



Sexual Harassment & Misconduct

Policy Statement

The University of Vermont, including its Schools and Colleges, seeks to maintain a safe learning, living, and working environment. To that end, all forms of Sexual Harassment¹ and Sexual Misconduct, which includes, but is not limited to, attempted and completed acts of Sexual Assault, Relationship Violence, Gender-Based Stalking², and Sexual Exploitation, or facilitation thereof, are strictly prohibited and will not be tolerated. This Policy also prohibits Retaliation against an individual for making a good faith report of conduct prohibited under this Policy, as well as individuals providing information, participating in the investigation of any such report, or otherwise being involved in the process of responding to, investigating, or addressing allegations of Sexual Harassment and Misconduct.

Sexual Harassment and Sexual Misconduct (“Sexual Harassment and Misconduct”) can occur to men and women, and those who do not identify with the gender binary, and to people of all sexual orientations. Any act that falls within the definition of Sexual Harassment, Sexual Misconduct, or attempted Sexual Harassment and Misconduct, is a violation of this Policy, and in many cases a crime under Vermont law. Individuals are therefore strongly encouraged to report incidents of Sexual Harassment and Misconduct to the University’s Office of Affirmative Action and Equal Opportunity (AAEO), and to University Police Services, as appropriate, immediately following their occurrence. The length of time between an incident and making a report will not affect the willingness of the University to investigate the allegations or to provide support and other services to the individual reporting the conduct. However, a prompt report, and the preservation of evidence, will significantly impact the ability of the University to conduct a full investigation.

The University strongly encourages the reporting of Sexual Harassment and Misconduct and seeks to remove any barriers to an individual or group making a report. The University

¹ Other forms of discrimination, including discrimination based on gender, race, religion, and disability are addressed by the University’s Discrimination and Harassment Policy, as well as the University’s Equal Employment Opportunity/Affirmative Action Policy Statement and Equal Opportunity in Educational Programs and Activities Policy Statement. This policy supersedes any conflicting information contained in those policies with respect to the definitions or procedures relating to conduct prohibited herein. Links to these documents are provided in the “Related Documents/Policies” Section of this Policy.

² Non-Gender Based Stalking is reviewed under the terms of the University’s Code of Student Rights and Responsibilities dealing with ‘Offenses Against Persons’ (for student respondents) and applicable University practices, policies, and collective bargaining agreements (for employee respondents). Links to these documents are provided in the “Related Documents/Policies” Section of this Policy.

recognizes that individuals who experience incidents of Sexual Harassment or Misconduct may be reluctant to report such conduct to the University because they fear that they themselves may be accused of policy violations specific to alcohol and drug offenses, such as underage drinking or drug use at the time of the incident. Accordingly, an individual who reports an incident of Sexual Harassment or Misconduct, regardless of whether they themselves have experienced the reported misconduct, will not be subject to disciplinary action by the University for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk, including where an individual or organization knowingly serves alcohol to minors or administers drugs to another person facilitating conduct prohibited by this Policy.

Sanctions for any member of the University community engaging in acts of Sexual Harassment and Misconduct, or engaging in acts of Retaliation, may include suspension or dismissal from the University, termination from employment, and/or referral for criminal investigation and prosecution under Vermont law.

Reasons for the Policy

The University of Vermont is committed to creating and maintaining a community in which its members are free from all forms of harassment, exploitation, intimidation, and violence consistent with its obligations under federal and state law. The University of Vermont recognizes the long-lasting and detrimental effects of Sexual Harassment and Misconduct on individuals, on our entire community, and on our mission to prepare UVM students to lead productive, responsible and creative lives. University policy therefore strictly prohibits any form of Sexual Harassment and Misconduct, and the University is committed to (1) eliminating, preventing, and addressing the effects of Sexual Harassment and Misconduct; (2) cultivating a climate where all individuals are well-informed and supported in reporting incidents of Sexual Harassment and Misconduct; and (3) providing a fair and impartial process for investigation and adjudication of reported incidents of conduct prohibited by this Policy.

This policy is further designed to comply with applicable legal requirements including Title IX of the Education Amendments of 1972; relevant provisions of the Violence Against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”); and applicable state law.

Applicability of the Policy

This Policy applies to all University employees and affiliates, as well as contractors, consultants, and temporary employees; students who are enrolled in coursework, and those who have indicated an intent to do the same, as further defined in the Definitions section of this Policy, at the time the conduct occurs; University-recognized organizations and affiliated entities, and their members; participants in academic, extracurricular, research, occupational training, or other programs and activities sponsored by the University or occurring on University premises, irrespective of whether the behavior occurs on or off-campus³.

³ Jurisdiction for conduct occurring off-campus and not in connection with a University sponsored or affiliated program or event requires a determination that the conduct may: (1) reflect adversely on the Respondent’s fitness to remain enrolled in an academic program or employed in his/her position; (2) pose an imminent or continuing threat of harm to the safety of UVM community members; or (3) create or contribute to a hostile environment on-campus.

In addition to the investigation and sanctioning processes set out in this Policy, members of the University community may also be subject to review of the same conduct for (1) violation of professional standards related to an academic program; (2) conduct standards associated with Athletics; (3) conduct standards associated with recognized student organizations; (4) Housing and Meal Plan Contract Terms and Conditions; (5) eligibility to participate in other University sponsored programs.

Policy Elaboration

See Procedures.

Definitions

Advisor: An individual selected by either party to provide personal support throughout the reporting, investigation, and any resulting disciplinary process under this policy. Advisors may have no other role, such as witness, in the University process, and may not speak on behalf of or otherwise represent their advisees during investigatory or sanctioning meetings. While advisors are not limited to members of the campus community, the University has identified several faculty and staff members to serve as Sexual Misconduct Advisors (http://www.uvm.edu/aeo/sexual_misconduct_advisors), all of whom have received dedicated training on University policies and procedures, and can assist with identifying additional appropriate resources. Additionally, in many cases, the Campus Victim's Advocate (<https://www.uvm.edu/womenscenter/campus-advocacy>) is selected by Complainants to serve as an Advisor.

Coercion: To compel or force one to act based on pressure, harassment, threats, or intimidation.

Complainant: The individual who experienced behaviors or conduct alleged to be in violation of this Policy, irrespective of whether that individual initiated any formal University process, or has otherwise chosen to participate in such a process. The determination as to whether to proceed with an investigation is made by the University's Title IX Coordinator, as detailed in this Policy and accompanying procedures.

Consent: A person's willingness to engage in a specific sexual act or form of sexual contact.

- Consent may be expressed or it may be inferred from behavior, including words and conduct—both action and inaction—in the context of all the circumstances. Neither verbal nor physical resistance is required to establish the absence of consent, but lack of physical or verbal resistance may be considered, in the context of all the circumstances, in determining whether the Respondent knew or reasonably should have known that the Complainant did not consent. Consent may be revoked or withdrawn any time.
- Consent is specific to particular sexual activity, and is therefore absent when the activity in question exceeds the scope of consent given. It is the responsibility of the person who wants to engage in the sexual activity to ensure that they have consent from any other person engaging in sexual activity or contact. The existence of a dating relationship or a past sexual relationship between the persons engaging in sexual activity or contact is not a sufficient basis to assume consent.

- Consent cannot be gained by threat, force, coercion, or intimidation, or by ignoring words or actions that indicate a lack of consent or objection to the activity. Consent cannot be gained by taking advantage of the **incapacitation** of another where the Respondent knows or reasonably should have known of such incapacitation.
- Individuals under the age of 16 are incapable of providing consent to sexual activity under this Policy.

Domestic (incl. Dating) Violence: See Relationship Violence.

Facilitation: An act taken with the purpose of aiding, promoting, or encouraging the commission of an act prohibited by this Policy by another person.

Gender-Based Stalking: Engaging in a course of conduct directed at a specific person based on their gender, sexual orientation, gender identity, and/or gender expression that would cause a reasonable person to (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress.⁴ A course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property. Substantial emotional distress means significant mental suffering or anguish.

Incapacitation: A mental or physical state where a person is rendered temporarily or permanently incapable of making decisions for any reason or is otherwise unable to give clear consent.

- *Mental incapacitation* means that a person is temporarily or permanently incapable of appreciating or controlling their conduct or understanding the nature or consequences of their conduct. Such incapacity may be the result of the influence of a controlled or intoxicating substance.
- *Physical incapacitation* means a person is unconscious, asleep, unaware, or otherwise physically unable to communicate consent and also includes physical incapacity or inability to resist unwanted sexual advances regardless of the cause for that inability.
- *Consumption of alcohol or drugs* alone is insufficient to establish incapacitation. Alcohol-related incapacity results from a level of alcohol or drug ingestion that is more severe than mere impairment, being under the influence, drunkenness, or intoxication.
- The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards, and includes an analysis of the objective behaviors of the Complainant and whether the Respondent knew or reasonably should have known that they were incapacitated. Whether the Respondent knew or reasonably should have known the Complainant was incapacitated will be assessed by considering whether a sober, reasonable person in like circumstances would have believed them to be incapacitated. Intoxication of the Respondent is not a defense.

⁴ This definition is consistent with VAWA.

- The following are some objective physical indications of incapacity: slurred speech, difficulty walking or standing, vomiting, unconsciousness and/or losing consciousness, and marked mood swings.

Preponderance of the Evidence: The evidentiary standard used in campus investigation and disciplinary processes to determine whether or not a Respondent is responsible for a violation of this Policy. A preponderance of the evidence is found when the alleged actions are more likely to have occurred than not.

Relationship Violence: Any act of violence or threatened act of violence that occurs between individuals who are or have been in a social relationship of a romantic or intimate nature⁵. Relationship Violence may include any form of prohibited conduct under this policy, including Sexual Assault, Stalking, and Sexual Exploitation, as well as acts of physical assault⁶. For purposes of this Policy, Relationship Violence does not include acts that meet the definition of domestic violence under Vermont law [15 V.S.A. § 1101(2)] that are based solely on cohabitation (e.g. roommates).

Respondent: An individual who has been accused of violating this Policy.

Responsible Employee: Responsible Employees are individuals with legally required reporting responsibilities related to incidents of Sexual Harassment or Misconduct that involve a member of the University community (e.g. faculty, staff, student, or affiliate), as detailed in this Policy.⁷ Responsible Employees include, but are not limited to, members of UVM Police Services and contract security personnel; a supervisor, manager or higher level employee; a chair, director or dean of an academic unit; full and part-time faculty members; personnel with oversight responsibilities for students or student employees; advisors to recognized student organizations; coaches and coaching staff. Responsible Employees necessarily include individuals identified as Campus Security Authorities (“CSAs”) under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and University policy ([Campus Security Authority Operating Procedure](#)). For purposes of this Policy, employees who have a legally recognized confidential relationship with the Complainant, such as licensed health care providers in the Center for Health and Well Being or the Employee Assistance Program, and the Campus Victim’s Advocate, do not constitute Responsible Employees.

Individuals should contact the General Counsel’s Office if they have any questions about whether they or another member of the campus community is a “Responsible Employee.”

⁵ Relationship Violence includes “dating violence” and “domestic violence”, as defined by VAWA. Consistent with VAWA, the University will evaluate the existence of a romantic or intimate relationship based upon the Complainant’s statement(s) and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

⁶ For purposes of this Policy, “physical assault” shall be defined consistent with Vermont criminal laws. Specifically, physical assault requires the actor to “purposely, knowingly or recklessly” cause bodily injury to another, where bodily injury means “physical pain, illness, or any impairment of physical condition.” In the context of relationship violence, Vermont law has specifically extended this definition to include placing another “in fear of imminent serious physical harm.” See 13 V.S.A. §§ 1021, 1023, 1042.

⁷ Responsible Employees are not required to report information disclosed (1) at public awareness events (e.g. “Take Back the Night,” candlelight vigils, protests, or “survivor speak-outs”); or (2) during participation as a subject in an Institutional Review Board approved human subjects research protocol. The University may provide information about this Policy and available resources to participants at Public Awareness Events and through its IRB protocols.

Retaliation: Any adverse action taken against a person for making a good faith report of prohibited conduct, or participating in any proceeding, under this policy. Acts of retaliation may include, but are not limited to, intimidation, threats, harassment, coercion, discrimination, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct. Retaliation may be undertaken or attempted either directly or by someone acting on behalf of another.

Sexual Act: Conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.

Sexual Assault: A sexual act that occurs (1) without consent of the other person, or (2) by threatening or coercing the other person, or (3) by placing the other person in fear that any person will suffer imminent bodily injury.

Sexual Exploitation: Non-consensual use of another individual's nudity or sexuality, other than Sexual Harassment, Sexual Assault, Relationship Violence, and Gender-Based Stalking.

Examples of Sexual Exploitation include, but are not limited to, purposely or knowingly:

- Touching the sexual or other intimate parts of a person, or causing such person to touch your sexual or other intimate parts, including intentional touching of the breasts, buttocks, groin, or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts, and making another touch you or themselves with or on any of these body parts;
- Exposing one's genitals to another person without consent;
- Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity;
- Engaging in voyeurism (e.g. watching or taking pictures, videos, or audio recordings of another person engaging in a sexual act, in a state of undress, or in a place and time where such person has a reasonable expectation of privacy, such as a changing room, toilet, bathroom, or shower, without the consent of all parties);
- Disseminating, streaming, or posting images or video of private sexual activity and/or a person's intimate parts (including breasts, buttocks, groin, or genitals) without consent;
- Compelling a person through force, fraud, or coercion to engage in a commercial sexual act (e.g. prostitution);
- Possession of sexual materials that are illegal under federal or state law;
- Knowingly exposing another person to a sexually transmitted infection or virus without the other individual's knowledge; or
- Luring a child under 16, or a person believed to be under 16, by any means, including in person, over the phone, or through electronic communication, to engage in a sexual act or touch the intimate part of the person or child whether clothed or unclothed. This does NOT apply if an actor is younger than 19 and the child is at least 15 and the contact is consensual.

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other unwanted verbal, written, visual, or physical conduct of a sexual nature, when the following conditions are present.

- Submission to or rejection of that conduct is made, either explicitly or implicitly, a term or condition of a person’s employment, academic standing, or participation in any University programs or activities, or is used as the basis for University decisions affecting the individual (often referred to as “quid pro quo” harassment); or
- Such conduct creates a hostile environment.
 - A “hostile environment” exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University’s education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:
 - The frequency, nature and severity of the conduct;
 - Whether the conduct was physically threatening;
 - The effect of the conduct on the Complainant’s mental or emotional state;
 - Whether the conduct was directed at more than one person;
 - Whether the conduct arose in the context of other discriminatory conduct;
 - Whether the conduct unreasonably interfered with the Complainant’s educational or work performance and/or University programs or activities; and
 - Whether the conduct implicates concerns related to academic freedom or protected speech.
 - A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment.

Student: Any person registered for, enrolled in or auditing any course(s) at the University of Vermont. Examples include, but are not limited to, students who are enrolled but not taking classes due to an academic break, medical leave, suspension, or other personal leave; students who were enrolled at the time of the incident; persons who demonstrate an intent to enroll by registering for courses; and students participating in study abroad programs.

Procedures

Inquiries and Confidential Resources

The University’s Title IX Coordinator is charged with monitoring the University’s compliance with Title IX, related laws, and regulations; ensuring appropriate education and training for employees, students, and all individuals engaged in investigating and resolving complaints of Sexual Harassment and Misconduct; coordinating the University’s investigation, response, and resolution of all reports under this Policy; and ensuring appropriate actions to eliminate incidents of Sexual Harassment and Misconduct, prevent its recurrence, and remedy its effects. The University has also designated Deputy Title IX Coordinators and a Title IX Intake and Outreach Coordinator who may assist the Title IX Coordinator in the discharge of these responsibilities.

The Title IX Coordinator, Deputy Title IX Coordinators, and Intake and Outreach Coordinator can be contacted by telephone, email, or in person during regular office hours:

Nick Stanton
Title IX Coordinator
428 Waterman Building
(802) 656-3368
nstanton@uvm.edu

Joe Russell, Assistant Dean of Students for Retention
Deputy Title IX Coordinator for Students
Nicholson House
(802) 656-3829
Joseph.Russell@uvm.edu

Cathy Rahill, Associate Athletic Director for Student-Athlete and Staff Development
Deputy Title IX Coordinator for Athletics
Patrick Gym 223C
(802) 656-7712
cathleen.rahill@uvm.edu

Taryn Moran
Title IX Intake and Outreach Coordinator
428 Waterman Building
(802) 656-1372
taryn.moran@uvm.edu

In addition to the Title IX Coordinator, Deputy Coordinators, and Intake and Outreach Coordinator, staff members in the Office of Affirmative Action and Equal Opportunity (AAEO) are available to provide general information about Sexual Harassment and Misconduct complaint and investigation procedures upon request. However, if an individual wishes to discuss a specific incident confidentially without making a report for institutional review and response, that individual should directly contact:

Campus Victim's Advocate (<i>confidential</i>)	(802) 656-7892 <i>or</i> (802) 656-9538 (direct)
UVM Counseling & Psychiatry Services (<i>confidential</i>) <i>*For after-hours assistance, select voicemail #2.</i>	(802) 656-3340
Student Health Center (<i>confidential</i>)	(802) 656-3350
Employee Assistance Program (<i>confidential</i>)	(802) 864-3276

The University also has excellent working relationships with several community agencies that are available to provide confidential counseling and support free of charge, as listed in the Contacts section of this Policy.

For comprehensive information on accessing University and community based resources, including emergency and on-going assistance; the importance of preserving evidence; health, mental health, and victim-advocacy services; and the University's extensive primary

prevention, education, and training initiatives please visit UVM's Sexual Conduct and Education web site at http://www.uvm.edu/aaeo/sexual_conduct_education_resources.

Obtaining Remedial and Protective Measures

The University will offer reasonable and appropriate measures to protect a Complainant and the campus community as a whole, as well as facilitate the Complainant's continued access to University employment or education programs and activities. These measures may be remedial (designed to address safety and well-being and continued access to educational and employment opportunities) or protective (involving action against another individual). Likewise, the University will provide reasonable remedial and protective measures to Respondents and third parties, as appropriate and available. With respect to third parties, AAEO will take into account the role of the third party and the nature of any contractual relationship with the University.

Remedial and protective measures, which may be temporary or permanent, may include issuance of no-contact directives, residence modifications, academic modifications and support, work schedule modifications, interim disciplinary suspension, suspension from employment, and pre-disciplinary leave (with or without pay). Remedial measures are available regardless of whether a Complainant pursues a complaint or investigation under this Policy.

The University will maintain the privacy of any remedial and protective measures provided under this Policy to the extent practicable, and will promptly address any violation of protective measures.

All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed as a protective measure to UVM Police Services and AAEO. The University will take immediate and responsive action to enforce a previously implemented measure.

Please contact the AAEO Intake and Outreach Coordinator for assistance with obtaining remedial or protective measures, and note that the Intake and Outreach Coordinator, in consultation with the Title IX Coordinator, or designee, has the discretion to impose and/or modify any imposed measure based on all available information, and is available to meet with a Complainant or Respondent to address any concerns about the provision of such measures.

Options for Making a Report

Any individual who has experienced acts of Sexual Harassment or Misconduct may request a criminal investigation, an internal University investigation, both, or neither, and has the right to participate in any such investigation and in any resulting disciplinary process as detailed herein.

Individuals may contact AAEO directly to initiate an internal (non-criminal) investigation:

In Person: 428 Waterman Building
 By Phone: (802) 656-3368
 By Email: TitleIX@uvm.edu or Title9@uvm.edu
 Online: Bias, Discrimination & Harassment Incident Reporting Form
 (https://publicdocs.maxient.com/reportingform.php?UnivofVermontAAEO&layout_id=5)

If such a disclosure is made to a Responsible Employee, necessitating a report to the Title IX Coordinator, the Complainant will be provided written information about the University's complaint and resolution processes by AAEO and invited to make a report.

In the event that a complaint is not made to AAEO for investigation, but UVM nevertheless receives actual notice and adequate documentation of the facts and outcome of an external judicial proceeding (criminal or civil) in which a UVM community member has been found guilty of, or responsible for, conduct that violates this Policy, the matter will be reviewed by AAEO in consultation with appropriate University offices. The University will implement any action deemed appropriate following that review.

To initiate a criminal investigation, individuals should contact UVM Police Services:

In Person: 284 East Avenue, Burlington
 By Phone: (802) 646-3473
 Online: Report a Crime Form
<http://www.uvm.edu/police/?Page=reportcrime/index.php>

Note, except in cases of emergency or an imminent or continuing threat of harm, the University must respect the decision of an individual not to report an incident to law enforcement, unless otherwise required by law⁸.

The Campus Victim's Advocate, Title IX Coordinator, Title IX Deputy Coordinators, and Dean of Students are trained and available to assist Complainants in contacting law enforcement.

Disclosures to, and Required Reporting by, Responsible Employees

Call 9-1-1 immediately if a crime or other emergency is in progress, or if there is an imminent or continuing threat of harm to persons or property.

⁸ Vermont law **requires** that certain professionals report to the Vermont Department for Children and Families (DCF) any incident arising as to which there is reasonable cause to believe a minor has been sexually abused or neglected. In addition, to protect optimally the safety of minors who are participating in University programs and activities, the University **requires** any employee who has reasonable cause to believe that a minor participating in such program or activity has been sexually abused or neglected to report the concern promptly to DCF and UVM Police Services. You need not have proof that abuse or neglect has occurred. Any uncertainty in deciding whether to report suspected abuse or neglect should be resolved in favor of making a good faith report. **Please see** the Minors; Reporting Abuse or Neglect of and Crime University Operating Procedure at http://www.uvm.edu/policies/general_html/abuse_minors.pdf.

DCF Child Abuse Hotline: 1-800-649-5285

UVM Police Services: (802) 656-3473

Vermont law further **requires** that certain professionals listed in 33 V.S.A. § 6903 report within 48 hours to the Vermont Department of Disability, Aging, and Independent Living any incident arising as to which there is reasonable cause to believe a vulnerable adult has been abused or neglected. In addition, to protect optimally the safety of vulnerable adults who are participating in University programs and activities, the University **requires** any employee who has reasonable cause to believe that a vulnerable adult participating in such program or activity has been abused or neglected to report the concern promptly to the Department of Disability, Aging, and Independent Living and UVM Police Services. You need not have proof that abuse or neglect has occurred. Any uncertainty in deciding whether to report suspected abuse or neglect should be resolved in favor of making a good faith report. **Please see** the Vulnerable Adults; Reporting Abuse, Neglect or Exploitation of, and Crimes University Operating Procedure at http://www.uvm.edu/policies/general_html/vulnerableadults.pdf.

Abuse Hotline: 1-800-564-1612

UVM Police Services: (802) 656-3473

In all other cases, upon receipt of information that an incident of sexual harassment or misconduct occurred involving members of the University community⁹, the Responsible Employee **MUST**:

1. **Immediately send an email** with all information the individual knows (including names of the reporting party, alleged Respondent, individual who experienced the alleged misconduct, if different from the reporting party, and witnesses, if known, location, and description of the incident) to the Title IX Coordinator in AAEO at TitleIX@uvm.edu or Title9@uvm.edu, to facilitate appropriate support and institutional response; **and**
2. **Fill out a CSA form** at www.uvm.edu/police/csa in accordance with the University's Campus Security Authorities (CSAs) and Responsible Employees under Federal Law Operating Procedure (<http://www.uvm.edu/policies/riskmgm/campussecuruity.pdf>).
The name of the alleged victim(s) should not be included on the CSA Form unless:
 - Disclosure is required by law (e.g. abuse or neglect of minors or vulnerable adults);
 - The incident presents an “imminent or continuing threat of harm”¹⁰; or
 - The CSA/Responsible Employee is given permission to do so.
3. **Make the individual with whom they are in contact aware of their option to report the incident to local law enforcement** (UVM Police Services: 284 East Avenue; 656-3473) **and that UVM makes confidential and non-confidential resources available** to the campus community that may be helpful to individuals who have experienced or witnessed an alleged crime, or other incident violating this Policy. Information on confidential and non-confidential resources is set out in the Contacts section of this Policy.

Non-affiliated persons and members of the University community who are not Responsible Employees are strongly urged to notify Police Services and AAEO when they receive information that incidents of sexual harassment or misconduct prohibited by this Policy have occurred.

Statement on Privacy; Requests for Anonymity

With respect to any report made under this Policy, the University cannot guarantee confidentiality, but will make all 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 report and to take steps to eliminate any Sexual Harassment and Misconduct, prevent its recurrence, and remedy its effects.

⁹ Responsible Employees/CSAs must also report information about any incident of sexual assault, stalking, relationship violence, and/or sexual exploitation that occurred on University property or property owned or controlled by the University, regardless of whether members of the University community are involved. Those obligations are detailed in the University Operating Procedure for Campus Security Authorities (<http://www.uvm.edu/policies/riskmgm/campussecuruity.pdf>).

¹⁰ The University presumes as a matter of policy that incidents of relationship violence and stalking constitute a continuing threat of harm to the targeted individual, thereby requiring notification of UVM Police Services, including names of the individuals involved, to maximize both personal and campus safety, unless such notification is constrained by law (e.g. doctor-patient confidentiality).

Privacy and confidentiality have distinct meanings under this Policy:

Privacy: Privacy means that information related to a report of Sexual Harassment and Misconduct will be shared with a limited circle of University Employees who “need to know” in order to assist in the provision of appropriate support, as well as the assessment, investigation, and resolution of the report. All Employees who are involved in the University’s response to reports of conduct prohibited by this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

Further, both parties, and witnesses, have reasonable expectations of privacy in the investigation and resolution of matters subject to this Policy. It is anticipated and expected that the parties to a complaint will observe the same standard of strict privacy, which is in their mutual best interest. Failure to maintain the privacy of information may, in some circumstances, be regarded as retaliation under applicable UVM policy and itself subject the violator to disciplinary action.

Confidentiality: 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, ordained clergy, and the Campus Victim’s Advocate, all of whom may engage in confidential communications under Vermont law when a report is made to them while serving in that capacity. Collectively, these individuals are referred to 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 cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information, or they have been provided permission by the individual that disclosed the information.

If a Complainant does not want to participate in an investigation, or expresses a desire to AAEO for their identity not to be shared (e.g. remain anonymous), the University reserves the right to investigate and/or take other appropriate action as may be necessary to protect the safety of both parties and the campus community, as further described in AAEO’s Procedural Guidelines for Investigating and Resolving Discrimination Complaints (<http://www.uvm.edu/sites/default/files/discrimination.pdf>). The decision as to whether the University will proceed with an investigation or pursue other appropriate action under these circumstances ultimately rests with the University’s Title IX Coordinator. In the event this request cannot be honored, the Title IX Coordinator will contact the Complainant about this decision.

Investigation and Disciplinary Process

When a report is made to AAEO by a Complainant, or an investigation is otherwise initiated by the University, AAEO will conduct a thorough, prompt, and impartial investigation and generate a report which includes a determination of whether or not the Respondent violated this and/or other related University policies, based on a preponderance of the evidence standard, consistent with AAEO’s Procedural Guidelines for Investigating and Resolving Discrimination Complaints (<http://www.uvm.edu/sites/default/files/discrimination.pdf>).

Following issuance of a Final Investigation Report by AAEO, the applicable disciplinary procedures are based on the status of the Respondent, as detailed below. Each set of procedures

is guided by the principles of fairness and respect for Complainants and Respondents. Where a Respondent is both a Student and an Employee, (a) the Student-Respondent procedures will apply if the Respondent is a full-time Student but not a full-time Employee, (b) the Employee-Respondent Procedures will apply if the Respondent is a full-time Employee but not a full-time Student, or (c) the Title IX Coordinator will determine which of the procedures applies based on relevant facts and circumstances, such as which role predominates and the role most applicable in the incident. However, irrespective of which procedures apply in such cases, either or both of the sanctions applicable to Students or Employees can be imposed, commensurate with the severity of the conduct.

If the Respondent is a Student¹¹ and:

- ***Is Found Responsible:*** AAEO will make available its report to both the Respondent and the Complainant (collectively the “parties”), as well as the University’s specially-trained Sexual Harassment & Misconduct Sanctioning Panel, which is coordinated by the Center for Student Conduct. Three Panel members will be appointed for a given case to determine the appropriate sanction(s), the full range of which are detailed in the University’s Sexual Harassment and Misconduct Sanctioning Panel Procedures at <http://www.uvm.edu/~sconduct/?Page=SanctioningProcedures.html&SM=menu-student.html>. To the extent permitted by law, both parties will be informed, simultaneously and in writing, of the Panel’s sanctioning determination and appeal procedures. The Sanctioning Panel Procedures further specify the timeline for all steps in the sanctioning process, starting with receipt of a report from AAEO to issuance of a sanctioning determination letter.

Either party may appeal the final AAEO decision and/or any resulting sanction(s) imposed by the Sanctioning Panel. Appeals must be submitted to the Dean of Students, or designee, in writing, within five business days of the Panel’s final determination. The decision may be appealed for the following reasons only:

- 1) a procedural error unfairly and materially affected the outcome of the case;
- 2) material evidence has been discovered that was not reasonably available at the time of the investigation or sanctioning determination; or
- 3) there was a clear abuse of discretion on the part of the Investigator or Sanctioning Panel.

When submitting an appeal, the appealing party must provide a rationale for the appeal, and adequate information, including documentation, in support thereof. If sufficient information has been submitted to support an appeal on one of the above listed bases, the Dean of Students, or designee, shall then provide a copy of the written appeal and any supporting documentation to the other party. The other party may submit a written response to the appeal to the Dean of Students, or designee, within five business days of the date the appeal was sent to that party. A copy of this response, if any, will be sent to the appealing party from the Dean of Students or designee. The Dean of Students or designee will thereafter review all submitted materials, and the pertinent case documents, and render a written decision within ten business days, absent extenuating circumstances. Should additional time be required, the Dean of Students or Designee will promptly

¹¹ If a student Respondent withdraws from the University before a matter is fully resolved, the University will proceed in accordance with the terms of this Policy and accompanying procedures. The Respondent will be provided all notice and communication at the contact information provided upon withdrawal.

notify both parties of the revised (expected) timeframe. The Dean of Students or designee will issue a copy of the written appeal decision to the parties who are UVM affiliates, in accordance with federal law. The appeal decision may uphold, modify, or overturn the original investigative and/or sanctioning decision, or, in appropriate cases, refer the matter back to AAEO.

- ***No policy violation is found following investigation:*** AAEO will make available its report to both parties and the Dean of Students. The investigator's conclusion that no policy violation occurred may be appealed by either party. Appeals must be submitted to the Dean of Students, or designee, in writing, within five (5) business days of the Report's issuance, as detailed in the above section: "*If the Respondent is a student and is found responsible.*"
- ***Additionally, if the Respondent is a student in a program with established professional standards:*** At the conclusion of the applicable appeal period outlined above, the Dean of Students shall send a copy of the case file, including investigation report, Sanctioning Panel decision letter, and any appeal/appeal determination to the program's applicable Dean or Director for student services. While the decision of AAEO, the Sanctioning Panel, and the Appellate Official shall be considered final following expiration of the applicable appeal period, the Respondent's program may also, in its discretion, review conduct under the program's established professional standards to determine whether any additional, program-specific disciplinary action is needed.

If the Respondent is an Employee and:

- ***AAEO has concluded its investigation:*** AAEO will forward its report to the Respondent and the Complainant (collectively the "parties"), as well as notify the Vice President for Human Resources, Diversity, and Multicultural Affairs ("VP HRDMA").

Either party may appeal the investigator's conclusion that a policy violation did or did not occur to the VP HRDMA, or designee, in writing, within five business days of the Report's issuance. The decision may be appealed for the following reasons only:

- 1) a procedural error unfairly and materially affected the outcome of the case;
- 2) material evidence has been discovered that was not reasonably available at the time of the investigation or sanctioning determination; or
- 3) there was a clear abuse of discretion on the part of the AAEO Investigator.

When submitting an appeal, the appealing party must provide a rationale for the appeal and adequate information, including documentation, in support thereof. If an acceptable basis for appeal is stated, the VP HRDMA, or designee, shall then provide a copy of the written appeal and any supporting documentation to the other party. The other party may submit a written response to the appeal to the VP HRDMA, or designee, within five business days of the date the appeal was sent to that party. A copy of this response will be sent to the appealing party by the VP HRDMA. The VP HRDMA, or designee, will thereafter review all submitted materials, and the pertinent case documents, and render a written decision within ten business days, absent extenuating circumstances. Should additional time be required, the VP HRDMA, or designee, will promptly notify both parties of the revised (expected) timeframe. The VP HRDMA, or designee, will issue a copy of the written appeal decision to both parties, in accordance with federal law. The

appeal decision may uphold, modify, or overturn the original investigative decision, or, in appropriate cases, refer the matter back to AAEO.

- ***The investigation's appeal period has expired, or an appeal decision has been rendered by the VP HRDMA (if applicable):*** AAEO shall send a copy of the case file, including investigation report and any appeal/appeal determination, to the administrative official immediately responsible for the Respondent's supervision, and to the appropriate Vice President, Dean or Director for the unit or college in which the Respondent works. The immediate administrative official shall determine any appropriate discipline in accordance with applicable University practices, policies, and collective bargaining agreements, including applicable grievance procedures, as detailed at <http://www.uvm.edu/hrs/?Page=info/general/handbooksandpolicies.html&SM=info/infomenu.html>.

The Title IX Coordinator must also notify the Complainant of the final outcome, and rationale therefore, of that disciplinary process in accordance with federal law.

If the Respondent is a Non-Affiliate:

In cases where the Respondent is not affiliated with the University through academic enrollment, employment, or other affiliation, the University's ability to take direct action against that individual may be limited. However, the University is committed to conducting an inquiry into what occurred, and taking steps to provide appropriate remedies and support, as appropriate.

If the Complainant is a Non-Affiliate:

To the extent that a non-affiliate discloses to AAEO that they have experienced acts of sexual harassment or misconduct by a University community member, and the University determines that it has jurisdiction to initiate charges under this Policy, the non-affiliate will be provided notice of the final outcome of any investigation and resultant disciplinary process, including any appeal by the Respondent, as applicable, in accordance with federal law.

Investigation and Disciplinary Records

Investigation and disciplinary records ("conduct records") for cases involving student respondents are maintained by AAEO. Records of dismissal from the University are permanent. When a student receives a sanction of suspension, their conduct records will be sealed upon the earlier of either graduation or four consecutive years of absence from the University. Conduct records of all other sanctions imposed under this Policy will be sealed upon the earlier of either the student's graduation or two consecutive years of absence from the University.

Investigation records for cases involving employee respondents are maintained by AAEO. Disciplinary records of the same are maintained in accordance with the terms of applicable University practices, policies, and collective bargaining agreements, as detailed at <http://www.uvm.edu/hrs/?Page=info/general/handbooksandpolicies.html&SM=info/infomenu.html>.

Community Remedies

The Title IX Coordinator will regularly assess, in light of all reports made, whether the imposition of community interventions or remedies (“community remedies”) may be appropriate to address the effects of alleged conduct, or patterns of alleged conduct, on the larger University community. Potential community remedies include targeted or broad-based educational programming or training, and/or indirect action by the Title IX Coordinator or a department, unit, or college. Remedies are separate from disciplinary action and may occur irrespective of whether an investigation takes place or whether a Respondent has been found to have violated University policy. Community remedies are designed to maximize the campus community’s access to all employment, educational, and extracurricular opportunities and benefits and to eliminate a potential hostile environment.

Forms

Bias, Discrimination, and Harassment Reporting Form

https://publicdocs.maxient.com/reportingform.php?UnivofVermontAAEO&layout_id=5

CSA Report Form

www.uvm.edu/police/csa

Report a Crime Link

<https://www.uvm.edu/police/csa>

Contacts

To report an incident of Sexual Harassment or Misconduct, please contact the Office of Affirmative Action and Equal Opportunity at (802) 656-3368 (428 Waterman Building), or send an email with all information that you are aware of to TitleIX@uvm.edu or Title9@uvm.edu.

To request remedial or protective measures, regardless of whether you would like to pursue an AAEO investigation, please contact the Title IX Intake and Outreach Coordinator at (802) 656-1372.

For questions related to the daily operational interpretation of this policy, please contact:

Title IX Coordinators

The following individuals are the Title IX Coordinators for the University, and will respond to questions or inquiries about this and other policies related to sexual harassment and misconduct:

Title IX Coordinator	(802) 656-3368
Nick Stanton	
Office of Affirmative Action and Equal Opportunity	
428 Waterman Building	
nstanton@uvm.edu	

Deputy Title IX Coordinator, Students (802) 656-3829
 Joe Russell
 Assistant Dean of Students for Retention
 Nicholson House
joseph.russell@uvm.edu

Deputy Title IX Coordinator, Athletics (802) 656-7712
 Cathy Rahill
 Associate Athletic Director for Student-Athlete and Staff Development
 Patrick Gym 223C
cathleen.rahill@uvm.edu

The Vice President for Human Resources, Diversity and Multicultural Affairs is the official responsible for the interpretation and administration of this policy.

Other Campus and Community Resources

UVM Police Services (802) 656-3473 *or*
 911(for emergencies)

Chittenden Unit for Special Investigations (CUSI) (802) 652-6800

UVM Medical Center Emergency Department (*confidential*) (802) 847-2434
 *including SANEs – Sexual Assault Nurse Examiners

Dean of Students Office (802) 656-3380

Campus Victim's Advocate (*confidential*) (802) 656-7892 *or*
 (802) 656-9538 (direct)

UVM Counseling & Psychiatry Services (*confidential*) (802) 656-3340
 *For after-hours assistance, select voicemail #2.

Howard Center Mobile Crisis Team (*confidential*) (802) 488-6400
 Rapid 24/7 Mental Health Assistance

Student Health Center (*confidential*) (802) 656-3350

Employee Assistance Program (*confidential*) (802) 864-EAPØ *or*
 (866) 660-9533

24-hour free and confidential community services are also available in the greater Burlington community specific to individuals who have experienced sexual harassment, sexual violence, relationship violence, or gender-based stalking, regardless of gender-identity or sexual orientation:

H.O.P.E. Works (802) 863-1236 *or*
 (formerly the Women's Rape Crisis Center) (800) 489-7273

Steps to End Domestic Violence (802) 658-1996
 (formerly Women Helping Battered Women)
 *24 hour in-person response to the UVM Medical Center
 Emergency Department is available.

SafeSpace (LGBTQA Survivors) (802) 863-0003 *or*
 (866) 869-7341

Persons seeking assistance or information regarding their rights with respect to sexual harassment and/or misconduct claims may also contact a private lawyer, at their own expense. Names and telephone numbers of lawyers may be obtained from the Vermont Bar Association Lawyer Referral Service at 1-800-639-7036. Additionally, Student Legal Services (SLS) is a student-run organization, funded by the Student Government Association, which aids students in locating counsel to provide representation. SLS can be contacted at (802) 656-4379.

Please visit UVM's Sexual Conduct and Education website for more information at http://www.uvm.edu/aeo/sexual_conduct_education_resources.

Additional Public Agencies Enforcing Federal and State Laws Prohibiting Sexual Harassment and Misconduct

US Department of Education

Individuals seeking further information or guidance on the application of Title IX to the University and the behaviors outlined in this Policy may also contact the Office for Civil Rights of the U.S. Department of Education (OCR). Individuals who believe their rights under Title IX have been violated may file a complaint with OCR's Boston Office (serving Vermont) or National Headquarters:

US Department of Education
 Office for Civil Rights - Boston Office
 8th Floor
 5 Post Office Square
 Boston, MA 02109-3921

Telephone: (617) 289-0111
 Email: OCR.Boston@ed.gov

U.S. Department of Education
 Office of Civil Rights
 Lyndon Baines Johnson Dept. of Ed. Bldg.
 400 Maryland Avenue, SW
 Washington, DC 20202-1100

Telephone: (800) 421-3481
 Email: OCR@ed.gov

U.S. Equal Employment Opportunity Commission

Employees seeking further information or guidance on the application of Title VII to the University and the behaviors outlined in this Policy may also contact the U.S. Equal Employment Opportunity Commission. Employees who believe their rights under Title VII have been violated may file a complaint with either the EEOC's Boston Office (serving Vermont) or National Headquarters:

U.S. Equal Employment Opportunity
 Commission – Headquarters
 131 M Street, NE
 Washington, DC 20507
 (202) 663-4900 / (TTY) (202) 663-4494

U.S. Equal Employment Opportunity
 Commission – Boston Area Office
 John F. Kennedy Federal Building
 475 Government Center
 Boston, MA 02203

Website: <http://www.eeoc.gov/>
Telephone: (202) 663-4900

Website: <http://www.eeoc.gov/>
Telephone: (800) 669-4000

Vermont Attorney General's Office, Public Protection Division

Employees may also contact the Vermont Attorney General's Office to request an investigation of sexual harassment or retaliation:

Vermont Attorney General's Office
Public Protection Division
109 State Street
Montpelier, VT 05609-1001

<http://ago.vermont.gov/>
(888) 745-9195; (802) 828-3657

Vermont Human Rights Commission

Students may also contact the Vermont Human Rights Commission to request an investigation of sexual harassment or retaliation:

Vermont Human Rights Commission
14-16 Baldwin Street
Montpelier, VT 05633-6301

<http://hrc.vermont.gov/>
(800) 416-2010

Related Documents/Policies

AAEO Procedural Guidelines for Investigating and Resolving Discrimination Complaints

<http://www.uvm.edu/sites/default/files/discrimination.pdf>

Annual Security Report and Crime Statistics (Clery Act)

https://www.uvm.edu/sites/default/files/UVM-Police-Services/public-safety-report_0.pdf

Campus Safety and Security: Clery Act Policy

<http://www.uvm.edu/policies/riskmgm/clery.pdf>

Campus Security Authorities (CSAs) and Responsible Employees under Federal Law – Designation of and Reporting By Procedure

<http://www.uvm.edu/policies/riskmgm/campussecurity.pdf>

Discrimination and Harassment

<http://www.uvm.edu/policies/student/studentharas.pdf>

Equal Employment Opportunity/Affirmative Action Policy Statement

http://www.uvm.edu/policies/general_html/affirm.pdf

Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy

<http://www.uvm.edu/policies/student/equaledu.pdf>

Minors; Reporting Abuse or Neglect of and Crimes Procedure

http://www.uvm.edu/policies/general_html/abuse_minors.pdf

Protecting Minors Policy

http://www.uvm.edu/policies/general_html/protectminors.pdf

Sexual Harassment and Misconduct Sanctioning Panel Procedures

<http://www.uvm.edu/~sconduct/?Page=SanctioningProcedures.html&SM=menu-student.html>

Student Organization Misconduct Investigation and Resolution Procedure

http://www.uvm.edu/policies/general_html/studentorg.pdf

Vulnerable Adults; Reporting Abuse, Neglect or Exploitation of, and Crimes Procedure

http://www.uvm.edu/policies/general_html/vulnerableadults.pdf

Effective Date

As emended August 25, 2017

Approved by the President August 31, 2016