PREVENTING AND REPORTING DISCRIMINATION AND HARASSMENT

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Human Resource Services and Affirmative Action
WHAT DOES THE AAEO OFFICE DO?

AAEO = Affirmative Action and Equal Opportunity

- Receives and investigates complaints of discrimination and harassment, including complaints of sexual assault and misconduct;
- Develops and monitors the University's Affirmative Action Plan;
- Monitors and implements best practices related to recruitment and retention;
- Provides training and serves as a resource for all of the above.
WHAT POLICIES DOES AAEO ENFORCE?

- Sexual Harassment and Misconduct
- Discrimination and Harassment
- Equal Opportunity in Educational Programs (students)
- EEO Policy Statement (employees)
- Amorous Relationships
- ADA-Related Policies
WHAT IS DISCRIMINATION?

Put simply, it is mistreatment or different treatment based on an individual’s membership in a protected category.
PROTECTED CHARACTERISTICS

All 50 States
- Race
- Color
- Sex
- Religion
- National Origin
- Disability
- Age (40 or older)
- Citizenship Status
- Genetic Information

Vermont Only
- Place of Birth
- Veteran Status
- Sexual Orientation
- Gender Identity (Expression)
- HIV Status
- Ancestry
- Age (18 or older)
DISCRIMINATION CAN BE

- **DISPARATE TREATMENT**
- **DISPARATE IMPACT**

These occur when one person is simply treated differently than another based on sex. For example, men are allowed to come in late and leave early, and women are not. Or white employees are afforded promotional training opportunities, and black or Latino employees are not.

- **HARASSMENT**
  - **HOSTILE ENVIRONMENT**
  - **QUID PRO QUO** (sexual harassment)
SEXUAL HARASSMENT, (INCLUDING SEXUAL ASSAULT, RELATIONSHIP VIOLENCE, AND STALKING) IS A FORM OF DISCRIMINATION BASED ON SEX.
WHAT IS TITLE IX?

*Title IX of the Education Amendments of 1972:*

“No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”
UVM POLICIES AND EXPECTATIONS
UVM Policy expressly prohibits all forms of discrimination, including sexual misconduct, sex discrimination, and sexual harassment.

Unwelcome sexual behaviors that have the purpose or effect of interfering with the work or educational environment likely violate our policy because they could create a hostile environment.
Our policies provide some examples of sexual misconduct and sexually harassing behavior... but this is not an exhaustive list!

- sexual assault (which includes ALL forms of non-consensual sexual contact)
- relationship violence
- stalking
- unwelcome sexual propositions
- sexually graphic comments about a person's body
- unwelcome touching, patting, pinching, or leering
- persistent, offensive, and unwelcome sexual jokes and comments
- unwelcome displays of sexually graphic pictures
WHAT, EXACTLY, IS A HOSTILE ENVIRONMENT?

One of the biggest gray areas in sexual harassment complaints is what kind of behaviors and events are sufficiently bad to constitute a “hostile environment.” Even the courts differ greatly on how much is enough. The simplest explanation is that a hostile environment can usually be created by:

- One really big thing, or
- A lot of little things
HOSTILE ENVIRONMENT FACTORS

Factors to consider in assessing whether or not a hostile environment exists are:

- Severity
- Frequency
- Duration
- Whether the complainant was a target or witness
- The number of people involved
- The relationship of the harasser to the subject of the harassment (i.e., supervisor or professor). This is particularly important where the complainant is a student or subordinate, over whom the harasser exercises control.
RETALIATION

• Retaliation against complainants or people who serve as witnesses or otherwise cooperate with an investigation is strictly prohibited.

• Retaliation is an offense in and of itself, under both our policy and the law.

• When AAEO conducts an investigation, complainants are advised to report retaliation immediately, and respondents are warned not to retaliate.

• The AAEO office takes retaliation very seriously, and will act promptly to intervene any time we believe that retaliation has occurred.
REPORTING DISCRIMINATION AND HARASSMENT AT UVM
THERE ARE TWO SEPARATE BUT RELATED REPORTING OBLIGATIONS:

1) Clery Act Requirements; and

2) Requirements from the Office of Civil Rights of the U.S. Department of Education (which are driven by our obligations under Title IX and other relevant statutes that prohibit discrimination).
THE CLERY ACT

- Named for Jeanne Clery, a Lehigh University freshman who was raped and murdered in her dorm room in 1986.
- The Clery Act, passed in 1990, requires colleges and universities that participate in federal financial aid programs to keep and disclose statistics about certain crimes that occur on or near their campuses.
- The Department of Education monitors compliance. Institutions can be fined up to $35,000 per violation for failure to comply, and risk losing the ability to participate in federal financial aid programs.
CLERY ACT REPORTING

If you are a faculty member, you have reporting obligations under the Clery Act as a campus security authority (CSA).

- Certain types of crimes, including incidences of sexual assault, relationship violence, or stalking are reportable under the Clery Act.
- In addition to making a report to titleix@uvm.edu, CSA’s must fill out a CSA form online, which goes to UVM Police Services.
- For sexual assaults, you do not have to include the complainant’s name on the CSA form, if s/he does not want you to.
- For relationship violence and stalking, you must include the complainant’s name.
“When a school knows or reasonably should know of possible sexual violence, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. If an investigation reveals that sexual violence created a hostile environment, the school must then take prompt and effective [equitable] steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.”

U.S. Department of Education, Office for Civil Rights
Questions and Answers on Title IX and Sexual Violence
WHO MUST REPORT?

“When a school knows or reasonably should know of possible sexual violence . . .”

This means that when a responsible employee is aware of an incident of sexual violence, they must report.
WHO IS A RESPONSIBLE EMPLOYEE?

A “responsible employee” is anyone:

- who has the authority to take action to redress sexual harassment/misconduct;
- who has been given the duty of reporting incidents of sexual harassment/misconduct or any other misconduct by students to the Title IX coordinator or other appropriate designee; or
- who a student reasonably believes has this authority or duty.

(OCR Q&A)
UVM’S REPORTING REQUIREMENTS

SEX DISCRIMINATION, HARASSMENT, OR MISCONDUCT

- Faculty members are RESPONSIBLE EMPLOYEES under Title IX.
- If you become aware of sex discrimination/harassment/misconduct, you MUST report it to the Title IX Coordinator and Campus Victim’s Advocate (CVA).
- You can do this by sending an email to titleix@uvm.edu, or title9@uvm.edu.

ALL OTHER FORMS OF DISCRIMINATION OR HARASSMENT

- Faculty members are RESPONSIBLE EMPLOYEES, and must report any form of discrimination or harassment that they become aware of to AAEO.
- You can make a report by contacting AAEO directly, or by submitting an electronic Bias, Discrimination, and Harassment Incident Reporting form, which can be found on the AAEO website.
MORE ON REPORTING . . . WHAT MUST A RESPONSIBLE EMPLOYEE DO?

ALWAYS CALL 911 WHEN THERE IS AN IMMEDIATE THREAT TO SAFETY!!

For Sexual Assault or Misconduct:
- Send an email with as much information as you know to titleix@uvm.edu. This will be routed simultaneously to the Campus Victim’s Advocate and the Campus Title IX Coordinator.
- Fill out a CSA (Campus Security Authority) form on line for Clery Act purposes. In sexual assault cases, you do not have to include identifying information, if the complainant doesn’t want you to.
- Offer Support and resources to the complainant.

For Other Forms of Discrimination or Harassment:
- Fill out a Bias, Discrimination, and Harassment Incident Reporting form on the AAEO website, or contact AAEO directly.
- If appropriate (the conduct observed or reported is also a criminal violation), fill out a CSA (Campus Security Authority) form on line for Clery Act purposes.
- Offer Support and resources to the complainant.
OTHER RESOURCES FOR REFERRAL

If you are aware of discrimination or harassment that is not sex-based, although you may not be required to make a report, you may want to consider talking with your chair or dean, and/or referring the complainant to appropriate resources. In addition to the Campus Victim’s Advocate, other resources include:

- HR or the Employee Assistance Program “EAP” (employees)
- Counseling and Psychiatric Services “CAPS” (students)
- ALANA Student Center
- LGBTQA Center
WHAT IF IT ISN’T “LEGALLY COGNIZABLE” HARASSMENT?

Because you work with students, you should be concerned with any complaint of harassment that you receive.

While some complaints may not violate UVM policy or the law, it is our goal as a higher education institution to create a healthy learning environment.

If you are not sure whether or not a complaint is harassment, you should contact the AAEO office. It is also a good idea to let your department chair or dean know what is going on, and to make sure that you identify appropriate support for the complainant.
CONFIDENTIALITY

- Most of us are not confidential resources. The confidential resources on campus are the Counseling Center, providers in the Health Center, clergy, and the Campus Victim’s Advocate.

- If you are not a confidential resource, be sure that anyone you are working with on issues of sexual misconduct/discrimination/harassment understands that you may not be able to keep what they tell you confidential.

- If the complainant decides not to talk to you, be sure to make appropriate referrals to a confidential resource, so that they get the support that they need.
THANK YOU FOR YOUR PARTICIPATION!

If you have questions or concerns about anything related to discrimination, please call and speak to someone in our office. We are happy to assist and/or serve as a resource!

AAEO main line: 656-3368
Jes Kraus: 656-2909
Nick Stanton, Investigator: 656-1262
Kate Spence, Investigator: 656-8291
Courtney Cioffredi, ADA Coordinator: 656-0945