



## POLICY

### **Title:** Discrimination, Harassment, and Sexual 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, the University of Vermont strictly prohibits discrimination against, and harassment of, its students, employees, and affiliates on the basis of an individual's membership in a legally protected category as defined in the University's [Equal Opportunity in Educational Programs and Activities](#) and [Equal Employment Opportunity/Affirmative Action](#) Policies. Any act that falls within the definition of Sexual Misconduct constitutes discrimination or harassment and is a violation of this Policy. Furthermore, the University strictly prohibits retaliation.

Individuals are strongly encouraged to disclose incidents of discrimination and harassment to the University's Office of Equal Opportunity, and to University Police Services, as appropriate, immediately following their occurrence. The length of time between an incident and making a disclosure will not affect the willingness of the University to investigate the allegations or to provide support and other services. However, a prompt disclosure, and the preservation of evidence, may significantly impact the ability of the University to conduct a full investigation.

The University seeks to remove any barriers to an individual or group in making a disclosure. The University recognizes that individuals who experience incidents of discrimination or harassment, in some circumstances, may be reluctant to disclose 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, if the University learns of personal consumption of alcohol or drugs via a disclosure, formal complaint, or investigation of a complaint, the University will not use this information in a disciplinary process against the complainant or any witness unless the conduct placed the health or safety of any other person at risk. For example, this provision will not protect from disciplinary action an individual who knowingly serves alcohol or administers drugs to Complainant in order to facilitate conduct prohibited by this Policy.

Campus community members found to be in violation of this Policy will be subject to disciplinary action, up to and including termination of employment, suspension or dismissal from the University, and/or referral for criminal investigation and prosecution under applicable law.

#### Reason 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 and discrimination, consistent with its obligations under federal and state law. The University of Vermont recognizes the long-lasting and detrimental effects of discrimination and harassment 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 all forms of discrimination and harassment, including sexual misconduct, and is committed to (1) eliminating, preventing, and addressing the effects of discrimination and harassment; (2) cultivating a climate where all individuals are

well-informed and supported in disclosing incidents of discrimination and harassment; and (3) providing a fair and impartial process for investigation and adjudication 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; 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, including those of recognized student organizations, or occurring on University premises. Off-campus conduct that does not occur in connection with a University sponsored or affiliated program or activity is subject to this policy where it is determined 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, resolution, 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.

## Definitions

**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 Director of the Office of Equal Opportunity, as detailed in this Policy and accompanying procedures.

**Discrimination:** Adverse treatment based on an individual's membership in a legally protected category that is sufficiently serious to unreasonably interfere with or limit an individual's opportunity to participate in or benefit from a University program or activity, or that otherwise adversely affects a term or condition of the individual's employment or education. There are two types of discrimination:

- *Disparate treatment* refers to intentional differential treatment of an individual or group protected by federal and/or state law.
- *Disparate impact* refers to policies, practices, rules, or other systems that appear to be neutral, but result in a disproportionate negative impact on protected groups, if the policies or practices at issue are not related to bona fide qualifications to a position of employment or to participation in an academic program.

**Harassment:** A form of discrimination that encompasses an incident or incidents of verbal, written, visual, or physical communications and/or conduct based on or motivated by an individual's membership in a legally protected category. Harassment may include the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display or circulation of written or visual material, taunts,

and negative references related to any of these protected categories. There are two types of Harassment:

- *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 educational 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.

***\* For alleged incidents of sexual harassment that are Title IX Offenses, as defined herein, the relevant standard is "sufficiently severe, persistent, and pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University's educational or employment programs and/or activities."* (emphasis added)**

- *Quid Pro Quo*: a Latin phrase meaning "This for That", where an employee or student's submission to or rejection of unwelcome treatment based on a protected category is made, either explicitly or implicitly, a term or condition of their employment, academic standing, or participation in any University programs or activities, or is used as the basis for University decisions affecting the individual.

Legally Protected Category: Identities or characteristics on the basis of which discrimination and harassment are prohibited by state and/or federal law, as defined in the [University's Equal Opportunity in Educational Programs and Activities](#) and [Equal Employment Opportunity/Affirmative Action](#) Policies.

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.

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

Retaliation: Any adverse action taken against a person for making a good faith report of prohibited conduct, or participating or declining to participate 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 Misconduct:

An umbrella term that includes:

- 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.<sup>1</sup> 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.
- 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 nature<sup>2</sup>. 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 assault<sup>3</sup>. 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).
- 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 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 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 without consent;
  - Exposing one's genitals to another person without consent;

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<sup>1</sup> This definition is consistent with VAWA.

<sup>2</sup> 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.

<sup>3</sup> For purposes of this Policy, "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, including strangulation.

- 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;
  - Incest as defined by Vermont Law; 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:** A type of Harassment, as defined above, characterized by unwelcome sexual advances, requests for sexual favors, and other unwanted verbal, written, visual, or physical conduct of a sexual nature.

**Allegations of Sexual Misconduct must be evaluated consistent with the following additional definitions:**

- **Coercion:** Conduct, including intimidation and express or implied threats of immediate or future physical, emotional, reputational, financial, or other harm to the Complainant or others that would reasonably place an individual in fear, and that is employed to compel someone to engage in sexual activity.
- **Consent:** A person's willingness to engage in a specific sexual act or form of sexual contact.
  - Consent is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity, in the context of all the circumstances. Consent may be revoked or withdrawn any time.
  - Consent is specific to particular sexual activity, and is 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.
  - An essential element of consent is that it be freely given. Freely given consent may not be present or possible in relationships of a sexual or intimate nature between individuals where one individual has power, supervision, or authority over another.
  - Individuals under the age of 16 are incapable of providing consent to sexual activity under this Policy.
- **Facilitation**: An act taken with the purpose of aiding, promoting, or encouraging the commission of an act prohibited by this Policy by another person.
- **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.
  - 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.

**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.

**Title IX Offenses:**

Sexual harassment (quid pro quo or hostile environment), sexual assault, relationship violence, gender-based stalking, and certain forms of sexual exploitation<sup>4</sup> that occur

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<sup>4</sup> Title IX Offenses include UVM-prohibited conduct that meets the definition of "sex offenses" under the Federal Bureau of Investigation Uniform Crime Reporting System, which may or may not be captured by UVM's definitions of sexual assault. Specifically, the UCR's definition

on or after August 14, 2020, in the context of a UVM educational program or activity<sup>5</sup>, against a person in the United States, where a Formal Complaint<sup>6</sup> has been filed.

**UVM Reporter:** Individuals with required reporting responsibilities related to incidents of Discrimination and Harassment that involve a member of the University community (e.g. faculty, staff, student, or other affiliate), as further outlined in the [UVM Reporter Operating Procedure](#).

## Procedures

### **Inquiries and Confidential Resources**

The University's Office of Equal Opportunity is charged with monitoring the University's compliance with anti-discrimination laws and regulations; ensuring appropriate education and training for employees, students, and all individuals engaged in investigating and resolving complaints of discrimination and harassment; coordinating the University's support services and resolution procedures for all disclosures under this Policy; and ensuring appropriate actions to eliminate incidents of discrimination and harassment, prevent recurrence, and remedy its effects. The University Title IX Coordinator addresses reports of sexual harassment and misconduct, while the Office of Equal Opportunity Director addresses reports of discrimination and harassment based on other protected categories. Additionally, the University has also designated [Deputy Coordinators](#) who may assist in the discharge of these responsibilities.

Staff members in the Office of Equal Opportunity are available to provide general information about harassment and discrimination complaint, investigation, and resolution procedures upon request. However, if an individual wishes to discuss a specific incident confidentially without filing a complaint for institutional review and response, that individual should directly contact:

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 Additional Reporting Contacts and Resources section of this Policy.

***For comprehensive information on accessing University and community-based resources specific to sexual harassment and misconduct incidents, including emergency and on-going assistance; the importance of preserving evidence; health, mental health, and victim-advocacy services; and the University's prevention, education, and training initiatives please visit UVM's Sexual Conduct and Education web site at <https://www.uvm.edu/equal-opportunity/title-9-sexual-misconduct>.***

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of sex offenses includes "rape," "sodomy," "sexual assault with an object," "fondling," "incest," and "statutory rape" as defined therein. See Federal Bureau of Investigation, Criminal Justice Information Services, Uniform Crime Reporting (UCR) Program, National Incident-Based Reporting System. Reported conduct that meets any of these federal definitions will be resolved under the Title IX Offense process.

<sup>5</sup> Pursuant to the U.S. Department of Education's Title IX Final Rule, an educational program or activity includes "locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (such as a fraternity or sorority house)."

<sup>6</sup> As defined in the [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Operating Procedure](#).

## **Obtaining Remedial and Protective Measures**

The University will offer reasonable and appropriate measures to Complainants, Respondents, and third parties that are designed to protect individual and community safety, and facilitate continued access to University employment or education programs and activities. These measures may be remedial (involving personal support) or protective (involving action against another individual). With respect to third parties, the Office of Equal Opportunity 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, Transportation and Parking Services modifications, interim administrative suspension, suspension from employment, and pre-disciplinary leave (with or without pay). Remedial measures are available regardless of whether a Complainant pursues a complaint, investigation, or resolution 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 the 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 the Office of Equal Opportunity. The University will take immediate and responsive action to enforce a previously implemented measure.

Please contact the Office of Equal Opportunity Intake and Outreach Coordinator, as listed above, for assistance with obtaining remedial or protective measures.

## **Options for Making a Disclosure**

***Individuals may contact the Office of Equal Opportunity directly to make a disclosure and learn about University-based options for support and resolution:***

In Person:	428 Waterman Building
By Phone:	(802) 656-3368
By Email:	TitleIX@uvm.edu or Title9@uvm.edu
Online:	<a href="#">Bias, Discrimination &amp; Harassment Incident Reporting Form</a>

If such a disclosure is made to a UVM Reporter, necessitating a report to the Office of Equal Opportunity, the Complainant will be provided written information about the University's complaint and resolution processes by the Office of Equal Opportunity and be invited to meet with the Intake and Outreach Coordinator or other Office of Equal Opportunity staff member for support and to discuss their options.

In the event that UVM 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 the Office of Equal Opportunity in consultation with the appropriate University offices. The University will implement any action deemed appropriate following that review.

***For those cases that may also constitute violations of criminal law***, the Office of Equal Opportunity will inform the Complainant of their option to pursue a criminal investigation and can facilitate contact with UVM Police Services to initiate such an investigation. Individuals may also contact UVM Police Services directly at (802) 656-3473 or by completing a "[Report a Crime Form](#)". In these cases, Complainants may pursue a criminal investigation and a University resolution, only one process, or neither.



**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 law<sup>7</sup>.

### **Disclosures to, and Required Reporting by, UVM Reporters**

**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.**

***In all other cases***, upon receipt of information that an incident of discrimination or harassment occurred involving members of the University community<sup>8</sup>, the UVM Reporter **MUST**:

1. **Immediately complete a [Bias, Discrimination, & Harassment Incident Reporting Form](#) or send an email to [TitleIX@uvm.edu](mailto:TitleIX@uvm.edu) with all information the individual knows, including names of the reporting party, alleged Respondent, subject of the conduct, and witnesses, if known, location, and description of the incident; **and****
2. **[Fill out a Crime Statistic form](#)** if the conduct reported may constitute a crime, regardless of whether a member of the University community was involved.

***The name of the alleged victim(s) should not be included unless:***

- Disclosure is required by law or University policy (e.g. abuse or neglect of minors or vulnerable adults);
  - The incident presents an “imminent or continuing threat of harm”<sup>9</sup>; or
  - The UVM Reporter 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; (802) 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 discriminatory or harassing behavior.

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<sup>7</sup> 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 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](#).

**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 by calling the Abuse Reporting Hotline at 1-800-564-1612. 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](#).

**Abuse Hotline: 1-800-564-1612 UVM Police Services: (802) 656-3473**

<sup>8</sup> UVM Reporters 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 [UVM Reporter Operating Procedure](#).

<sup>9</sup> 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 by the UVM Reporter is constrained by law (e.g. doctor-patient confidentiality).

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 UVM Reporters are strongly urged** to notify the Office of Equal Opportunity when they receive information that incidents of discrimination or harassment prohibited by this Policy have occurred.

#### **Statement on Privacy; Requests for Anonymity**

With respect to any disclosures made under this Policy, the University cannot guarantee confidentiality, but will make all reasonable efforts to protect the privacy of all involved, 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 discrimination or harassment, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under this Policy:

**Privacy:** Privacy means that information related to a disclosure of discrimination or harassment 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, if applicable, of the report. All Employees who are involved in the University’s response to disclosures of conduct prohibited by this Policy receive 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, and ordained clergy, all of whom may engage in confidential communications under Vermont law when a disclosure 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. In any event, if disclosure is required as described above, the Confidential Employee will notify the individual they are working with. Information about confidential support services is listed below, under “Other Campus and Community Resources.”

If a Complainant does not want to participate in an investigation or resolution process, or expresses a desire to the Office of Equal Opportunity 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 the [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Operating Procedure](#). The decision as to whether the University will proceed with an investigation or pursue other appropriate action under these circumstances ultimately rests with the Office of Equal Opportunity Director. In the event this request cannot be honored, the Office of Equal Opportunity Director will contact the Complainant about this decision.

## **Resolution Process**

### **If Both Parties are Affiliates:**

Resolution options and procedures for incidents covered by this Policy are detailed in the [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Operating Procedure](#).

All resolution processes are guided by the principles of fairness and respect for Complainants and Respondents. This includes a presumption of good faith reporting and a presumption of non-responsibility; adequate, reliable, and impartial investigation and resolution of complaints; an equal opportunity to present witnesses and other evidence, including the ability to present questions to be asked of the other party and witnesses; the ability to participate, or not, without inference; accompaniment of parties by an Office of Equal Opportunity Process Advisor<sup>10</sup> and Title IX Hearing Advisor<sup>11</sup> of their choosing, as applicable; impartial process personnel free from conflicts of interest; and an equal opportunity to an appeal process for both parties.

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 Office of Equal Opportunity Director will determine which of the procedures applies based on the 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 disciplinary actions applicable to Students or Employees can be imposed.

### **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 the alleged conduct and taking steps to provide appropriate remedies and support.

### **If the Complainant is a Non-Affiliate:**

To the extent that a non-affiliate discloses to the Office of Equal Opportunity that they have experienced acts of Discrimination or Harassment by a University affiliate, 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, in accordance with federal law.

## **Disclosure, Investigation, and Resolution Records**

Records of disclosures, investigation, and resolutions, including disciplinary records and alternative resolution agreements (collectively "conduct records") for cases involving student respondents are maintained by the Office of Equal Opportunity. Records of dismissal from the University are permanent. When a student receives a sanction of suspension, their records will be sealed upon the earlier of either graduation or four consecutive years of absence from the University. 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.

Records of disclosures, investigation, and non-disciplinary resolutions for cases involving employee respondents are maintained by the Office of Equal Opportunity. Disciplinary records of the same are

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<sup>10</sup> As defined in the [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Operating Procedure](#).

<sup>11</sup> As defined in the [Hearing Procedures for Title IX Offenses Involving Student Respondents](#) and [Hearing Procedures for Title IX Offenses Involving Employee Respondents](#).

maintained in accordance with the terms of applicable University practices, policies, and collective bargaining agreements, as detailed at <https://www.uvm.edu/hrs/handbooks-policies>.

**Community Remedies**

The Office of Equal Opportunity Director will regularly assess, in light of all disclosures, 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 indirect action by the Office of Equal Opportunity Director or a department, unit, or college. Remedies are separate from disciplinary action and may occur irrespective of whether an investigation or alternative resolution 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.

**Contacts**

<b>Questions concerning the daily operational interpretation of this policy should be directed to the following (in accordance with the policy elaboration and procedures):</b>	
<b>Title(s)/Department(s):</b>	<b>Contact Information:</b>
Nick Stanton Director Office of Equal Opportunity	428 Waterman (802) 656-3368
Emily McCarthy Title IX Coordinator	428 Waterman (802) 656-3368
Joseph Russell Assistant Dean of Students for Retention, Deputy Title IX Coordinator for Students	Nicholson House (802) 656-3829
Cathy Rahill Associate Athletic Director for Student-Athlete and Staff Development, Deputy Title IX Coordinator for Athletics	Patrick Gym 223C (802) 656-7712

The Chief Human Resource Officer 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
- 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  
(formerly the Women's Rape Crisis Center)

(802) 863-1236 or  
(800) 489-7273

Steps to End Domestic Violence  
(formerly Women Helping Battered Women)

(802) 658-1996

\*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 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 <https://www.uvm.edu/equal-opportunity/title-9-sexual-misconduct>.***

### **Additional Public Agencies Enforcing Federal and State Laws Prohibiting Discrimination and Harassment**

#### ***U.S. Department of Education***

Individuals seeking further information or guidance on the application of federal discrimination law 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 federal law 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](mailto: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](mailto: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

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

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: (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 discrimination, harassment, or retaliation:

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

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

### ***Vermont Human Rights Commission***

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

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

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

## Forms/Flowcharts/Diagrams

- [Bias, Discrimination, and Harassment Reporting Form](#)
- [CSA Report Form](#)
- [Report a Crime Link](#)

## Related Documents/Policies

- [Annual Security Report and Crime Statistics \(Clery Act\)](#)
- [Bias Response Program](#)
- [Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents](#)
- [Equal Employment Opportunity/Affirmative Action Policy Statement](#)
- [Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy](#)

- [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints Procedure](#)
- [Minors; Reporting Abuse or Neglect of and Crimes Procedure](#)
- [Hearing Procedures for Title IX Offenses Involving Student Respondents](#)
- [UVM Reporter Operating Procedure](#)
- [Vulnerable Adults; Reporting Abuse, Neglect or Exploitation of, and Crimes Procedure](#)

## Regulatory References/Citations

- [Clery Act](#)
- [Title VII](#)
- [Title IX](#)

## Training/Education

Training/education related to this policy is as follows:

<b>Training Topic:</b>	Harassment and Discrimination Prevention		
<b>Training Audience:</b>	All UVM Staff and Faculty (includes full and part-time), Post-Doctoral Associates and Fellows	<b>Delivered By:</b>	UVM Office of Equal Opportunity
<b>Method of Delivery:</b>	On-line Interactive Video	<b>Frequency:</b>	Upon hire or As Assigned.

<b>Training Topic:</b>	Harassment and Discrimination Prevention		
<b>Training Audience:</b>	All UVM Students	<b>Delivered By:</b>	Vice Provost and Dean of Students Office
<b>Method of Delivery:</b>	On-line Interactive Video and In-Person	<b>Frequency:</b>	Upon Matriculation

<b>Training Topic:</b>	UVM Resolution of Harassment and Discrimination Incidents		
<b>Training Audience:</b>	UVM Staff and Contractors responsible for execution of procedures under this Policy	<b>Delivered By:</b>	Office of Equal Opportunity <a href="https://www.uvm.edu/equal-opportunity/">https://www.uvm.edu/equal-opportunity/</a>
<b>Method of Delivery:</b>	On-line Interactive Video or In Person	<b>Frequency:</b>	Annually or as assigned

## About this Policy

<b>Responsible Official:</b>	Chief Human Resource Officer	<b>Approval Authority:</b>	President
<b>Policy Number:</b>	V. 7.16.1	<b>Effective Date:</b>	August 13, 2020
<b>Revision History:</b>	<ul style="list-style-type: none"> <li>• V. 7.12.1 effective August 26, 2016</li> <li>• V. 4.22.2/V. 7.12.2 effective October 10, 2016. Responsible official officially changed from the Vice President for Human Resources, Diversity and Multicultural Affairs to the Vice President for Finance and Administration on May 1, 2020.</li> <li>• V. 7.16.1/V. 4.30.1 effective August 13, 2020 replaces the Discrimination and Harassment Policy (V. 4.22.2) and the Sexual Harassment and Misconduct Policy (V. 7.11.2). Interim status removed December 16, 2020. Responsible official officially changed from the Vice President for Finance and Administration to the Chief Human Resource Officer October 3, 2022.</li> </ul>		

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*University of Vermont Policies and Operating Procedures are subject to amendment. For the official, approved, and most recent version, please visit UVM's [Institutional Policies Website](#).*