should be made to the Virginia State University Department of Police and Public Safety, local law enforcement, Sexual Assault Services, Student Conduct, Vice President for Student Affairs, Associate Vice President of Human Resources, Title IX Coordinator, or anonymously to a Campus Security Authority (CSA).

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The Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual harassment, or sexual misconduct. All members of the Title IX Team are trained to help individuals who file complaints find resources and how to respond appropriately to conduct alleged to be in violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy. Individuals receiving reports or complaints of discrimination, sexual harassment, or sexual misconduct should immediately notify the Title IX Coordinator and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator.

The Virginia State University's Title IX Coordinator is Julia Walker. Contact information, including that for other members of the Title IX Team are listed below:

<b>Julia Walker, Title IX Coordinator</b>	<b>VSU Police</b>
Virginia Hall	(804) 524-5411 or (804) 524-5360
P.O. Box 9412	
804-524-1007 or 804-524-5090	<b>Office of Student Conduct</b>
<a href="mailto:jwalker@vsu.edu">jwalker@vsu.edu</a>	(804) 524-5866 or (804) 524-5504
<b>VP of Student Affairs</b>	<b>Office of Human Resources</b>
(804) 524-5350	(804) 524-5090
<b>Sexual Assault Services</b>	
(804) 524-6942 or (804) 524-5939	

Reports of conduct in violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy should be made without undue delay after the incident and may be made orally or in writing, including by electronic mail to any of the individuals identified above. The Title IX Coordinator and the VSU Police also will accept, without comment or need for explanation, a sealed envelope addressed to "Title IX Coordinator." The envelope, at a minimum, need only contain a piece of paper with the name and room number or phone number of the individual wishing to make a report. As will be the case with all reports, however made, the reporting individual will be contacted promptly, but in no case more than three calendar days from the date of the report, for an interview with the Title IX Coordinator or the VSU Police.

Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s), and any witness(es), promptly after an incident.

### **Retaliation Prohibited**

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, sexual harassment, or sexual misconduct or any person cooperating in the investigation of allegations of discrimination, sexual harassment, or sexual misconduct to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Discrimination Grievance Procedures is strictly prohibited by this policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, sexual harassment or sexual misconduct. Retaliation prohibited by this policy includes any discrimination, intimidation, threat, or coercion against the Title IX Coordinator or an Assistant Title IX Coordinator for the purpose of interfering with his or her job responsibilities.

### **The Role of the Title IX Coordinator**

The Title IX Coordinator is charged with coordinating the University's compliance with federal civil rights laws. The Title IX Coordinator does not serve as an advocate for either the complainant or the respondent. The Title IX Coordinator will explain to all identified parties the procedures outlined below, including confidentiality. As appropriate, the Title IX Coordinator or any member of the Title IX Team will provide all identified parties with information about obtaining medical and counseling services, making a criminal report, information about receiving advocacy services, and guidance on other University and community resources.

The Title IX Coordinator will offer to coordinate with other University leadership, when appropriate, to implement interim measures as described below. The Title IX Coordinator will explain to all involved parties the process of a prompt, adequate, reliable, and impartial investigation, including the opportunity for both complainant and respondent to identify witnesses and provide other evidence. The Title IX Coordinator will explain to all identified parties the right to have a personal advisor present and to review and respond to the allegations and evidence. The Title IX Coordinator will also explain to the parties and witnesses that retaliation for reporting alleged discrimination, sexual harassment or sexual misconduct, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be reported immediately and will be promptly addressed.

Relative to notices, the Title IX Coordinator will oversee the posting and dissemination (published online and available in print across campus) of the procedures. Notice of the University's Discrimination Grievance Procedures, including the associated harassment and sexual misconduct policy, will be made to students and employees upon its adoption

and revision, at a minimum, on an annual basis, thereafter. Notices will be given when changes, corrections or clarifications how a particular guideline or procedure is interpreted or implemented.

### **Criminal Reporting and Coordination**

The Title IX Coordinator or the Virginia State University Police will make all complainants aware of the right also to file a complaint with the University Department of Police and Public Safety or local law enforcement. The University will comply with all requests by the University's Department of Police and Public Safety or local law enforcement for cooperation in investigations. Such cooperation may require the Title IX Coordinator to temporarily suspend the fact-finding aspect of a Title IX investigation detailed in the procedures below while the University's Dept. of Police and Public Safety or the local law enforcement agency gathers evidence. The Title IX Coordinator's Office will promptly resume its Title IX investigation as soon as notified by the University's Dept. of Police and Public Safety or law enforcement agency that it has completed the evidence gathering process. Otherwise, the Title IX investigation will not be altered or precluded on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

### **Written Explanation of Rights and Options**

When a student or VSU employee reports that he or she has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the student or VSU employee will be provided a written explanation of rights and options, which shall include:

1. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about:
  - A. The importance of seeking medical attention and of the collection and preservation of evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order;
  - B. How and to whom the alleged offense should be reported;
  - C. Options about the involvement of local law enforcement and the VSU Police, including the victim's option to:
    - (i) Notify proper law enforcement authorities, including local law enforcement and/or the VSU Police;

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- (ii) Be assisted by VSU staff in notifying law enforcement authorities, if the victim so chooses; and
    - (iii) Decline to notify such authorities; and
  - D. The rights of victims and VSU's responsibilities regarding no contact orders, restraining orders, protective orders, or similar orders;
- 2. Information about how the University will protect the confidentiality of victims and other parties, including how the University will:
  - A. Complete publicly available recordkeeping, including reporting and disclosures required by the Clery Act, without the inclusion of personally identifying information about the victim;
  - B. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures; and
  - C. Ensure confidentiality of investigative files as education records protected by the Family Educational Rights and Privacy Act (FERPA), including that the process for the Sexual Violence Threat Assessment in accordance with Virginia Code § 23-9.2:15 could, if the incident poses to members of the VSU community a health or safety emergency, as defined by the FERPA regulations, lead to disclosure of personally identifying information to the law enforcement agency that would be responsible for investigating the incident and other appropriate parties whose knowledge of the information is necessary to protect the health and safety of the victim or other individuals.
- 3. Notification of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the University and in the local community;
- 4. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures, regardless of whether the victim chooses to report the crime to VSU police or local law enforcement; and
- 5. The procedures for VSU investigation, adjudication, and disciplinary action, including the right to decline to participate in a VSU investigation.

### **Student Investigation Procedures**

**Criminal Investigations:** The investigation shall be conducted by the Department of Police and Public Safety. In cases where students face criminal charges, or are the subject of a criminal investigation, the University's hearing procedures will commence at the conclusion of such investigation, or criminal proceedings. When a criminal proceeding is not pursued by the Commonwealth Attorney, the campus police investigator will notify the complainant and respondent and refer the case for a hearing by the Student Conduct office.

**Administrative Investigations:** The University, in the interest of safety, may be obliged to pursue complaints through internal disciplinary procedures without the cooperation of the complainant. In such instances, the University will inform the complainant of its obligation to address the issue. The Title IX Coordinator shall provide for the adequate, reliable, and impartial investigation of all complaints. Administrative investigations of student versus student complaints shall be coordinated by the Director of the Office of Student Conduct and/or designee. Cases will be conducted by hearing officers who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

### **Employee Investigative Procedures**

Administrative investigations of student versus employee complaints shall be coordinated by the Associate Vice President of Human Resources with support from the Director of the Department of Student Conduct. Administrative investigations of employee versus employee complaints shall be coordinated by the Associate Vice President of Human Resources and/or designee.

### **Confidentiality, Anonymity and Requests Not to Pursue Title IX Investigation**

University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to keep a report confidential, it must be made to Student Health Services or University Counseling Center. These individuals will encourage victims to make a report to the University Dept. of Police and Public Safety, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above that are able to maintain confidentiality of reports. Other University officials receiving reports of conduct in violation of this policy are mandated reporters but will maintain privacy to every extent possible without compromising the University's ability to investigate and respond in accordance with applicable law and regulations. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless

sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation.

If the complainant requests confidentiality or that an investigation not be conducted, the University may be limited in the actions it is able to take and its ability to respond while respecting the request. The complainant will be asked to sign a statement stating a desire for confidentiality or that an investigation not be pursued and the Title IX Coordinator will take all reasonable steps to respond to the complaint consistent with the request. The Title IX Coordinator will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed and members of the campus community. Factors that also will be considered in weighing a request by a complainant for confidentiality or not to proceed with a formal investigation include the seriousness of the alleged violation, the respective ages and positions of the complainant and the respondent, whether there have been other complaints against the respondent, and the respondent's right to receive information. In cases in which a complainant requests confidentiality or that an investigation not be pursued, but the Title IX Coordinator has concerns that not conducting an informal or formal investigation might endanger the health or safety of members of the campus community, the Title IX Coordinator will initiate confidential consultation with appropriate individuals who may include, as appropriate, the President, the Vice President for Student Affairs, the Provost, the University's Chief of Police, the Threat Assessment Team, Counseling Center Director, and legal counsel. The Title IX Coordinator will make the ultimate decision on whether to conduct an informal or a formal investigation or to respond in another manner, including use of interim measures described below.

Notwithstanding a complainant's request that local law enforcement not be informed of an incident, the University is required pursuant to Virginia Code § 23-9.2:15 to report information about an incident to local law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. § 99.36, and as detailed in the Sexual Violence Threat Assessment provisions, below.

### **Sexual Violence Threat Assessment**

1. Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent, that is alleged to have occurred (i) against any VSU student; or (ii) on campus, in or on a VSU building or property, or on public property that is on campus or immediately adjacent to and accessible from campus, the Title IX Coordinator shall promptly inform a review committee of the report, including personally identifying information. The review committee shall be comprised of, at a minimum, the Title IX Coordinator, the Chief of the VSU Police, and the Vice President for Student

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Affairs, and/or their designees. The review committee may consult other VSU officials depending on whether the accused individual is a student, faculty, or staff member and the circumstances of the report. The review committee shall be advised by VSU counsel.

2. Within 72 hours of receipt of the report from the Title IX Coordinator, the review committee shall meet to review the information and shall continue to meet as necessary as new information becomes available. If the criteria in Paragraph 1 are met, the review committee shall convene regardless of whether or not the victim has notified the VSU Police or local law enforcement or whether or not the victim has requested that VSU proceed with a Title IX investigation.
3. The review committee may obtain law-enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records, and known facts and circumstances of the reported incident of sexual harassment or sexual misconduct and other evidence known to VSU, including the VSU Police, and local law enforcement. The review committee shall be considered to be a threat assessment team established pursuant to Virginia Code § 23-9.2:10 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.* § 23-9.2:10). The review committee shall comply with the Family Educational Rights and Privacy Act in conducting its review.
4. In addition to the available information detailed in Paragraph 3, above, the review committee shall consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:
  - A. Other sexual misconduct complaints about the same individual;
  - B. Prior arrests or reports of misconduct at another institution or a history of violent behavior;
  - C. Threats of further sexual misconduct against the reporting individual or others;
  - D. A history of failing to comply with a no-contact order issued by University officials;
  - E. Allegations of multiple perpetrators in the same incident;
  - F. Use of physical violence in the reported incident or a prior incident.  
Examples of physical violence include, but are not limited to, hitting,



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punching, slapping, kicking, restraining, or choking;

- G. Reports or evidence of a pattern of perpetration, including a pattern of the accused individual using alcohol or drugs to facilitate sexual misconduct or harassment;
- H. Use of a weapon in the reported incident or a prior incident; and,
- I. A victim under the age of 18 or who is significantly younger than the accused individual;

The review committee shall also consider whether means exist to obtain evidence other than investigation by law enforcement or a Title IX investigation such as security camera footage, eyewitness reports from security or guard personnel, or physical evidence.

- 5. If based on a consideration of all factors, the review committee determines that there is a significant and articulable threat to the health or safety of one or more individuals and that disclosure of the information to local law enforcement, including personally identifying information, is necessary to protect the health and safety of one or more individuals, the Chief of the VSU Police shall immediately disclose such information to the law-enforcement agency that would be responsible for investigating the incident, for the purpose of investigation and other actions by law enforcement. If the review committee cannot reach a consensus, the Chief of the VSU Police may make the threat determination. Upon any disclosure to law enforcement under this paragraph, the Title IX Coordinator shall notify the victim that such disclosure is being made. The provisions of this paragraph shall not apply if the law-enforcement agency responsible for investigating the alleged incident is located outside the United States.
- 6. If information is disclosed to law enforcement under Paragraph 5 or if the review committee determines that sufficient factors exist to proceed with a Title IX investigation, despite the stated desires of the victim for confidentiality or not to proceed with an investigation, the Title IX Coordinator shall proceed with a full investigation under these procedures. In those situations, the Title IX Coordinator will notify the victim that VSU is overriding the victim's request for confidentiality in order to meet Title IX obligations, but, other than the disclosure under Paragraph 5, if made, the information will only be shared with individuals who are responsible for handling VSU's response to incidents of sexual violence and VSU will ensure that any information maintained by VSU is maintained in a secure manner.

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7. If the reported incident would constitute a felony violation of Article 7 (§ 18.2-61 *et seq.*) of Chapter 4 of Title 18.2 of the Code of Virginia, as determined by the Chief of the VSU Police or any other member of the review committee, the Chief of the VSU Police shall inform other members of the review committee and shall notify the attorney for the Commonwealth or other prosecutor responsible for prosecuting the incident and provide information received without disclosing personally identifying information, unless such information was disclosed to a law-enforcement agency pursuant to Paragraph 5.
  
8. At the conclusion of the Sexual Violence Threat Assessment, the Title IX Coordinator and the Chief of the VSU Police shall each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review committee's determination considerations, which shall be maintained under applicable state and federal law.

### **Interim Measures**

The University may take interim measures to assist or protect the complainant during the investigation and resolution of complaints and any law enforcement investigation to address the safety of the complainant or any member of the VSU community and avoid retaliation. If, in the judgment of the Vice President for Student Affairs, Title IX Coordinator or other VSU administrative leadership, the safety and well-being of any member of the VSU community may be jeopardized by the presence on campus of the accused individual, they may provide interim remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further violations. VSU will seek the consent of the complainant before taking interim measures to the greatest degree possible. Interim measures may include, but are not necessarily limited to changes in classroom schedules, housing, no-contact order, bar from campus, escorts on campus, referral and coordination of counseling and health services, and modification of work, academic or training requirements. The University may temporarily reassign or place on administrative leave an employee alleged to have violated this policy. In such a situation, the employee will be given the opportunity to meet with the Title IX Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented.

### **Timely Warnings**

The University is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. The University will ensure, to every extent possible, that a victim's name and

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other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

**Coordination with Director of Student Conduct/Hearing Board, as applicable**

The University's Title IX Coordinator is responsible for overseeing all complaints of discrimination and identifying and addressing any pattern or systemic problems that arise during the review of such complaints. Department of Student Conduct/Student Hearing Board, as applicable is charged with promoting appropriate student behavior and to enforce the rules and regulations outlined in the VSU Student Code of Conduct. The office is also responsible for ensuring that students are treated fairly and that the appropriate judicial process is followed when rules and regulations are reported to have been broken.

Any member of the Department of Student Conduct/Student Hearing Board, as applicable, receiving a report of alleged sexual misconduct or sexual violence shall report it without delay to the Title IX Coordinator and the VSU Police as appropriate. The Department of Student Conduct/Student Hearing Board, as applicable shall undertake independent efforts to administratively investigate student versus student complaints of harassment, sexual misconduct or violence in accordance with policy procedures and under the oversight of the Title IX Coordinator.

The Department of Student Conduct/Student Hearing Board, as applicable shall report the findings of administrative investigations, inclusive of penalties, if any, to the Title IX Coordinator and the Vice President for Student Affairs. At the conclusion of the investigation, the Title IX Coordinator or the Vice President for Student Affairs may, in cases other than those involving allegations of sexual violence, refer the matter for adjudication to resolve the concern(s) formally through the student judicial process. The Vice President for Student Affairs along with Title IX Coordinator shall be apprised of all sanctions recommended through the student hearing process for complaints alleging student versus student harassment, sexual misconduct or violence.

**Standard of Evidence**

In accordance with the Office on Civil Rights (OCR), a preponderance of the evidence standard will be applied to investigation of conduct of student discipline proceedings in domestic violence, dating violence, sexual assault, and stalking cases. The "preponderance of the evidence" standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that the alleged conduct occurred. Decisions based on a preponderance of the evidence may not meet other evidentiary standards required for a finding of guilt in criminal proceedings.

### **Investigation and Resolution**

There are two possible methods for investigation and resolution of a complaint alleging violations of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy: formal and informal resolution. For alleged violations of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy other than sexual misconduct, the complainant and the respondent have the option to proceed under an informal [administrative] procedure, when deemed permissible by the Title IX Coordinator. The Title IX Coordinator will explain the informal and formal procedures to both the complainant and the respondent, if known. In all cases, The University will ensure there is no actual conflict of interest in the investigation and resolution of complaints and will strive to avoid the appearance of conflict of interest.

### **Informal Investigation and Resolution**

1. If the complainant, the respondent, and the Title IX Coordinator or Department of Student Conduct, as appropriate, all agree that an informal investigation and resolution should be pursued, an attempt shall be made to facilitate a resolution that is agreeable to the parties. Under this procedure, the Title IX Coordinator or Department of Student Conduct, as appropriate, will conduct a preliminary investigation only to the extent fact-finding is needed to resolve the conflict and to protect the interests of the parties, the University, and the campus community. Both parties will be permitted to request witnesses to be interviewed by the Title IX Coordinator or Department of Student Conduct, as appropriate and other evidence to be considered in the preliminary investigation. Typically, a preliminary investigation will be completed within 60 days of receipt of notice. If extension of the preliminary investigation beyond 60 days is necessary, all parties will be notified of the expected resolution time frame. If at any point during this informal investigation and resolution procedure, the complainant, the respondent, or the Title IX Coordinator or Department of Student Conduct, as appropriate, wish to suspend the informal procedure and proceed through the formal grievance procedure, such request will be granted.
2. Any resolution of a complaint through the informal procedure must adequately address the concerns of the complainant, as well as the rights of the respondent and the responsibility of The University to prevent, address, and remedy alleged violations of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy. Informal resolution remedies might include providing training, providing informal counseling to an individual whose conduct, if not ceased, could rise to the level of a policy violation, confidential briefing of the respondent's work supervisor, use of penalties through the student hearing process, or other methods.

All parties will be provided written notification of the resolution of the complaint through the informal procedures, including whether the preliminary investigation substantiated a policy violation(s) by a preponderance of the evidence. There shall be no right of appeal afforded to the complainant or the respondent following informal investigation and resolution.

### **Formal Investigation and Resolution**

1. Formal investigation and resolution procedures for student versus student complaints or reports of harassment, sexual misconduct or violence will be administered in accordance with the Student Code of Conduct student hearing process. Only trained investigators will be assigned to conduct investigations. For all other complaints of discrimination, harassment, and retaliation, the procedures below will be followed.
2. A formal complaint may be submitted either in written format or through a verbal interview of the complainant by the Title IX Coordinator regarding the events and circumstances underlying the complaint. The complainant is not required to submit a written complaint to the Title IX Coordinator to commence an investigation. In the case of a third party notification, the Title IX Coordinator, or a member of the Title IX Team will contact the alleged victim promptly, and in no case later than three calendar days from the date of the complaint. The complaint may be supplemented by additional supporting documents, evidence, or recommendations of witnesses to be interviewed during the course of the investigation. The complainant must also disclose if a formal complaint has been filed with another University, state, or federal entity for the same offense.
3. The Title IX Coordinator will discuss the complaint with the complainant and the respondent as appropriate, including providing information about the formal investigation procedure and other resources. The Title IX Coordinator will explain to the parties that each has the opportunity to provide evidence and to suggest witnesses to be interviewed during the course of the investigation.
4. The Title IX Coordinator will consider whether interim measures and involvement of other University leadership is appropriate. The Title IX Coordinator also will confirm that the matter involves an alleged violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy, thereby conferring jurisdiction on the Title IX Coordinator's office. If the Title IX Coordinator determines that the Title IX Coordinator's office does not have jurisdiction, the Title IX Coordinator will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate on-campus and off-campus resources to address the issues.

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5. The Title IX Coordinator will conduct a prompt, adequate, reliable, and impartial investigation of the complaint. Typically an investigation, not including the time necessary for potential appeals, will be completed within 60 days of receipt of notice. If extension of the investigation beyond 60 days is necessary, all parties will be notified of the expected time frame. Only trained investigators will be assigned to conduct investigations. All investigations of complaints alleging violations of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy shall be overseen by the Title IX Coordinator.
6. Both complainant and respondent will have the same opportunity to review and respond to evidence obtained during an investigation and will be afforded the same opportunity to review and provide comment to the investigator about the written investigation report before it is finalized.
7. The Title IX Coordinator will determine whether there is a preponderance of the evidence to substantiate the complaint of an alleged violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy. A respondent will not be found in violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy absent a finding of preponderance of evidence that the violation occurred. The “preponderance of the evidence” standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that the alleged misconduct occurred.
8. In determining whether alleged harassment has created a hostile environment, the Title IX Coordinator shall consider not only whether the conduct was unwelcome to the complainant, but also whether the conduct was severe or pervasive and whether a reasonable person similarly situated to the complainant would have perceived the conduct to be objectively offensive.
9. The Title IX Coordinator shall prepare a written investigation report, which shall be provided to both the complainant and the respondent concurrently. In most cases the written investigation report shall be provided to both parties within 60 days of notice of the allegation. If extension of the time frame for the Title IX Coordinator to finalize the investigation report beyond 60 days is necessary, all parties will be notified of the expected time frame for completion of the investigation report.
10. If the Title IX Coordinator finds by a preponderance of the evidence that a violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy did not occur, the matter will be documented as closed. The Complainant may appeal the finding in the following ways. Faculty may appeal to the President or his/her designee or the Appeals Subcommittee of the Faculty Senate Committee on Reconciliation, and staff may appeal to the President or his/her designee under the procedure described below.

If the Title IX Coordinator finds by a preponderance of the evidence that violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy did occur, the Title IX Coordinator's written report will contain recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, remedies for the complainant and the community. The written report also will contain the Title IX Coordinator's recommendation on sanctions. If interim measures as described above have been taken, the Title IX Coordinator shall include a recommendation regarding continuation, suspension or modification of any such interim measures. The Title IX Coordinator shall provide the written report to both the complainant and respondent, in accordance with subsection 8 above, including the steps the Title IX Coordinator has recommended to eliminate a hostile environment, if one was found to exist, and to prevent its recurrence. Notwithstanding any other provision of these procedures, the respondent shall not be provided information about the individual remedies offered or provided to the complainant, but such information shall be provided to the complainant. The respondent and the complainant will be advised of their right to appeal any finding or recommended sanction(s). If the respondent does not contest the finding or recommended sanction, the respondent shall sign a statement acknowledging no contest to the finding and the recommended sanction.

The completed investigation will be provided to the appropriate individual to determine and impose appropriate sanctions, as described below.

### **Sanctions**

1. Sanctions for students will be determined by the Vice President for Student Affairs in accordance with the student regulations and policies and, where necessary or appropriate, in consultation with the President or his/her designee and the Vice President for Academic Affairs. Sanctions may include, but are not limited to, penalties described in the student Blue Book, suspension or dismissal.
2. Sanctions for teaching and research faculty will be determined by the Vice President for Academic Affairs, in consultation with the President or his/her designee, and in accordance with the faculty handbook. Sanctions for non-teaching faculty and other non-classified staff shall be determined by the Vice President for Academic Affairs, Associate Vice President for Human Resources, Vice President for Administration & Finance, the Chief of Staff; and the President or his/her designee, in accordance with the applicable VSU regulations. Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings according to procedures in the appropriate governing regulation.
3. Sanctions for classified employees will be determined by the Associate Vice President for Human Resources in accordance with the Commonwealth's Standards

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of Conduct Policy. Sanctions that may be imposed by the University include, but are not limited to verbal counseling, additional training, issuance of a Written Notice, or suspension or termination of employment.

4. All sanction proceedings for students, faculty, and other VSU employees will be conducted consistent with the University's Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy and these procedures, and will be transparent to the complainant and the respondent to the extent permitted by federal and state law and regulations.
5. Contractors shall assign for duty only employees acceptable to the University. The University reserves the right to require the Contractor to remove from the campus any employee who violates the University's Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy.
6. Visitors (including, but not limited to, students participating in camp programs, non-degree seeking students, exchange students, and other students taking courses or participating in programs at VSU), who violate the University's Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy will be directed to immediately leave the campus and may be subject to a permanent bar from campus.
7. A determination regarding the imposition of sanctions shall be made within 14 calendar days of the date of the Title IX Coordinator's final investigative report, if neither the complainant nor the respondent requests appeal to the Discrimination Appeals Committee. If appeal is requested, sanctions, if any, shall be imposed within 14 days of the final decision of the Title IX Coordinator after consideration of the written decision of the Discrimination Appeals Committee. If extension of the time frame for sanctions to be imposed beyond 14 days is necessary, all parties will be notified of the expected time for imposition of sanctions. Respondent shall be informed in writing of any sanctions imposed for violation of Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy by the individual imposing the sanctions within five calendar days of the determination. The Title IX Coordinator shall be provided a copy of such written notification. The Title IX Coordinator will disclose to the complainant, as simultaneous as possible to the notification provided to the respondent, sanctions that directly relate to the complainant as permitted by state and federal law including the Family Educational Rights and Privacy Act (FERPA) and the Virginia Freedom of Information Act. The Title IX Coordinator also will disclose in writing to the complainant the final results of a disciplinary proceeding involving the respondent with regard to an alleged forcible or non-forcible sex offense, act of stalking, domestic violence or dating violence on the complainant, as permitted by state and federal law including FERPA and the Virginia Freedom of Information Act.



**Discrimination Appeals Committee**

**1. Composition of the Committee Designated by the President or his/her Designee**

The President may uphold the sanction decision or defer the matter to the appropriate appeals committee. The Discrimination Appeals Committee ("Committee") shall be comprised of three trained individuals: one faculty member, one non-faculty member of the administration, and one classified employee, to be nominated by the Associate Vice President for Human Resources. The President shall appoint members of the Committee and the Committee Chair. Committee members shall serve indefinitely at the pleasure of the President. The President may appoint one or more persons to serve on the Committee temporarily to fill a vacancy due to recusal or otherwise to ensure a full three-member Committee. The President has sole discretion to permanently remove members of the Committee for cause.

**2. Appeal Procedure**

Faculty may appeal to the President or his/her designee or the Appeals Subcommittee of the Faculty Senate Committee on Reconciliation in accordance with the procedures outlined in the faculty handbook, Staff may appeal to the President or his/her designee under the procedure described below.

- A. Complainant or respondent desiring to appeal the investigative findings of the Title IX Coordinator shall file a written request for appeal with the Title IX Coordinator within three (3) business days of receipt of the written investigation report along with information to support one or more of the following grounds for appeal:
- i. The Title IX Coordinator exhibited unfair bias which influenced the results of the investigation;
  - ii. New evidence, unavailable at the time of the investigation, that could substantially impact the Title IX Coordinator's finding;
  - iii. Error in the conduct of the investigation that is of such magnitude as to deny fundamental fairness.
  - iv. The sanctions recommended by the Title IX Coordinator are substantially outside the parameters or guidelines set by VSU for this type of offense or the cumulative conduct record of the respondent.

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- B. Within five (5) days of receipt of the written request for appeal, the Title IX Coordinator will notify the parties of the time and place of hearing before the Committee. Such hearing typically will be scheduled within fifteen (15) days of receipt of the request for appeal. If extension beyond fifteen (15) days is necessary, both parties will be notified of the expected time frame.
- C. Within five (5) days of filing the request for appeal, the party appealing the Title IX Coordinator's findings (appellant) must submit a written statement that (i) identifies the names and addresses of witnesses that are requested to be called at the hearing; (ii) identifies and includes copies of any documents that will be used as evidence at the hearing; (iii) describes with specificity the portion of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy allegedly violated and the grounds for appeal; and (iv) requests a specific remedy.

The non-appealing party (appellee) also may submit such information for the Committee's consideration. If the appellee chooses not to participate in the Committee hearing, the Title IX Coordinator will provide to the Committee within five (5) days of notification that the appellee will not participate in the hearing: (i) the written investigative report; (ii) the names and addresses of witnesses the Title IX Coordinator will call at the hearing; and (iii) identification and copies of any documents that will be submitted as evidence at the hearing. If the appellee provides notification less than five (5) days prior to the scheduled hearing that he or she will not participate, the hearing shall be postponed to give the Title IX Coordinator a full five (5) days to provide the Committee the above information.

The Title IX Coordinator shall provide the written investigation report and all witness information and documents identified pursuant to this subsection to the Committee and to all parties at least three (3) days prior to the hearing.

- D. Both the appellant and the appellee may retain legal counsel at their own expense or designate a non-attorney advisor to accompany him or her at any meeting or proceeding in the appeal process. If either party has retained legal counsel or a non-attorney advisor, the party must immediately notify the Committee Chair of such representation. The role of counsel or the non-attorney advisor for the parties shall be limited to advice and consultation with the attorney's client and the client's witnesses. Neither counsel/advisor for the appellant nor counsel/advisor for the appellee shall be permitted to question witnesses, raise objections, or make statements or arguments to the

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Committee at the hearing. If either party is represented by legal counsel, The University may be represented at the hearing by assigned legal counsel from the Office of the Attorney General, who will ensure that the rights of The University and the parties are respected.

- E. The Chair of the Committee shall preside over the hearing. The hearing will be a non-adversarial proceeding and the rules of evidence shall not be strictly applied. However, the Chair of the Committee may limit evidence or testimony that is not relevant to a determination of whether a violation of the Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy occurred and whether the grounds for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. Both appellant and appellee, or the Title IX Coordinator if the appellee does not participate, will address the Chair of the Committee and not each other. The Chair will be the final decision-maker on all matters of procedure during the hearing. All hearings will be closed to the public.
- F. The past sexual history or sexual character of a party to the complaint, complainant or respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the respondent, in the form of previous findings in any University or judicial proceeding will be admissible. The parties will be notified in advance of the hearing if any information addressed by this paragraph is deemed admissible.
- G. Within ten (15) days of the hearing, the Committee will submit a written decision to the parties, the Title IX Coordinator, and the President. The decision shall include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or reject the findings of the Title IX Coordinator and/or the recommended sanction and the rationale for such determination; (iv) if the Title IX Coordinator's findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution.
- H. Within three (3) days of the Committee's decision, the President shall notify the Committee, the Title IX Coordinator, and the parties, in writing, of his decision relative to the findings and recommendations of the Committee. The decision of the President is final with no further right to appeal.

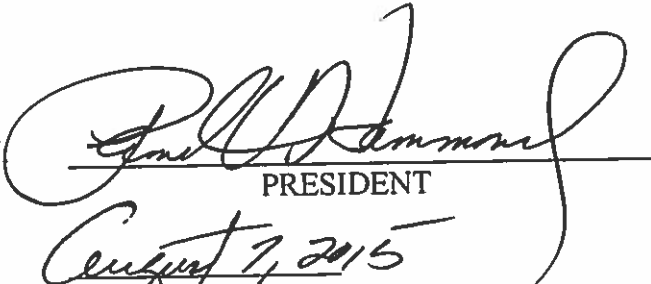
**Documentation and record-keeping**

The Title IX Coordinator shall maintain, in a confidential manner, for at least ten (10) years paper or electronic files of all complaints, witness statements, documentary evidence, written investigation reports, resolutions, and appeal hearings and associated documents. The Title IX Coordinator will prepare a monthly summary of pending complaints that will be presented to the Associate Vice President for Human Resources and also will be retained for at least ten (10) years. Such summary will contain sufficient information to permit the Title IX Coordinator, Associate Vice President for Human Resources and the President to assess The University's compliance with the requirements of Title IX.

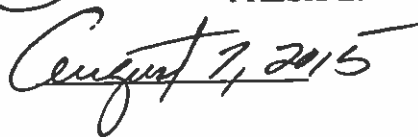
**Training**

Individuals who conduct these Discrimination Grievance Procedures, from the initial investigation to the final resolution, will at a minimum receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and appeal process that protects the safety of victims and promotes accountability.

APPROVED BY

  
\_\_\_\_\_  
PRESIDENT

DATE:

  
\_\_\_\_\_  
August 7, 2015