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Virginia State University
Policies Manual

Title: Title IX Sexual Harassment Policy

Policy: 1104

Policy

Virginia State University prohibits sex discrimination, including sexual harassment and retaliation, as defined by Title IX of the Education Amendments of 1972 and its new implementing regulations promulgated by the United States Department of Education.¹ Title IX is a federal civil rights law that provides “No person in the United States shall, based on sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any Educational Program or Activity receiving Federal financial assistance.”

The University does not discriminate based on sex in its educational, extracurricular, athletic, or other programs and activities or in the context of employment. The University is committed to maintaining an environment that is safe and free from sex discrimination and sexual harassment. Title IX also prohibits retaliation. To that end, this Policy prohibits any member of the campus community from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

Students, employees, or third-party contractors who are found to have violated this Policy may face disciplinary action, including expulsion (students) or termination of employment or contractual relationship (employees or third-party contractors). The University also prohibits other forms of discrimination and harassment, as described in the *Discrimination, Harassment and Retaliation Prevention Policy, 1101*. Remedies designed to restore or preserve equal access to the University’s education or work program or activities will be implemented as appropriate, and may range from course-related adjustments and no contact orders to restrictions on access to campus, campus locations, or campus activities.

The *Title IX Sexual Harassment Policy* and its resolution procedures do not replace the criminal justice system. If an individual files a report with the University’s Campus Police, that department will report to the appropriate jurisdiction certain alleged crimes, including Sexual Assault, Stalking, Dating Violence or Domestic Violence, which occur on or off campus and constitute a felony under Virginia law.

The University encourages the reporting of all violations of this policy. Questions regarding sex discrimination prohibited by Title IX should be referred to the VSU Title IX Coordinator:

Deborah D. Howard
Office of EEO & Title IX Compliance
Room 313 - Virginia Hall
(804) 524-5371
titleix@vsu.edu

¹ Federal Register / Vol. 85, No. 97 / Tuesday, May 19, 2020 / Rules and Regulations, pp. 30572 – 30579.

Applicability, Authority and Jurisdiction

This Policy and the accompanying resolution procedures will apply to all students, employees, applicants for admission and employment, visitors, and contractors participating in, or attempting to participate in, one or more of the University's education programs and activities. This Policy and the procedures will also apply to individuals reporting or participating in investigations of prohibited conduct, which takes place in an educational program or activity of the University, against a person in the United States. An educational program or activity includes (1) locations, events, or circumstances over which the University exercised substantial control over both the Title IX Respondent and the context in which Title IX Sexual Harassment occurs, and (2) any building owned or controlled by a student organization that is officially recognized by the University.

This policy applies to all of the University's educational programs or activities in the United States, regardless of whether such programs or activities occur on-campus or off-campus. Study-abroad programs and off-campus locations that are not within the University's educational programs or activities are not covered by the Title IX regulations or by this Policy.

The Title IX Coordinator, in limited discretion and on a case-by-case basis, may refer conduct occurring off campus and outside of the Title IX jurisdiction to other relevant proceedings, e.g., student code of conduct, faculty or staff resolution processes.

The official interpretation of this Policy rests with the Title IX Coordinator in collaboration with University Counsel. Allegations of on-campus or off-campus violations of this policy should be reported to the Title IX Coordinator.

Notice of Nondiscrimination

As a recipient of federal funds, Virginia State University is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities, admission, and employment. The University is committed to fostering principles of nondiscrimination in its educational programs and activities, including admission and employment. All faculty, staff, students, including visitors and third-party contractors, are responsible for complying with this Policy. The Title IX Coordinator shall disseminate notices of nondiscrimination to students and employees and shall post notices of nondiscrimination as required by law.

Policy Violations

A. Prohibited conduct that violates this Policy consists of, but is not limited to, the following:

1. Engaging in sexual harassment, sexual assault, stalking, and dating or domestic violence as defined in the Policy.

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2. Retaliating in any manner against an individual who reports or initiates a complaint alleging sexual harassment, sexual assault, stalking, and dating or domestic violence.
 3. Interfering with procedures to investigate or redress a complaint of sexual harassment, sexual assault, stalking, and dating or domestic violence.
 4. Making an intentionally false accusation of sexual harassment, sexual assault, stalking, and dating or domestic violence through the University's procedures.
- B. Any member of the University community who engages in one of these prohibited acts against any other member of the University community will be subject to corrective or disciplinary action, up to and including expulsion (student) or termination from employment.

Definitions

- A. **Title IX Coordinator** is the designated University official with ultimate oversight and responsibility for the University's compliance with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* ("Title IX"), implementing regulations and relevant supplemental guidance.
- B. **Sex Discrimination** is the inequitable and unlawful treatment, based on an individual's sex, sexual orientation, gender identity, or any other sex-based characteristics, that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an educational program or activity.
- C. **Sexual harassment** is defined under Title IX as conduct on the basis of sex that satisfies one or more of the following:
1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome conduct (i.e., *quid pro quo*);
 2. Unwelcome conduct that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
 3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Sexual harassment, including sexual assault, can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes.

- D. Hostile environment** may be created by oral, written, graphic or physical conduct that is sufficiently severe, persistent and pervasive and objectively offensive that it interferes with, limits or denies, the ability of an individual to participate in or benefit from educational programs, services, opportunities, or activities or the individual's employment access, benefits or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (e) the nature of higher education.
- E. Sexual Assault**, as defined under the Clery Act, is non-consensual contact of a sexual nature. It includes any sexual contact when the victim does not or is unable to consent through the use of force, fear, intimidation, physical helplessness, ruse, impairment or incapacity (including impairment or incapacitation as a result of the use of drugs or alcohol, knowingly or unknowingly) when the victim does not give or is unable to give consent; intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch, a person's genital area, groin, inner thigh, buttock or breast; and non-consensual sexual intercourse, defined as anal, oral, or vaginal penetration with any object. Some types of sexual acts which fall under the category of sexual assault include the following: rape, attempted rape and fondling.
- F. Consent** is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Consent can be withdrawn at any time.

Consent cannot be granted by an individual who:

1. Is incapacitated by any drug or intoxicant.
2. Has been purposely compelled by force or threat of force.
3. Is unaware that the act is being committed.
4. Is impaired because of a mental or physical condition.
5. Is coerced by supervisory or disciplinary authority.
6. Is less than the statutory age of consent.

- G. Coercion** is unreasonable pressure for sexual activity. Coercion cannot be used to obtain consent. Coercion includes the use of physical force, threats, and intimidating behavior to get another party to engage in sexual activity. When someone makes it clear that they do not want

to be a part of such sexual activity, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

- H. Incapacitation** occurs when an individual is unable to give consent because they are mentally and/or physically helpless, unconscious, or unaware, due to drug or alcohol consumption (voluntarily or involuntarily) or for some other reason. Engaging in sexual activity with someone a person knows to be – or should know to be – mentally or physically incapacitated is non-consensual and a violation of this policy. Mental or physical incapacitation can be a result of alcohol or other drug use, unconsciousness, blackout, asleep, involuntary physical restraint, or consuming so-called “date-rape” drugs, Rohypnol, Ketamine, Gamma-Hydroxybutyrate (GHB), Burundanga, etc.
- I. Sexual Exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another for anyone’s advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensual distribution of photos, or postings (such as audio, video, images, or transcriptions) of an individual’s sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism and observation of people engaging in intimate behaviors, performing normal bodily functions, or displaying various states of undress without the person’s consent; knowingly transmitting a sexually transmitted infection (STI); or exposing one’s genitals to another in a non-consensual circumstances, or inducing incapacitation with the intent to engage in sexual misconduct.
- J. Stalking**, as defined under the Violence Against Women Act, is a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.
- K. Dating Violence**, as defined under the Violence Against Women Act, is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
- L. Domestic Violence**, as defined under the Violence Against Women Act, is a pattern of behavior, including acts or threatened acts, that includes asserted violent misdemeanor and felony offenses committed by (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the Commonwealth of Virginia; or (v) by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- M. Relationship Violence** is a term used to reference conduct associated with dating or domestic violence.

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- N. Responsible employee** is the Title IX coordinator. It also includes any employee who has the authority to take action to redress violations of this policy, any employee who has been given the duty to report to the Title IX Coordinator or other appropriate school officials about incidents of sexual harassment, sexual assault, harassment, stalking, and dating or domestic violence by students or employees. A responsible employee includes anyone a student could reasonably believe has this authority or responsibility. A responsible employee must report to the Title IX Coordinator all relevant information received about an incident of conduct that potentially is in violation of this policy as soon as practicable after addressing any immediate needs of the victim of such conduct.
- O. Formal Complaint** means a document filed, including an electronic submission, by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual assault, stalking, or dating and domestic violence against a respondent. The complaint is considered a request for the University to investigate the incident and take appropriate actions. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the University.
- P. Actual Knowledge** means notice of sexual harassment or allegations of sexual harassment to an institution's Title IX Coordinator or any official of the institution who has authority to institute corrective measures on behalf of the University.
- Q. Complainant** means the person who has filed the complaint and is the alleged victim of conduct that is in violation of this policy.
- R. Respondent** means the person or persons identified in the complaint alleged to have violated this policy.
- S. Report** means to inform or give notice of an incident or conduct that violates this policy.
- T. Investigation** is the process for fact-finding, collecting and reviewing information relating to complaints and reports of alleged misconduct, which may include interviewing the complainant and respondent, and any witnesses or other parties with knowledge of the alleged incident to help determine whether a policy violation occurred.
- U. Remedies** are designed to restore or preserve equal access to the University's educational programs or activities.
- V. Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment. Supportive measures may include counseling,

extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

W. Retaliation means any adverse action taken against a person for making a good faith report of conduct prohibited under this policy or participating in any proceeding under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. The definition of retaliation does not preclude an individual from engaging in good faith actions, lawfully pursued, in response to a report of conduct prohibited under this policy.

Role of the Title IX Coordinator

The University's Title IX Coordinator oversees the implementation of the University's Title IX policy and procedures. The Title IX Coordinator is responsible for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sex-based discrimination, sexual harassment, and retaliation prohibited under this policy.

The Title IX Coordinator leads the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolution procedures under this policy. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

Any concerns involving bias or potential conflict of interest by the Title IX Coordinator, should be raised with the University President or the President's designee. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Title IX Contact Information

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 University's Title IX Coordinator is Deborah Howard. Her contact information and other principal resource contacts to the Title IX Team are listed below:

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<p>Office of EEO & Title IX Compliance Deborah D. Howard, Title IX Coordinator P.O. Box 9001 Virginia Hall – Room 313 (804) 524-5371 or (804) 524-5070 Email: titleix@vsu.edu</p>	<p>VSU Campus Police 2102 Service Road (804) 524-5411 or (804) 524-5360 Email: Police@vsu.edu or confidentialreporting@vsu.edu</p>
<p>University Counseling Center Dr. Cynthia S. Ellison, Director Memorial Hall – Room 411 (804) 524-5845 Email: cellison@vsu.edu</p>	<p>Office of Student Conduct Cathleen Braxton, Director Foster Hall (804) 524-2391 Email: cbraxton@vsu.edu</p>
<p>Substance Abuse & Sexual Assault Prevention Services Dr. Evelyn Whitehead, Coordinator Memorial Hall – Room 401 (Not for investigations) (804) 524-6942 or (804) 524-5939 Email: ewhitehead@vsu.edu</p>	<p>Student Success and Engagement (Formerly Student Affairs) Regina Barnett-Tyler, Assoc. VP Memorial Hall – Room 306 (804) 524-3662 Email: Rbarnett@vsu.edu</p>

Options for Reporting and Filing Complaints

Conduct in violation of this policy should be reported promptly by all students, employees, applicants for admission and employment, visitors, or contractors to the Title IX Coordinator or any member of the Title IX Team, or officials with authority or responsible employees. Any person may file a Formal Complaint, as defined in this policy, of sex discrimination, including sexual harassment. The written and signed Formal Complaint must be remitted to the Title IX Coordinator. The Formal Complaint shall be treated as a request for the University to investigate the allegations set forth in the complaint in accordance with the *Title IX Complaint Resolution Procedures*, unless otherwise informed by the Complainant.

A report or formal complaint may be made in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report or complaint. Contact options listed (telephone number, e-mail address, or by office mailing address) for the Title IX Coordinator may be used at any time, including during non-business hours.

All employees, other than the confidential employees indicated in this policy, who receive such reports or complaints must 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 Title IX Coordinator may file a Formal Complaint on behalf of the University. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University community.

Criminal Reporting

If a victim is in immediate danger or needs immediate attention, the individual should contact 911 or use the emergency call box (blue emergency lights) to connect directly to the campus police station. Some conduct in violation of this policy may also be a crime under Virginia law. Individuals are encouraged to report incidents of sexual harassment, stalking, and dating or domestic violence to law enforcement; even if the reporting individual is not certain if the conduct constitutes a crime. VSU will provide assistance to victims in notifying law enforcement if the victim so chooses. Crimes dealing with minors must be reported to law enforcement. Reports of policy violations made to campus police will automatically be referred to the Title IX Coordinator for investigation whether the complainant chooses to pursue criminal charges or not.

Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in the reporting, investigation, and resolution of a formal complaint under this policy. The University also is committed to providing assistance to help students, employees, and third parties make informed choices. With respect to any complaint under this policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the complaint and to take steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The University does not impose any restrictions on the parties regarding re-disclosure of an incident or their participation in proceedings under this policy.

Privacy and confidentiality have distinct meanings under this policy. Privacy means that information related to a formal complaint of prohibited conduct will be shared with a limited number of University employees who “need to know” in order to assist in the assessment, investigation, and resolution of the complaint. All employees who are involved in the University’s response to formal complaints and implementation of any aspect of this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the University’s FERPA Policy. The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA and by Virginia’s Health Records Privacy Act, Va. Code § 32.1-127.1:03. Access to an employee’s personnel records may be restricted in accordance with the Virginia Freedom of Information Act, and, where applicable, Department of Human Resources Management

(“DHRM”) Policy 6.05 Personnel Records Disclosure and DHRM Policy 6.10 Personnel Records Management.

Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under Virginia law. The University has designated individuals who have the ability to have privileged communications as “Confidential Employees.” When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.

Rights of the Complainant and the Respondent

The University is committed to ensuring that all complaints of sex discrimination and sexual harassment are taken seriously while also safeguarding due process and a **presumption of innocence** regarding respondent’s responsibility. Upon receipt of a complaint of sexual harassment, sexual assault, stalking, and dating or domestic violence, the University will provide both the Complainant and Respondent with a written explanation of their rights and options, inclusive of resources and support services available to each. (*See Trojan Bill of Rights* in the appendix.)

Supportive Measures

Upon receipt of a Formal Complaint, in person, by telephone, in writing, or by email, the University will provide reasonable and appropriate supportive measures designed to eliminate any existing hostile environment and protect the parties involved. The University will make reasonable efforts to communicate with the parties to ensure that all safety, emotional, and physical well-being concerns are addressed.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to Complainants and to Respondents after a Formal Complaint has been filed. These measures may be both designed to address an individual’s safety and well-being and to preserve or restore equal access to educational opportunities without unreasonably burdening the other party.

Supportive Measures, which may be temporary or permanent, may include no-contact directives, residence modifications, academic modifications and support, and work schedule modifications. The University will maintain the privacy of any Supportive Measures provided under this policy

to the extent practicable and will promptly address any violation of the Supportive Measures. The Title IX Coordinator has the discretion to impose and/or modify any Supportive Measure based on all available information and is available to meet with a Complainant or Respondent to address any concerns about the provision of Supportive Measures.

The University will provide reasonable Supportive Measures to third parties who either are Complainants or Respondents, as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with the University.

Examples of Supportive Measures for Students may include, but are not limited to:

- a. Referral to counseling, medical, and/or other healthcare services;
- b. The imposition of campus No-Contact Order and/or Persona Non-grata;
- c. Rescheduling of exams and assignments;
- d. Providing alternative course completion options;
- e. Change in the class schedule;
- f. Change in work schedule or job assignment;
- g. Change in on-campus housing;
- h. Limit an individual or organization's access to certain University facilities or activities pending resolution of the matter.

Examples of Supportive Measures for Employees may include, but are not limited to:

- a. Referral to the Employee Assistance Program;
- b. Modifications of work schedules;
- c. Mutual restrictions on contact between the Parties;
- d. Changes in work or housing locations;
- e. Leaves of absence;
- f. Increased security and monitoring of certain areas on the campus.

Emergency Removal

The University may remove a Respondent from an education program or activity on an emergency basis while an investigation is pending. The University will only remove a Title IX Respondent on an emergency basis if, after making an individualized safety and risk analysis, it determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. The University also may place a non-student employee that is a Respondent on paid administrative leave during the pendency of a Title IX sexual harassment resolution process. The University will provide the Respondent with notice and an opportunity to request a review of the decision **BEFORE** the removal.

The Title IX Coordinator will convene the Title IX Review Committee, as appropriate, within 72 hours after receiving information about an incident, and will convene again, as necessary, to review new information as it becomes available. The meeting of the Title IX Review Committee is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the Emergency Removal is appropriate.

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The Title IX Review Committee operates pursuant to Va. Code § 23.1-806 (the “Virginia Reporting Statute”) and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records, criminal history record information, as provided in Va. Code § 19.2-389 and § 19.2-389.1; health records, as provided in Va. Code § 32.1-127.1:03; University disciplinary, academic and/or personnel records; and any other information or evidence known to the University or to law enforcement. The Title IX Review Committee may seek additional information about the reported incident through any other legally permissible means.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Review Committee, these actions may include, but are not limited to: removing a student from a residence hall, restricting a student’s access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, and suspending a student’s participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Review Committee, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties. The chair of the Committee will inform the parties simultaneously, in writing, in detail, of the outcome of the Emergency Removal. The University may place an employee Respondent on administrative leave during the pendency of a grievance process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. The Title IX Coordinator, in their sole discretion and on a case-by case basis, will decide whether administrative leave during the pendency of an investigation must be with pay (or benefits) or without pay (or benefits). The decision to place an employee on administrative leave with pay (or benefits) or without pay (or benefits) is final and may not be challenged. This does not apply to student employees.

Emergency removals or leaves of absence must comply with any other relevant laws, policies, administrative procedures, and agreements governing removals of students and/or employees from the University’s education program or activity. The Senior Vice President for Academic Affairs or the Vice President for Administration or their assigned designee, as appropriate, will hear and decide challenges to an emergency removal, in order to avoid conflicts of interest for those already involved in the investigation and/or resolution process.

Amnesty for Other Violations

The University encourages reporting of incidents of sexual harassment. Sometimes complainants are hesitant to initiate a formal complaint because they fear that they may be charged with violations of the Student Code of Conduct, such as underage drinking at the time of the incident. Because the University is committed to protecting the well-being of its community and remedying sexual harassment, other policy violations will be considered on a case-by-case basis with respect to taking action.

Prevention and Education Programs

The University sponsors regular and ongoing prevention, awareness, and training programs for students and employees with the intended goal of ending and preventing the reoccurrence of conduct that violates this policy. The University's specific annual awareness programs are:

Office of EEO & Title IX Compliance

- **Online Training**

"Not Anymore" for students is a suite of interactive online programs designed to prevent sexual assault, dating and domestic violence and stalking. New students are required to complete online training modules by a specific date each year. Returning students are required to complete online training modules concerning the policy every other year.

"Not Anymore" for employees covers topics such as federal requirements for campuses, the power of primary prevention, sexual harassment and sex discrimination, how to be an active bystander, Title IX and what it means, reporting obligations, trauma-informed response, and campus policies and resources. New employees are required to complete online training modules within thirty days of hire. Existing employees are required to complete online training modules concerning the policy every other year.

- **Online Awareness Campaigns**

Throughout the year, electronic communications are sent to members of the campus community to highlight relevant events to raise awareness and prevention efforts (i.e. Sexual Assault Awareness Month, Sexual Assault Awareness Month Day of Action, Stalking Awareness and Prevention, National Campus Safety Awareness Month, National Suicide Prevention Week, and National Domestic Violence Awareness Month).

- **In Person or Virtual Presentations Topics (Academic & Nonacademic Departments)**

- Consent
- Stalking
- Sexual Assault
- Bystander Intervention
- Healthy Relationships
- Complainant/Respondent Advocacy
- VSU Anti-harassment Policies
- ADA/Reasonable Accommodation
- EEO – Recruitment and Selection Best Practices
- Harassment and Discrimination Prevention

University Counseling Center

- **Sexual Assault Prevention**

Provides on-campus supportive counseling and off campus community resources. 24-hour help lines available. Other primary prevention efforts led by the Sexual Assault Prevention Program include "The Red Flag Campaign" posters to identify red flags of dating violence, innovative

programs to promote healthy relationships and bystander intervention, and enlistment of student volunteers as peer consultants and leaders in prevention programs.

- **Substance Abuse Prevention**
Focuses on issues associated with alcohol use/abuse. Services include interactive alcohol program for those administratively and judicially referred.
- **Bystander Intervention Presentation for First Year Students**
The program is given to help students understand their role in maintaining a community of care and trust and also to introduce them to the importance of being an active bystander in furthering that goal. Students also hear information about the Title IX Policy and reporting policy violations. Residence Staff are provided with a debrief discussion and activity guide to process this information in the residence halls after the presentation.

Department of Police & Public Safety

- **Personal Safety Awareness Program** is designed to assist women and men in identifying and avoiding potential situations that could lead to a sexual or physical assault. The program is presented in conjunction with the VSU Office of Sexual Assault and Alcohol/Substance Abuse.
- **Sexual Assault Seminars** are presented to dormitory residents, athletes, fraternities, sororities, and other organizations on campus. These seminars provide a wealth of information on preventing or reducing the probability that a sexual predator will victimize a person. The presentation also answers questions and addresses myths about sexual assaults and the consequences.

Academic Freedom and Free Speech

In addressing complaints, the University will take actions to ensure the safety of students and employees while respecting the free speech rights of students and employees, as required by the regulations of the Department of Education's Office of Civil Rights, federal law and laws of the Commonwealth of Virginia.

References

Virginia State University Trojan Bill of Rights (Appendix A)
Virginia State University Violence Prevention/Threat Assessment
Virginia State University Student Code of Conduct
Virginia State University Protocol for Student Administrative Withdrawal for Medical, Emotional or Psychological Emergencies
Virginia State University Student Guide to Responding to Sexual Misconduct and Assault (Appendix B)
Virginia State University Campus Security Authority (Appendix C)

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This policy will be reviewed, at a minimum, annually and/or revised as needed by University Legal Counsel.

Approval By: _____



President

Date: _____

10/22/2020

Appendix A

Trojan Bill of Rights

Victims, whether student or staff, and the accused are afforded rights by the federal government, the state, and the University. All victims have the right to emotional and physical safety. These rights/options are for anyone who reports being a victim of domestic violence, dating violence, sexual assault or stalking, whether the offense occurred on- or off-campus, and regardless of whether you choose to report the crime to campus police or local law enforcement.

Virginia Law outlines the following:

- You have the right to know the range of sanctions the University can impose on the accused, which include the following: written reprimand; denial of specified University privileges; fines; restitution; removal of the student from the course in progress; disciplinary probation; suspension; and expulsion.
- Any disclosure of a sexual assault made to a University employee can result in a report as an annual crime statistic (with victim's name withheld).
- You have a right to privacy and confidentiality. Unless you sign a waiver, no one can share information among one another or with any third party, including parents without your prior consent.

As a victim, you are entitled to the following rights:

- You and the accused have the same opportunity to have others present throughout disciplinary proceedings.
- You and the accused shall be informed simultaneously and in writing of the procedures, outcome and any changes to the results that occurs in any disciplinary proceeding. At no time can a victim be required to keep the outcome confidential.
- You can obtain a free forensic exam from a Sexual Assault Nurse Examiner (“SANE”) or forensic nurse without filing a police report at St. Mary’s Hospital or VCU Medical Center. A free Physical Evidence Recovery Kit (“PERK”) exam may be obtained from Southside Regional Medical Center.

You also have to the right to be:

- Informed of your options to notify law enforcement or not.
- Notified of counseling services that are available on- and off-campus.

- Notified of options for obtaining protective orders, changing academic, living, transportation, and working situations, if so requested, and if such accommodations are reasonably available.

Additional Rights and Resources

The University is committed to ensuring that you are afforded the following:

- The right to an advocate of your choosing (for more information, see resources below).
- The right to access STI testing and treatment, emergency contraception, and pregnancy testing.
- The right to be informed of and have access to medical, mental health, crisis response, legal, forensic, campus disciplinary, and/or victim advocacy services.
- Law enforcement officers are not required to issue a minor-in-possession violation if you are underage and were drinking alcohol on the occasion of the assault.
- In a campus disciplinary hearing, you have a variety of options for how you offer your testimony, including video conference, phone, or with room partition.

On-campus Resources

Counseling & Confidential Resources
Sexual Assault Prevention Services (804) 524-5939
University Counseling Center (804) 524-5939
United Campus Ministries (804) 524-5214

Medical Resources

Student Health Services (804) 524-5711

Reporting & Investigation

Department of Police & Public Safety (804) 524-5360; Crime in progress (804) 524-5411
Title IX Coordinator (804) 524-5371

Off-campus Resources

Chesterfield Domestic & Sexual Violence Resource Center (Free Counseling and Support Groups)
(804) 318-8265
LGBTQ Partner Abuse & Sexual Assault Helpline (866) 356-6998
The James House (Free 24-hour Crisis intervention, Advocacy for hearings, support groups) (804)
458-2840
Greater Richmond Regional Hotline (Free 24-hour Crisis intervention, Advocacy for hearings,
support groups) (804) 612-6126
Virginia Family Violence & Sexual Assault Hotline (Free 24 Hour Crisis Intervention and support)
(800) 838-8238

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Medical Resources

VCU Medical Center Forensic Nurse Examiner available 24 hours 804-828-5250 or (804) 628-0623

Bon Secours St. Mary's Hospital Forensic Nurse Examiner available 24 hours (804) 281-8574 or (804) 281-8184

Southside Regional Medical Center (804) 765-5000

Legal Services

Central Virginia Legal Aid Society – Richmond (804) 648-1012

Central VA Legal Aid - Petersburg (804) 862-1100

Chesterfield County Victim Witness Assistance Program (804) 796-7087

Virginia Poverty Law Center, Inc. (804) 782-9430

Petersburg Victim Witness Assistance Program (804) 732-0226

Other Resources

Rape, Abuse and Incest National Network - <http://www.rainn.org>

Department of Justice - <http://www.ovw.usdoj.gov/sexassault.htm>

Department of Education, Office of Civil Rights -

<http://www2.ed.gov/about/offices/list/ocr/index.html>

The White House Task Force Report to Protect Students from Sexual Assault

<https://www.notalone.gov/assets/report.pdf>

Appendix B

Student Guide to Responding to Sexual Misconduct and Assault

CONFIDENTIAL COUNSELING & SUPPORT

- University Counseling Center 804-524-5939/ Memorial Hall 4th Floor
- Student Health Services 804-524-5711 / Memorial Hall Ground Floor
- United Campus Minister 804-524-5214 / Foster Hall 3rd Floor
- Off Campus 24/7 The James House Crisis Line 804-458-2840
- Off Campus Chesterfield Domestic & Sexual Violence Resource Center 804-318-8265
- LGBTQ Partner Abuse & Sexual Assault Helpline/1 (866) 356-6998

MEDICAL ATTENTION

- Student Health Services Memorial Hall Ground Floor/ 804-524-5711
- VCU Medical Center / Forensic Nurse Examiner 24hr. 804-828-5250 or (804) 628-0623
- St. Mary's Hospital/ Forensic Nurse Examiner 24hr. 804-285-2011
- Southside Regional Medical Center 804-765-5000

STUDENT REPORTING OPTIONS

- Title IX Coordinator/Rm 313 Virginia Hall/804-524-5371/804 Oversees the process in handling all matters involving sexual harassment and sexual violence to ensure compliance.
- Student Conduct / Foster Hall Rm 304A / (804) 524-2391 Provides options for filing a formal complaint and/or connecting with local law enforcement. Oversees student hearing process.
- Sexual Assault Coordinator/Rm.401 Memorial Hall/804-524-6942 Provides information about on/off campus options for filing complaints and supportive resources.
- VSU Police & Public Safety/21012ServiceRd./804-524-5360/524-5411 Assists with obtaining medical attention; provides information about on/off campus options for filing formal complaints. Assists in connecting with local law enforcement to pursue a criminal complaint.

YOUR SAFETY MATTERS

- Go to a safe place.
- Consider Medical attention
- For 24/7 response contact VSU Police & Public Safety 804-524-5411 or 911
- For 24/7 confidential support contact 804-481-5738

REMEMBER: Sexual assault is never your fault.

It doesn't matter:

What you were wearing

What or how much you drank

What your sexual orientation or gender identity is

What time it occurred

ACTIVE BYSTANDER COMPANION

A step-by-step guide for Faculty and Staff responding to students

If a student discloses a sexual assault to you:

Step 1: CARE *Care for the student*

- Believe them
- Ensure that they are safe
- Provide non-judgmental support

Step 2: Connect *Connect the student to resources*

- Call 911 or 5411 for emergencies
- Reporting Options see next page
- Counseling and Support

Step 3: CONTACT *Contact the Title IX Coordinator*

Deborah Howard
313 Virginia Hall
804-524-5371
titleix@vsu.edu

Some Do's and Don'ts for Responding to Sexual Assault:

DO:

- Encourage the student to seek help
- Inform the student about resources (see reverse)
- Contact an on-campus resource to assist you and inform the student you will do so
- If there is an immediate risk, call campus police or 911
- Allow the student to make their own decisions

DO NOT:

- Do nothing
- Do not panic- remain calm and concerned
- Do not feel as if you have to have all the answers
- Do not assess, define, or try to investigate what has happened
- Do not try to impose your ideas on someone else

Sexual Assault is non-consensual contact of a sexual nature. Some types of sexual acts which fall under the category of sexual assault include the following: rape, attempted rape and fondling.

Virginia State University has a zero tolerance policy against all forms of sex-based discrimination, inclusive of sexual misconduct, i.e.:

- sexual assault
- sexual exploitation
- dating violence
- domestic violence
- stalking

Retaliation against anyone reporting sexual misconduct is prohibited. For more information on the sexual misconduct policy and resources, go to: www.vsu.edu/go/sexual-assault

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Appendix C

Campus Security Authority

A Campus Security Authority (“CSA”) is an official of an institution who has a significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. CSAs should explain to the reporting person how to get assistance; CSAs should also share with the reporting person written information that explains the rights of victims. For reporting persons who do not wish for the report to go any further than the CSA, the CSA should explain that they are required to submit the report for statistical purposes; however, the report will not identify the reporting person or the victim. Upon receiving a report of sexual misconduct, the CSA should submit the reporting form to the campus police station, in person or electronically, as soon as possible but not later than 48 hours after receiving the report.

Campus Reporting and Investigation:

Deborah Howard, Title IX Coordinator Virginia Hall – Room 313 P.O. Box 9001 (804) 524-5371 Email: titleix@vsu.edu	VSU Police (804) 524-5411 or (804) 524-5360 Address: 21012 Service Rd Email: Police@vsu.edu
	Student Success and Engagement
Julia Walker, Director Office of EEO & Title IX Compliance Virginia Hall – Suite 301 (804) 524-1007 Email: titleix@vsu.edu	Regina Barnett-Tyler, Interim Assoc. VP Memorial Hall – Room 306 (804) 524-3662 Email: Rbarnett@vsu.edu
Henry DeBose, University Ombudsman Virginia Hall – Suite 301 (804) 524-5350 Email: hdebose@vsu.edu	Cathleen Braxton, Director Foster Hall – Room 304A (804) 524-2391 cbraxton@vsu.edu
Office of Human Resources Tanya Simmons, Director Virginia Hall – Room 101 (804) 524-5087 Email: tsimmons@vsu.edu	Sexual Assault Services Dr. Evelyn Whitehead, Coordinator Memorial Hall - Room 401 (804) 524-6942 or (804) 524-5939 Email: ewhitehead@vsu.edu (Not for investigations)