



## UNIVERSITY OPERATING PROCEDURE

### **Title:** Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints - Interim

#### Overview

These Procedures apply to the intake and resolution of disclosures and formal complaints alleging conduct prohibited by the Discrimination, Harassment, and Sexual Misconduct Policy, as well as complaints of alleged Retaliation, as defined therein, by the Office of Equal Opportunity.<sup>1</sup>

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 harassment are designed to:

- Consider the rights of both 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
- 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, visitors, and guests.

#### Definitions

*Process Advisor:* An individual selected by either 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

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<sup>1</sup> The provisions of collective bargaining agreements governing union-represented employees may modify or supersede these provisions. Unionized employees may direct questions regarding the effect of collective bargaining agreements on these provisions to their union representatives.

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, 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 Intake and Outreach Coordinator ("Intake Coordinator"), or designee, will provide outreach to the Complainant. The Intake 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 Intake Coordinator will also provide written information about applicable University policies, resolution options and procedures, remedial and protective measures, and other helpful resources.<sup>2</sup>

The Office of Equal Opportunity will accept disclosures from any affiliate or non-affiliate against a student, staff or faculty member, or other affiliate who is alleged to have engaged in behavior constituting discrimination or discriminatory harassment as outlined in the Discrimination, Harassment, and Sexual Misconduct Policy. Disclosures may be made against individuals or units, departments, organizations recognized or affiliated with the University, or other organizational components of the University. 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 sexual misconduct), and the Title IX Coordinator has authority for reports of sexual misconduct. The Office of Equal Opportunity Director and Title IX Coordinator may designate another individual to fulfill the duties of this UOP, as needed, as their designee.

### 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<sup>3</sup>, the Office of Equal Opportunity will take the following steps, as appropriate:

- **OFFER AN INITIAL MEETING**  
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). The Complainant may be accompanied by an Office of Equal Opportunity Process Advisor, as defined in the Discrimination, Harassment, and Sexual Misconduct Policy, 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.

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<sup>2</sup> Pursuant to federal law, for cases of alleged relationship violence, sexual assault, and gender-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 Intake and Outreach Coordinator provides this information in an email sent to the individual's official UVM email account.

<sup>3</sup> Where the Office of Equal Opportunity documents a Complaint, or otherwise proceeds with a Complaint absent the Complainant's participation, the Office of Equal Opportunity does not take the place of the Complainant.

- **DOCUMENT THE COMPLAINT AND DETERMINE JURISDICTION**

A Complaint may be filed in person with the Office of Equal Opportunity or electronically and must contain sufficient detail to support proceeding with an Office of Equal Opportunity resolution process. When the allegations shared with the Office of Equal Opportunity contain a Title IX Offense, a Formal Complaint<sup>4</sup> is required.

The Office of Equal Opportunity's jurisdiction is limited to alleged violations of the University's Discrimination, Harassment and Sexual Misconduct Policy. The Office of Equal Opportunity is also charged with conducting investigations pursuant to the Amorous Relationships with Students Policy and may investigate 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 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, Office of Equal Opportunity staff will communicate the determination and accompanying rationale to the complainant and will provide appropriate referrals to campus and off-campus resources. The Office of Equal Opportunity will also inform complainants that they should immediately report any recurrences or escalation of the conduct. If new information is subsequently provided to the Office of Equal Opportunity, the Office of Equal Opportunity may reevaluate whether or not the Office of Equal Opportunity has jurisdiction. When the allegations shared with the Office of Equal Opportunity constitute a Title IX Offense, the Office of Equal Opportunity shall follow the requirements of "Dismissal of Title IX Formal Complaints; Appeal Rights" as outlined below.

- **PROVIDE NOTICE OF COMPLAINT 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 the Intake 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 the AAEO resolution process.

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 incident, if known. The written notice will also include a copy of these Procedures, and a statement indicating whether the Complainant has expressed interest in Alternative Resolution (if applicable). The notice will also inform the parties as to whether the matter, as alleged, constitutes a Title IX Offense such that a Title IX Live Hearing, as described below, will be part of the resolution process.

### Step 3: OFFICE OF EQUAL OPPORTUNITY RESOLUTION

#### Option 2: Alternative Resolution

- **PURPOSE**

The alternative resolution process is designed to be flexible to respond to the needs of the parties and the unique circumstances of every case. The purpose of an alternative resolution is to facilitate a

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<sup>4</sup> Per federal regulations, a Formal Title IX Complaint is a document filed by a Complainant who is currently participating in or attempting to participate in the education program or activity of the University, or is otherwise signed by the Title IX Coordinator, alleging a Title IX Offense against a Respondent and requesting that the Office of Equal Opportunity investigate the allegation.

dialogue that allows a Complainant to express the harm they have experienced, and the Respondent to understand the impact of their conduct on the Complainant. The alternative resolution process seeks to repair harm and educate the parties without rendering an institutional policy decision. Alternative Resolution is not a disciplinary process. The culmination of the parties' facilitated dialogue is the creation of a cooperatively designed agreement that outlines steps or actions a Respondent will take to both address the reported conduct and prevent its recurrence.

- **APPROPRIATENESS DETERMINATION**

Alternative 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 alternative resolution process. Additionally, the Office of Equal Opportunity must determine that the nature of the reported conduct is appropriate for alternative resolution, considering the following factors and others as uniquely appropriate:

- The power dynamics present between the parties, including applicable University affiliation<sup>5</sup>;
- 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 alternative 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**

An Alternative Resolution Facilitator will be assigned.<sup>6</sup> To initiate the Alternative 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 alternative resolution process at any time prior to signing a final agreement. Information gathered during an Alternative Resolution Process cannot be used in another UVM process, including if the Alternative 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. Alternative Resolution meetings will not be audio recorded.

- **NEGOTIATION OF TERMS**

The primary form of alternative resolution used by the Office of Equal Opportunity is facilitated dialogue and negotiation between the parties. In most cases, the parties will not engage in face-to-face dialogue and will meet independently with the Facilitator. When face-to-face facilitated dialogue is mutually desired by the parties, and the Director or Title IX Coordinator approves, live video conferencing is the default medium.

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<sup>5</sup> Alternative resolution is not available to resolve any report of conduct that would constitute harassment based on a protected category by a UVM employee directed to a student.

<sup>6</sup> Alternative Resolution 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.

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

- Personal reflection activities;
- Education relating to healthy relationships;
- Education relating to drug and alcohol use;
- Participation in prevention and educational programming, such as anti-gender violence programming;
- Voluntary participation in mental health 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.

Alternative 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 Alternative 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 Complainant and Respondent will be required to comply with its terms. 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 transcript 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.

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 party 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. 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 as described above, the Office of Equal Opportunity will seek to conduct interviews with identified and relevant witnesses and the Respondent. Witnesses, like the parties, are protected from retaliation and may be accompanied by a support person of their choice during any Office of Equal Opportunity meeting as further described below. 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, the names of potential witnesses with factual knowledge directly related to the allegations, as well as a list of relevant factual questions they would like asked of the other party.<sup>7</sup> The Office of Equal Opportunity may make an audio recording of any and all interviews conducted for notetaking purposes.

- **CREATION OF RECORD**

Following all 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") for review. The parties may elect to provide a written response to the Record, including any comments, additional directly related evidence for review, and/or questions they propose be asked of the other party or witnesses. The parties may also meet with the Office of Equal Opportunity to do the same. All responses to the Record, written or in-person, must be submitted within ten (10) calendar days<sup>8</sup> of access to the Record 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 Office of Equal Opportunity may conduct additional investigation, including interviews, based on this information, and will issue a supplement to the Record of Investigation to both parties containing the new information for review and response, until such time as the Office of Equal Opportunity determines the record to be closed. The Office of Equal Opportunity will provide the parties with five (5) calendar days to provide a response to any Record Supplement, unless a different time period is required by law or regulation. 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.

- **CLOSING OF RECORD**

The Office of Equal Opportunity shall notify the parties of their closing of the record and procedural next steps. Specifically, the Office of Equal Opportunity may:

- Allow the parties to submit, within ten calendar days, a written reply to the Final Record of Investigation and then send the Final Record of Investigation, as well as those responses which are both directly related and relevant, to both parties, and schedule a hearing, as detailed below (Sub-Option 1, Title IX Live Hearing);
- Write a Non-Title IX Report of Investigation and Determination of Policy Violation, as detailed below (Sub-Option 2, Non-Title IX Investigative Resolution);
- Refer the matter for Alternative Resolution; or
- Dismiss or reassign the Complaint as outlined in Step 2: Determination of Jurisdiction.

**Sub-Option 1: TITLE IX LIVE HEARING**

When the matter must proceed to a Title IX hearing, such hearing will be conducted according to the [Hearing Procedures for Title IX Offenses Involving Student Respondents](#) or the [Hearing Procedures for Title IX Offenses Involving Employee Respondents](#).

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<sup>7</sup> The Office of Equal Opportunity has the sole discretion to determine what questions to pose to parties or witnesses, to limit redundancies, and to determine the overall length of any meeting. 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.

<sup>8</sup> Where this deadline lands on a weekend or UVM Administrative Holiday, the deadline shall be the next UVM business day.

### Sub-Option 2: NON-TITLE IX INVESTIGATIVE RESOLUTION

When the matter must proceed to Non-Title IX investigative resolution, the Office of Equal Opportunity will issue a written report setting forth findings of fact, a determination of responsibility for alleged policy violations, and the rationale for that determination utilizing the preponderance of the evidence standard. A copy of this report will be provided concurrently to both parties.

- When the Respondent is a student and has been found responsible for a policy violation, the Office of Equal Opportunity will forward a copy of the report to the Center for Student Conduct (CSC) for sanctioning and processing according to [Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents](#).

When the Respondent is a student and no policy violation is found following investigation, the Office of Equal Opportunity will make available its report to both parties and the Dean of Students. The conclusion that no policy violation occurred may be appealed by either party. Appeals must be submitted to the Dean of Students, or designee, in writing, according to the Appeal Procedures of the [Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents](#).

Additionally, if the Respondent is a student in a program with established professional standards or a member of a UVM Athletics team: At the conclusion of the applicable appeal period outlined above, the Office of Equal Opportunity Director or Title IX Coordinator shall send a copy of the case file, including investigation report, any Sanctioning decision letter, and any appeal/appeal determination to the program's applicable Dean or Director for student services or the Director of Athletics, as applicable. While the decision of the Office of Equal Opportunity, CSC, and the Appellate Official shall be considered final following expiration of the applicable appeal period, the Respondent's program may also, in its discretion, review conduct under the program's established professional standards / Code of Student Athlete Conduct to determine whether any additional, program-specific disciplinary action is needed. This provision applies to all final reports, irrespective of whether a policy violation was found by the Office of Equal Opportunity.

- When the Respondent is an employee, the Office of Equal Opportunity will forward the report to the Chief Human Resource Officer. Either party may appeal the Office of Equal Opportunity's conclusion that a policy violation did or did not occur to the Chief Human Resource Officer, or designee, in writing, within five business days of the Report's issuance. The Office of Equal Opportunity decision may be appealed for the following reasons only: (1) a procedural error unfairly and materially affected the outcome of the case, (2) material evidence has been discovered that was not reasonably available at the time of the investigation, or (3) there was a clear abuse of discretion on the part of the Office of Equal Opportunity, 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 Chief Human Resource Officer, 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 Chief Human Resource Officer, 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 Chief Human Resource Officer or designee.

The Chief Human Resource Officer 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 Chief Human Resource Officer or designee will promptly notify both parties of the revised (expected) timeframe. The

Chief Human Resource Officer or designee will issue a copy of the written appeal decision to parties who are UVM affiliates. The appeal decision may uphold the hearing decision, modify the hearing decision, overturn the hearing decision, or refer the case back to the Investigator, as warranted.

**When the investigation's appeal period has expired, or an appeal decision has been rendered by the Chief Human Resources Officer (if applicable):** the Office of Equal Opportunity shall send a copy of the case file, including the investigation report and any appeal/appeal determination, to the administrative official immediately responsible for the Respondent's supervision, and to the appropriate Vice President, Dean or Director for the unit or college in which the Respondent works. The immediate administrative official shall determine any appropriate discipline in accordance with applicable University practices, policies, and collective bargaining agreements, including applicable grievance procedures, as detailed at <https://www.uvm.edu/hrs/handbooks-policies>, regardless of whether the Office of Equal Opportunity finds a violation of this Policy did or did not occur if unprofessional behavior is substantiated. The Office of Equal Opportunity must also notify the Complainant of the final outcome, and rationale therefore, of that disciplinary process where required by federal law or regulation.

When a Complaint is made about a unit, department, recognized or affiliated organization (as defined in University policy), or an organizational component of the University, the Office of Equal Opportunity will issue the written report to the appropriate Vice President, Dean, Director, senior organization leader, or student leader, as appropriate, and any other administrative official it deems appropriate.

#### TIMEFRAME FOR THE OFFICE OF EQUAL OPPORTUNITY PROCESS

The AAEO process requires timely response to reports during all stages of intake, review, and investigation following notice to the University of reported discrimination or discriminatory harassment. AAEO 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 Alternative Resolution process will be completed within sixty (60) days from the documentation of a complaint, as outlined in Step 2, above. However, in some circumstances, it may be necessary to extend the timeframe 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 the timeframe, both parties will be promptly notified of the revised (expected) timeframe. This timeframe does not include any resultant hearing or sanctioning process.

#### IMPARTIALITY

Individuals shall remove themselves from resolving a case if they believe that they cannot be impartial. Additionally, either party may seek the removal of an Office of Equal Opportunity 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. Such requests 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 Office of Equal Opportunity can facilitate remote participation based upon administrative need, as well as upon request.

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 Student Accessibility Services (students) or the ADA/504 Coordinator (employees and non-affiliates) to determine eligibility for, and the parameters of, such accommodations.

#### ROLE OF ADVISORS IN THE OFFICE OF EQUAL OPPORTUNITY'S PROCESS

In all the Office of Equal Opportunity proceedings covered by these Procedures, each party may choose to be accompanied by a support person of their choice, who shall be referred to as an Office of Equal Opportunity Process Advisor. The Office of Equal Opportunity Process Advisors may be attorneys retained by a party at the party's own expense, a friend or colleague, union representative, or a designated UVM employee who volunteers to serve in this capacity (see [the Office of Equal Opportunity Process Advisor](#) listing), but may not have any other role in the process (e.g. witness). 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 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 individual subjected to alleged discrimination or discriminatory harassment 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<sup>9</sup>.

Requests not to pursue a resolution, 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 seriousness of the alleged conduct, including whether force was used, whether the act was perpetrated with a weapon, or the alleged conduct was committed by multiple individuals;
- The age of the individual allegedly discriminated against or harassed;
- Whether the circumstances suggest there is an increased risk of the alleged Respondent committing additional prohibited acts, which necessarily includes whether there have been other complaints and/or disciplinary outcomes about the same individual and whether the Respondent threatened future acts;
- Whether the circumstances suggest there is an increased risk of future acts under similar circumstances at a given location or by a particular group;
- The ability of the University to respond to the report in another manner;
- Whether the University possesses other means to obtain relevant evidence;
- The parties' rights under the Family Educational Rights and Privacy Act (FERPA); and/or
- Whether the University is otherwise compelled to proceed by law.

#### DISMISSAL/REASSIGNMENT OF TITLE IX FORMAL COMPLAINTS; APPEAL RIGHTS

The Office of Equal Opportunity may dismiss or reassign a Formal Title IX Complaint, in whole or in part, to another University process at any time during the resolution process if (1) the Complainant notifies the Office of Equal Opportunity, in writing, that the Complainant would like to withdraw the complaint; (2) the Respondent is no longer enrolled or employed by the University; or (3) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.

Upon dismissal or reassignment of a Formal Title IX Complaint, the Office of Equal Opportunity will send written notice of the dismissal and the reason(s) therefore to both parties with an opportunity to appeal. Both parties may appeal to the Chief Human Resources Officer 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 Chief Human Resources Officer, 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 Chief Human Resources Officer, 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 Chief Human Resources Officer or designee. The Chief Human Resources Officer 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 Chief Human Resources Officer or designee will promptly notify both parties of the revised (expected) timeframe. The Chief Human Resources Officer 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 Office of Equal Opportunity, as warranted.

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<sup>9</sup> 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.

## 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.

Additionally, where conduct includes both Title IX Offenses and non-Title IX Offenses, the Office of Equal Opportunity may utilize the applicable Title IX resolution procedures to resolve non-Title IX Offenses or may process through concurrent or consecutive resolution processes. This decision is in the discretion of the Director and Title IX Coordinator.

## PROCESS FOR 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, Office of Equal Opportunity staff 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	<a href="mailto:equalopportunity@uvm.edu">equalopportunity@uvm.edu</a> (802) 656-3368
Emily McCarthy Title IX Coordinator	<a href="mailto:titleix@uvm.edu">titleix@uvm.edu</a> (802) 656-3368

## Forms/Flowcharts/Diagrams

- [Online Bias, Discrimination, & Harassment Incident Reporting Form](#)

## Related Documents/Policies

- [Bias Response Program](#)
- [Discrimination, Harassment, and Sexual Misconduct Policy](#)
- [Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents](#)
- [Equal Opportunity/Affirmative Action Policy Statement](#)
- [Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy](#)
- [Hearing Procedures for Title IX Offenses Involving Employee Respondents](#)

- [Hearing Procedures for Title IX Offenses Involving Student Respondents](#)
- Office of Equal Opportunity Case Handling Protocol, Including Examples of Discrimination and Harassment [forthcoming]
- [Sexual Conduct Education and Resource Website](#)
- [University Handbooks, Collective Bargaining Agreements, and Grievance Procedures for Employees](#)

## Training/Education

<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 procedure	<b>Delivered By:</b>	Office of Equal Opportunity <a href="http://uvm.edu/equal-opportunity">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 Procedure

<b>Responsible Official:</b>	Chief Human Resource Officer	<b>Approval Authority:</b>	Chief Human Resource Officer
<b>Affiliated Policy Number(s):</b>	V. 4.23.11, V. 4.24.11, V. 4.30.1	<b>Effective Date:</b>	August 14, 2020
<b>Revision History:</b>	<ul style="list-style-type: none"> <li>• Interim UOP approved October 4, 2018.</li> <li>• Interim status removed January 10, 2019</li> <li>• 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</li> <li>• 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</li> <li>• Interim status removed December 15, 2020</li> <li>• Revised August 26, 2022</li> <li>• Responsible official officially changed from the Vice President for Finance and Administration to the Chief Human Resource Officer October 3, 2022</li> <li>• Approved as interim August 25, 2023</li> </ul>		

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