University of Vermont

OFFICE OF COMPLIANCE SERVICES
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UNIVERSITY OPERATING PROCEDURE

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Title: Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints involving Student Respondents

IMPORTANT NOTICE

These procedures **do not** apply to allegations of Title IX Offenses against Student Respondents as defined in the UVM Discrimination, Harassment Sexual Misconduct Policy. Such matters are reviewed and addressed under Resolution Procedures for Title IX Offenses involving Student Respondents under 2020 Final Rule.

These procedures also **do not** apply to allegations of discrimination, harassment or sexual misconduct involving an employee respondent. Such matters are reviewed and addressed under Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints involving Employee Respondents.

Overview

These Procedures apply to the intake and resolution of disclosures alleging conduct by a student respondent prohibited by the Discrimination, Harassment, and Sexual Misconduct Policy (other than Title IX Offenses under the 2020 Final Rule), as well as complaints of alleged Retaliation, as defined therein, by the Office of Equal Opportunity.[1]

The University takes seriously all complaints of discrimination and discriminatory harassment, including sexual misconduct and is committed to taking all necessary steps to prevent recurrence and remedy discriminatory effects. The University of Vermont's processes related to discrimination and discriminatory harassment are designed to:

- Stop the behavior, prevent its recurrence, and remedy its discriminatory effects;
- Consider the rights of all parties, the safety of the community, and applicable laws and University policies;
- Conduct a timely, fair, impartial, and equitable process with respect for all involved parties;
- Protect the privacy of all parties to the extent practical, while balancing the need to comply with applicable law, maintain campus safety, and provide a safe and non-discriminatory environment for all members of the campus community;
- Hold individuals found to have violated the University's policies accountable for their actions; and

[1] The provisions of collective bargaining agreements may modify or supersede these provisions. Questions regarding the effect of collective bargaining agreements on these provisions should be directed to appropriate union representatives.

- Address the effects of discrimination and discriminatory harassment, and related retaliation, on the campus community.

Applicability of the Procedure

This UOP applies to all University of Vermont faculty, staff, students, contractors, and program participants as further defined in UVM Policy V. 7.16.2 Discrimination, Harassment, and Sexual Misconduct.

Definitions

Process Advisor: An individual selected by a party to provide personal support through the applicable resolution process. Advisors may have no other role, such as a witness, in the University process, and may not speak on behalf of or otherwise represent their advisees during meetings. While Process Advisors are not limited to members of the campus community, the University has identified several employees to serve in a voluntary capacity as Office of Equal Opportunity Process Advisors, all of whom have received dedicated training on University policies and procedures, and can assist with identifying additional appropriate resources.

For additional definitions related to these Procedures, please see: Discrimination, Harassment, and Sexual Misconduct Policy

Procedures

STEP 1: OFFICE OF EQUAL OPPORTUNITY INTAKE

Upon notice to the Office of Equal Opportunity that an individual (the "Complainant") has been the subject of alleged discrimination or discriminatory harassment (other than a Title IX Offense under the 2020 Final Rule) by a UVM student, whether through a direct report by the complainant or another witness, through disclosure by an individual with required reporting obligations ("UVM Reporters"), or by any other means, the Office of Equal Opportunity Support Coordinator, or designee, will provide outreach to the Complainant. The Support Coordinator will offer to schedule a time to meet with the Complainant and discuss the individual's needs for support, as well as options for resolution. The Support Coordinator will also provide written information about applicable University policies, resolution options and procedures, support measures, and other helpful resources.[2]

Under this Procedure, the Office of Equal Opportunity will accept disclosures from any affiliate or non-affiliate against a student who is alleged to have engaged in behavior constituting discrimination or discriminatory harassment (other than a Title IX Offense under the 2020 Final Rule) as outlined in the Discrimination, Harassment, and Sexual Misconduct Policy. Disclosure of allegations to the Office of Equal Opportunity may be made verbally or in writing.

Where this UOP refers to decisions made by the "Director or the Title IX Coordinator," the Director has decision-making authority for reports of discrimination and discriminatory harassment based on protected categories except for sex-based discrimination and harassment, including sexual misconduct, and the Title IX Coordinator has authority for reports of sex-based discrimination and harassment, including sexual

[2] Pursuant to federal law, for cases of alleged intimate partner violence, sexual assault, and sex-based stalking, these written materials shall include an explanation of Complainants' rights and options for both University and criminal action, as well as applicable support resources available on campus and in the greater Burlington community, including but not limited to counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and student financial aid resources. In many cases, the Office of Equal Opportunity Support Coordinator provides this information in an email sent to the individual's official UVM email account.

misconduct. The Office of Equal Opportunity Director and Title IX Coordinator may designate another individual to fulfill the duties of this UOP, as needed.

STEP 2: PRE-RESOLUTION REVIEW

Following intake, if the Complainant expresses a desire to explore a University resolution process, or if the nature of the disclosure prompts the Director or Title IX Coordinator to take independent action, the Office of Equal Opportunity will take the following steps, as appropriate:

- INTERVIEW WITH COMPLAINANT
  An Office of Equal Opportunity staff member will be assigned to the matter and will invite the Complainant to provide additional information about the disclosed incident(s) via interview. The Complainant may be accompanied by a Process Advisor when meeting with the Office of Equal Opportunity. The Office of Equal Opportunity may make an audio recording of this meeting for note-taking purposes.

- DETERMINATION OF EQUAL OPPORTUNITY JURISDICTION TO RESOLVE THE COMPLAINT
  The Office of Equal Opportunity's ability to offer a resolution process is limited to alleged violations of the University's Discrimination, Harassment and Sexual Misconduct Policy. This is referred to as "jurisdiction." The Office of Equal Opportunity may respond to other adjoining conduct matters as detailed below (Consolidation of Complaints; Multiple Policy Violations). Before proceeding with a resolution process, the Office of Equal Opportunity must determine (1) whether the Respondent was subject to applicable University policy at the time of the conduct and (2) whether the conduct as alleged, and if proven by a preponderance of the evidence, could be a violation thereof.

  If the Office of Equal Opportunity determines that jurisdiction is not supported by the information available or the matter is not otherwise appropriate for resolution under these procedures following a Complainant interview, the Office of Equal Opportunity shall follow the requirements of "Dismissal of Complaints" as outlined below. In all cases, the Office of Equal Opportunity will communicate the determination and accompanying rationale to the Complainant and will provide appropriate referrals to campus and off-campus resources, including continued access to a Support Coordinator. The Office of Equal Opportunity will also inform complainants that they should report any recurrences or escalation of conduct. If new information is subsequently provided to the Office of Equal Opportunity, the Office of Equal Opportunity may reevaluate whether the Office has jurisdiction.

- NOTICE OF ALLEGED POLICY VIOLATION AND OFFICE OF EQUAL OPPORTUNITY PROCESS
  If jurisdiction is supported, the Office of Equal Opportunity will issue written notice to the Complainant and Respondent that an Office of Equal Opportunity process has been initiated to resolve alleged violation(s) of University policy. Additionally, the Respondent will receive outreach from a Support Coordinator, or designee, that includes information about helpful resources and be invited to meet to discuss the individual's needs for support, as well as answer questions about EO resolution processes.

  The written notice will include the identities of the parties, the conduct allegedly constituting the policy violation, and the date and location of the alleged conduct, if known. The written notice will also include a copy of these Procedures, and a statement indicating whether the Complainant has expressed interest in Facilitated Resolution (if applicable).

Step 3: OFFICE OF EQUAL OPPORTUNITY RESOLUTION PROCESS

Option 1: Facilitated Resolution

- PURPOSE
  The Facilitated Resolution process is designed to be flexible to respond to the needs of the parties and the unique circumstances presented. The purpose of a Facilitated Resolution is to allow a Complainant to express the harm they have experienced and for the Respondent to reflect on the impact felt by Complainant in a supportive environment. The Facilitated Resolution process seeks to repair harm through reflection and education without rendering an institutional policy decision. Facilitated Resolution is not a disciplinary process. The culmination of the process is the creation of a cooperatively designed agreement that outlines steps or actions a Respondent will take to both address the impact of the reported conduct and prevent its recurrence.

- APPROPRIATENESS DETERMINATION
  Facilitated Resolution can be pursued following Notice of Complaint (Step 2) or following creation of a Record (Step 3, Option 2).

  As a threshold matter, both the Complainant and Respondent must voluntarily agree to pursue the Facilitated Resolution process. Additionally, the Office of Equal Opportunity must determine that the nature of the reported conduct is appropriate for Facilitated Resolution, considering the following factors and others as uniquely appropriate:

  - The power dynamics present between the parties, including applicable University affiliation;
  - The nature of the conduct reported and whether it presents an ongoing safety risk to the UVM community;
  - The level and type of harm reported, subjectively and objectively;
  - The severity of conduct reported, subjectively and objectively;
  - The number of people affected by the reported conduct;
  - Whether the parties are willing to participate in good faith; and
  - The conduct history of the Respondent.

  The decision as to whether the use of the Facilitated Resolution process is appropriate is at the sole discretion of the Director or Title IX Coordinator, respective to their areas of oversight.

- INITIATION OF PROCESS
  A Facilitator will be assigned.[3] To initiate the Facilitated Resolution Process, the Facilitator will provide both parties with a Notice of Rights and Options to review and sign before proceeding. Once initiated, either party can request an end to the Facilitated Resolution process at any time prior to signing a final agreement. Information gathered during a Facilitated Resolution Process cannot be used in another UVM process, including if the Facilitated Resolution terminates and an Investigative Resolution is initiated, and Facilitators will not serve as witnesses in any subsequent conduct or legal proceedings, except where required by law or regulation. Facilitated Resolution meetings will not be audio recorded.

- CREATION OF MUTUALLY AGREED TERMS
  The Facilitator will engage in an interactive process with the parties to identify mutually agreeable and effective terms. In most cases, the parties will not engage in face-to-face

[3] Facilitators will generally be Office of Equal Opportunity staff members; however, the Office of Equal Opportunity may also elect to use the services of an outside facilitator or a non-Office of Equal Opportunity staff member. The Facilitator will not also serve as an Investigator for the matter, if applicable.

dialogue and will meet independently with the Facilitator. When face-to-face dialogue is mutually desired by the parties, and the Director or Title IX Coordinator approves, live video conferencing is the default medium.

Educational and restorative measures that may be agreed upon as a result of Facilitated Resolution may include, but are not limited to:

- Personal reflection activities;
- Educational activities relating to pertinent topics, such as consent, healthy sexuality, healthy relationships, drug and alcohol use, conflict resolution, equity and inclusion, or similar topics;
- Voluntary participation in mental health or other counseling;
- Regular check-in meetings with an appropriate UVM official or resource;
- Reading of impact statements and responses presented by the parties, in a supported environment;
- No-contact and/or limited no-trespass agreements;
- Voluntary restriction from participation in particular campus events or activities; or
- Other appropriate measures proposed and agreed to by the parties.

Facilitated Resolution Agreements must be documented by the Facilitator, signed by both parties, and approved by the Director or Title IX Coordinator. If no agreement is reached, or either party indicates in writing to the Facilitator that they no longer wish to pursue a Facilitated Resolution, the matter will be referred to the Director or Title IX Coordinator, who will consider the Record of Investigation (if available), the wishes of the parties, and the interests of the campus community in determining next steps, which may include a return to or initiation of an investigative resolution process.

- COMPLIANCE WITH RESOLUTION AGREEMENT

  Once a Resolution Agreement has been signed by both parties and approved by the Director or Title IX Coordinator, the Office of Equal Opportunity will ensure the agreed-upon terms are fulfilled by monitoring the agreement, reviewing information submitted by the parties, and in some cases, contacting third parties for verification.

  When a Resolution Agreement requires a student Respondent to take active steps to fulfill a term (e.g., participation in a program or participation in an impact statement conference) by a certain date, the Office of Equal Opportunity may request that the Dean of Students place a registration or degree hold on the Respondent's account until the term is fulfilled. The Office of Equal Opportunity will request that the hold be lifted when the term is fulfilled. The Respondent may request an extension of the time by which a specific term must be fulfilled for good cause. Such an extension shall be in the sole discretion of the Title IX Coordinator or Director.

  Consequences for non-compliance with the terms of a Resolution Agreement shall be agreed to by the parties and memorialized in the Agreement prior to execution. If the Office of Equal Opportunity believes that a Respondent has not complied with the terms of a Resolution Agreement, the Office of Equal Opportunity will initiate appropriate steps to effectuate a non-compliance response consistent with the terms of the Resolution Agreement. Where any term is predicated on some action by Complainant, such as the submission of an impact statement, and Complainant does not complete that action, Respondent shall not be subject to a finding of non-compliance. The Office of Equal Opportunity is not obligated to warn parties who are not in compliance prior to initiation of a non-compliance response.

Option 2: Investigative Resolution

- INTERVIEWS AND INFORMATION GATHERING
  Following notice (Step 2, described above), the Office of Equal Opportunity will seek to interview identified and relevant witnesses and the Respondent.[4] Witnesses, like the parties, are protected from retaliation and may be accompanied by a Process Advisor of their choice during any Office of Equal Opportunity meeting. The Office of Equal Opportunity will notify all participants in the process that they should immediately report any recurrence or escalation of the conduct at issue or of acts of retaliation to the University.

  In addition to participating in a personal interview, both parties may provide, if they wish, relevant information and documentation they would like the Office of Equal Opportunity to review, and the names of potential witnesses with factual knowledge directly related to the allegations.[5]

- CREATION OF RECORD OF INVESTIGATION
  Following interviews and the collection of information and documentation, the Office of Equal Opportunity will provide both parties with a written record of the directly related evidence collected ("the Record of Investigation") for review.[6] The parties may elect to provide any correction of their own statements as well as any additional directly related evidence for review by the Office of Equal Opportunity, including additional proposed witnesses with directly related and relevant knowledge of the conduct to interview. All responses to the Record of Investigation must be submitted within ten (10) calendar days[7] of access to the Record of Investigation being provided to the parties.

  When a party's response to the Record of Investigation presents new information that is directly related to the allegations, the Investigator may conduct additional investigation, in their discretion, and will issue a supplement to the Record of Investigation to both parties containing the new information for review and response. The Investigator will provide the parties with five (5) calendar days to provide a response to the Record Supplement. The Record of Investigation and any Record Supplements shall collectively be referred to as the Final Record of Investigation, a copy of which shall be provided to both parties.

- [8] DETERMINATION REGARDING POLICY VIOLATION; OUTCOMES
  Following the closure of the Record of Investigation, the Investigator will consider all relevant and permissible evidence submitted and make a written determination, by a preponderance of the evidence, regarding whether the Respondent has violated the policy or policies named in the Office of Equal Opportunity Notice of Investigation Letter. The Investigator will issue a written Determination Regarding Responsibility (Determination) to both parties which will contain factual findings, a determination regarding whether a Policy violation occurred, the rationale in support thereof.

[4] The Office of Equal Opportunity has the sole discretion to determine what questions to pose to parties or witnesses and to determine the overall length of any meeting.

[5] The decision to interview particular witnesses and allow or consider evidence offered by the parties is within the sole discretion and professional judgment of the Office of Equal Opportunity.

[6] The Record of Investigation is comprised of a summary of interviews conducted as well as documentary evidence. If the parties request to review the original evidence, the parties may review it to the extent that it is relevant and not otherwise impermissible by making an appointment with the Office of Equal Opportunity. Where applicable, EO has discretion to allow parties to review transcripts, which may be redacted, in lieu of allowing the parties to listen to an original audio recording. The parties may not make copies of the original evidence. If the parties request to review the evidence, they must do so within 7 calendar days.

[7] Where this deadline lands on a weekend or UVM Administrative Holiday, the deadline shall be the next UVM business day.

[8] The Investigator has discretion to issue additional supplements for information that is new and directly related.

If the Investigator determines that the Respondent violated UVM Policy, the Investigator will send the Determination to the Center for Student Conduct. A representative from CSC will offer to meet with the parties to consider the Determination along with any aggravating and/or mitigating circumstances and determine the appropriate outcomes under the Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents. A detailed listing of possible outcomes, as well as aggravating and mitigating factors considered, can be found in the Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents.

- APPEALS

  When the Office of Equal Opportunity does not find a policy violation occurred, the parties may appeal the outcome of the final report. The Determination 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 (3) there was a clear abuse of discretion on the part of the Title IX Coordinator/Director, or Investigator including the presence of a conflict of interest or bias against a party that affected the outcome. To appeal, a party must submit a written statement to the Dean of Students or designee ("Appellate Official") within five business days of the date of the final report stating, as precisely as possible, the basis for the appeal. If sufficient information has been submitted to support an appeal on one of the listed bases, the Appellate Official 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 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 Appellate Official.

  The Appellate Official will 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 Appellate Official will promptly notify both parties of the revised (expected) timeframe. The Appellate Official will issue a copy of the written appeal decision to parties who are UVM affiliates, in accordance with federal law. The appeal decision may uphold, modify, or overturn the Equal Opportunity decision or refer the case back to the Investigator, as warranted. The appeal decision rendered is the final action taken by the University.

  When the Office of Equal Opportunity finds a policy violation occurred, the University will follow the appeal procedures as described in the Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents

ADDITIONAL CONSIDERATIONS

Students in Programs with Professional Standards; Sponsored Research; UVM Athletics. If the Respondent is a student in a program with established professional standards or is a member of a UVM Athletics team, at the conclusion of the applicable appeal period outlined above, the Title IX Coordinator shall send a copy of the case file, including investigation report, any decision letter, and any appeal/appeal determination to the program's applicable Dean or Director for student services or the Director of Athletics. While the institutional decision 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 and/or Student-Athlete Code of Conduct to determine whether any additional, program-specific disciplinary action is needed. Additionally, if the Respondent is engaged in a sponsored research program, UVM will

comply with applicable federal reporting requirements. This provision applies irrespective of whether a policy violation was found by the Office of Equal Opportunity.

TIMEFRAME FOR THE OFFICE OF EQUAL OPPORTUNITY PROCESS

The EO process requires timely response during all stages of intake, review, and resolution following notice to the University of reported discrimination or discriminatory harassment. EO will strive to complete the pre-resolution review within seven (7) days, noting that this timeframe is highly dependent on the responsiveness of any identified complainant and witnesses to outreach efforts or other relevant factors. Typically, the Office of Equal Opportunity Investigative or Facilitated Resolution process will be completed within ninety (90) days from the documentation of a complaint, as outlined in Step 2, above. In an Investigative Resolution, EO will strive to complete the interview, investigation, and Record of Investigation creation stage within sixty (60) days and the Determination Regarding Responsibility within thirty (30) days. However, in some circumstances, it may be necessary to extend the timeframes due to the complexity of the case, availability of witnesses, the occurrence of a simultaneous criminal investigation and request from law enforcement that the Office of Equal Opportunity delay its resolution process, or other factors that cause an unavoidable delay, collectively "good cause." If good cause exists for the Office of Equal Opportunity to extend a timeframe, both parties will be promptly notified of the reason for the delay and the revised (expected) timeframe. This timeframe does not include any appeals processes.

IMPARTIALITY

Individuals shall remove themselves from conducting an investigation or facilitating a resolution process if they believe they cannot be impartial. Additionally, either party may seek the removal of an assigned individual if they believe that the individual cannot be impartial by submitting a written statement to the Office of Equal Opportunity, stating the specific reasons for their belief. This written statement must be submitted to the Office of Equal Opportunity within 48 hours of when they become aware that a conflict exists. If it is determined that the assigned individual may not be impartial, a new assignment will be made and both parties will be notified.

ACCOMMODATIONS; RESCHEDULING REQUESTS; MODE OF PARTICIPATION

Requests to reschedule meetings and/or extend deadlines for response must be submitted to the Office of Equal Opportunity in writing within 48 hours of a meeting date or deadline being communicated and will only be granted for good cause. In determining whether good cause exists, the Office of Equal Opportunity will consider whether rescheduling will unduly burden the other party or otherwise unreasonably delay resolution of the matter. The Director of the Office of Equal Opportunity or Title IX Coordinator may grant reasonable extensions based on their discretion.

Parties, witnesses, and other participants in the Office of Equal Opportunity resolution process may request reasonable accommodations for a disability by informing the Office of Equal Opportunity of their need for accommodation based on a disability. The Office of Equal Opportunity will then collaborate with the Office of Accessibility Services (students) or the ADA/504 Coordinator (employees and non-affiliates) to determine eligibility for, and the parameters of, such accommodations.

The Office of Equal Opportunity can facilitate remote participation based upon administrative need, as well as upon request.

ROLE OF PROCESS ADVISORS

In all proceedings covered by these Procedures, each party may choose to be accompanied by a Process Advisor to provide personal support. Regardless of University affiliation or professional license, Process Advisors may be present only to provide support to, or otherwise privately consult with, their advisee, but

may not speak on behalf of their advisee or otherwise directly participate. If a Process Advisor cannot abide by the rules for participation, they will be asked to leave.

COORDINATION WITH CRIMINAL PROCESS (if applicable)

The University strongly encourages individuals who have experienced discrimination or discriminatory harassment that they believe rises to the level of criminal misconduct, including hate crimes and all forms of sexual misconduct, to consider making a report to law enforcement to assure their personal and community safety, and to become informed about their options, including the option of pursuing a criminal investigation. Individuals may pursue both a criminal investigation and an Office of Equal Opportunity resolution process, and the University can assist with making a report to Police.

The Office of Equal Opportunity will not wait for the conclusion of a criminal investigation or proceeding to begin its own process. The Office of Equal Opportunity may, however, at the discretion of the Director or Title IX Coordinator, comply with valid requests from law enforcement for cooperation in a criminal investigation, including temporarily delaying the Office of Equal Opportunity process while law enforcement is gathering evidence. In assessing whether to temporarily delay the Office of Equal Opportunity process pursuant to a request from law enforcement, the Director or Title IX Coordinator will consider such factors as:

- The length of the requested delay;
- The impact that such delay will cause to the involved parties and the campus community; and
- The level of impact to the criminal investigation that will occur if the requested delay is not granted.

In the event the requested delay is granted, the Office of Equal Opportunity will promptly resume and complete its process once law enforcement has completed gathering evidence and will keep the Complainant apprised of such requests to the extent permitted by law.

DECISION TO PROCEED WITHOUT COMPLAINANT COOPERATION; REQUESTS FOR ANONYMITY

If the Complainant is unresponsive to outreach, does not want to participate in the University process, or expresses a desire to the Office of Equal Opportunity for their identity to be kept confidential, the wishes of that individual will be followed where possible. However, the University reserves the right to take appropriate action as may be necessary to protect the safety of the campus community. The decision as to whether the University will proceed under these circumstances ultimately rests with the Director or Title IX Coordinator.[9]

Requests not to pursue a resolution, the Complainant's reasonable safety or other concerns regarding initiation of an EO process, as well as requests for confidentiality, are weighed against the University's responsibility to provide a safe and nondiscriminatory environment for all members of the campus community, which necessarily includes consideration of, but is not limited to:

- The risk that additional acts of discrimination, discriminatory harassment, or sexual misconduct would occur if an investigation is not initiated;
- The severity of the alleged acts of discrimination, discriminatory harassment, and sexual misconduct, including whether the acts, if established by a preponderance of the evidence, would require the removal of a Respondent from campus or imposition of another disciplinary outcome to end the discrimination and prevent its reoccurrence;
- The age and relationship of the parties, including whether the respondent is an employee of the University or otherwise have supervisory responsibilities;
- The scope of the alleged acts, including information suggesting a pattern, ongoing acts, or acts impacting multiple individuals;

[9] The Office of Equal Opportunity may consult with the University's Sexual Misconduct Response Team when the alleged discriminatory behavior, if true, would constitute sexual harassment or misconduct prohibited by UVM policy.

- The availability of evidence to assist the Investigator in determining whether the alleged acts occurred;
- Whether the University could end the alleged discrimination, discriminatory harassment, or sexual misconduct and prevent its recurrence without initiating its Investigatory Resolution procedures;
- The parties' rights under the Family Educational Rights & Privacy Act (FERPA); and
- Whether the University is required to proceed by law.

After weighing the factors, if the Director or the Title IX Coordinator decides to initiate an EO process, the Director or Title IX Coordinator will notify the Complainant prior to initiating the EO process and will address reasonable concerns about safety.

DISMISSAL OF COMPLAINTS; DISMISSAL APPEAL RIGHTS

The Office of Equal Opportunity may decline to initiate an EO process, dismiss a complaint and end an EO process, or reassign a complaint, in whole or in part, ("Dismissal") to another University process at any time if:

- EO is unable to identify the Respondent after taking reasonable steps to do so (see below ASCERTAINING THE IDENTITY OF UNKNOWN COMPLAINANTS, RESPONDENTS, AND WITNESSES);
- The Respondent is not participating in any of the University's education programs or activities and is not employed by the University;
- The Complainant voluntarily withdraws any or all allegations in the complaint and the Director or Title IX Coordinator declines to independently initiate a complaint (see DECISION TO PROCEED WITHOUT COMPLAINANT COOPERATION; REQUESTS FOR ANONYMITY above) and the remaining allegations, if any, would not constitute a violation of the Discrimination, Harassment & Sexual Misconduct policy, even if proven by a preponderance of the evidence (see JURISDICTION above);
- The conduct as alleged, even if proved by a preponderance of the evidence, would not be a violation of the Discrimination, Harassment, & Sexual Misconduct policy. (see JURISDICTION above)

Upon Dismissal, EO will promptly notify the Complainant, in writing, of the basis therefore. If Dismissal occurs after Notice has been issued (see Step 2), then EO will also notify the Respondent. Dismissal may be appealed to the Director of the Office of Equal Opportunity, in writing, within five (5) business days. The dismissal may be appealed for the following grounds only: (1) a procedural error unfairly and materially affected the outcome, (2) material evidence has been discovered that was not reasonably available at the time of the determination, or (3) there was a clear abuse of discretion, including the presence of a conflict of interest or bias against a party that affected the outcome. If sufficient information has been submitted to support an appeal on one of the listed bases, the Director, 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 Director, 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 Director or designee. The Director or designee will 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 Director or designee will promptly notify both parties of the revised (expected) timeframe. The Director or designee will issue a copy of the written appeal decision to parties who are UVM affiliates, in accordance with federal law. The appeal decision may uphold the decision, modify the decision, overturn the decision, or refer the case back to the Investigator.

CONSOLIDATION OF COMPLAINTS; MULTIPLE POLICY VIOLATIONS

If at any point the Office of Equal Opportunity becomes aware that University policies other than the Discrimination, Harassment, and Sexual Misconduct Policy may have been violated in relation to the matter being reviewed, these concerns may also be resolved through the processes detailed here, provided doing so

does not unduly delay such process. The decision to consider other alleged policy violations that the Office of Equal Opportunity becomes aware of is within the discretion of the Director or Title IX Coordinator. The Office of Equal Opportunity may also consolidate Complaints in situations that arise out of the same facts or circumstances and involve more than one Complainant, more than one Respondent, or what amount to counter-complaints by one party against the other.

ASCERTAINING THE IDENTITY OF UNKNOWN COMPLAINANTS, RESPONDENTS, AND WITNESSES

The University accepts anonymous reports of discrimination and discriminatory harassment, including sexual misconduct. However, the ability of the University to respond may be limited when the identities of individuals involved in a report of misconduct choose to remain anonymous. Distinctly, when an individual who is a complainant, respondent, or witness is unknown, the Office of Equal Opportunity will make reasonable efforts in the intake and resolution process to determine, in the context of all available information, their identities. If a complainant is able to be identified, in determining next steps, the Office of Equal Opportunity will consider their autonomy and confidentiality in accordance with the Decision to Proceed without Complainant Cooperation; Requests for Anonymity section above. The University will also protect the privacy of all involved in an Office of Equal Opportunity process, as detailed in the Statement on Privacy; Requests for Anonymity section of the Discrimination, Harassment, and Sexual Misconduct Policy.

Contacts

Questions concerning the daily operational interpretation of this UOP should be directed to the following:	
Title(s)/Department(s):	**Contact Information:**
Nicholas Stanton Director, Office of Equal Opportunity	equalopportunity@uvm.edu (802) 656-3368
Nick Stanton Title IX Coordinator	titleix@uvm.edu (802) 656-3368

Forms/Flowcharts/Diagrams

- Online Bias, Discrimination, & Harassment Incident Reporting Form

Related Documents/Policies

- Discrimination, Harassment, and Sexual Misconduct Policy
- Equal Opportunity/Affirmative Action Policy Statement
- Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy
- Resolution Procedures for Title IX Offenses involving Student Respondents under 2020 Final Rule
- Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints involving Employee Respondents – Interim
- Hearing Procedures for Title IX Offenses Involving Employee Respondents
- Sexual Conduct Education and Resource Website
- University Handbooks, Collective Bargaining Agreements, and Grievance Procedures for Employees

Training/Education

Training Topic:	UVM Resolution of Harassment and Discrimination Incidents		
Training Audience:	UVM Staff and Contractors responsible for execution of procedures under this procedure	**Delivered By:**	Office of Equal Opportunity uvm.edu/equal-opportunity

Method of Delivery:	On-line Interactive Video or In Person	**Frequency:**	Annually or as assigned

About This Procedure

Responsible Official:	Chief Human Resource Officer	**Approval Authority:**	Chief Human Resource Officer
Affiliated Policy Number(s):	V. 4.23.11, V. 4.24.11, V. 4.30.1	**Effective Date:**	August 23, 2024
Revision History:	• Interim UOP approved October 4, 2018. • Interim status removed January 10, 2019 • Responsible official officially changed from the Vice President for Human Resources, Diversity and Multicultural Affairs and Vice President for Finance and Administration on May 1, 2020 • Interim UOP approved August 1, 2020 name of procedure changed from Procedural Guidelines for Handling and Resolving Discrimination Complaints to Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints • Interim status removed December 15, 2020 • Revised August 26, 2022 • Responsible official officially changed from the Vice President for Finance and Administration to the Chief Human Resource Officer October 3,2022 • Approved as interim August 25, 2023, Name Changed August 23, 2024 • Revised August 15, 2025 • Interim status removed March 2, 2026		

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