



UNIVERSITY OPERATING PROCEDURE

Title: Discrimination, Harassment, and Non-Title IX Sexual Misconduct Sanctioning Procedures for Student Respondents

Overview

The University of Vermont assigns sanctions to students found responsible for non-Title IX Offense violations of the [Discrimination, Harassment, and Sexual Misconduct Policy](#) with the aim of preventing recurrence and remedying discriminatory effects of such violations, as appropriate, in accordance with this Operating Procedure.

Applicability of the Procedure

This UOP applies to all students.

Definitions

Sanctioning Official: A professional staff member designated by the Center for Student Conduct to render sanctions for Student Respondents.

For additional definitions related to these Procedures, please see: [Discrimination, Harassment, and Sexual Misconduct Policy](#).

Procedures

Administration of Sanctioning Process

Upon receipt of a Report of Investigation from the Office of Affirmative Action & Equal Opportunity (AAEO) that a student has violated the University's Discrimination, Harassment, and Sexual Misconduct Policy, the Center for Student Conduct will assign a staff member to serve as the Case Coordinator for the case at hand. The Case Coordinator's primary purpose is to facilitate the administration of the University's sanctioning process, including scheduling Initial Meetings with both parties, conducting those meetings, assigning Sanctioning Official(s) to the matter, and scheduling the Sanctioning Meeting. The Case Coordinator shall have no other role in the University's investigation, sanctioning, or appeal process.

The Case Coordinator is responsible for notifying both parties of the date and time of both their Initial Meeting and Sanctioning Meeting, to the extent required and permitted by federal law and University policy, which shall be scheduled as expeditiously as possible, taking into account the schedules of the Sanctioning Official(s) and the parties' academic schedules, as applicable. All notifications will be sent via the parties' official UVM email accounts.

Either party may submit a written request to the Case Coordinator to reschedule their Initial Meeting or the Sanctioning Meeting no later than 24 hours after receiving notice of the date and time of the meeting at issue. Requests will only be granted for good cause, at the discretion of the Case Coordinator, including consideration of whether rescheduling will unduly burden the other party or otherwise unreasonably delay resolution of the matter.

I. Conduct of Initial Meeting

Each party will be afforded the opportunity to meet with the Case Coordinator. The purpose of the Initial Meeting is to discuss the University's sanctioning process and answer any questions related to the process, as described herein. Participation in this meeting is not mandatory but is strongly encouraged. The decision of a party not to attend this meeting will in no way affect any sanction(s) imposed. Each party will be notified of their scheduled Initial Meeting within three (3) business days from the date the Report of Investigation is received in the Center for Student Conduct. The Initial Meeting will be scheduled within one (1) to two (2) weeks thereafter, absent extenuating circumstances.

II. Conduct of Sanctioning Meeting

Each party will be notified of their scheduled Sanctioning Meeting within three (3) business days following the completion of both parties' Initial Meetings. Sanctioning Meetings will typically be scheduled to occur within two (2) to three (3) weeks of the Initial Meeting, absent extenuating circumstances.

A. Purpose of Sanctioning Meeting

The sole purpose of the Sanctioning Meeting is to determine the appropriate sanction(s) for violations of the University's Discrimination, Harassment, and Sexual Misconduct Policy, as well as other violations of University policy arising out of the same incident, found by a preponderance of the evidence and detailed in the Report of Investigation. The Sanctioning Meeting is not the appropriate venue to appeal a finding of responsibility issued by AAEO.

In all cases, the sanctions issued will be commensurate with the nature and severity of violation(s) found to have occurred by a preponderance of the evidence. Sanctioning Officials take many factors into account when they consider what sanctions would be the most appropriate, given the facts and circumstances of the violation(s) at issue, keeping in mind that consistency and parity are essential to upholding the integrity of the sanctioning process. While many violations are factually similar, and reasonably call for similar sanctions, Sanctioning Officials may also consider whether circumstances particular to each case justify a different outcome. Such circumstances are referred to as "aggravating or mitigating factors." Examples of aggravating and mitigating factors include, but are not limited to:

Aggravating:

- Does the Report of Investigation show the incident was premeditated?
- Was this a repeat violation, and/or does the Respondent have a past student conduct history (maintained by the Center for Student Conduct or AAEO)? Did the Respondent have active sanctions when the incident occurred?
- Did the incident result in significant injury or harm to another person, property, or the University community? Does a continued risk of the same exist?
- Did the behavior at issue continue after intervention (e.g. request or demand that the behavior cease) on the part of the Complainant, the University, or law enforcement?
- Did the Respondent seek to threaten or purposefully intimidate the Complainant, witnesses, or others involved in the University's investigation or sanctioning process?

Was the incident motivated by an individual's involvement in the filing or investigation of a complaint (e.g. retaliation)?

- Was there an active attempt to conceal or hide the incident?
- Were remedial or protective measures instituted by the University or a public body (e.g. law enforcement or the courts) violated?
- Was the Respondent in a position of authority over, or in relation to, the Complainant? A position of authority may include, but is not limited to, a team captain or officer of a club in which the Complainant is a member, or where a Respondent is serving in a supervisory capacity, such as a Resident Advisor. It may also include situations where the Complainant was under the age of legal consent at the time of the incident.

Mitigating:

- Is there convincing evidence that the Respondent was provoked or pressured into the situation, even though the Respondent made a conscious choice to participate?
- Is there convincing evidence that the Respondent's ability to think rationally at the time of the incident was impaired by serious personal circumstances? Note: the consumption of alcohol or other drugs by the Respondent at the time of an incident is not a mitigating circumstance.
- Was the behavior committed in self-defense or defense of others?
- Does the Respondent demonstrate a clear understanding of the impact that their behavior has had on the Complainant and the community?
- Has the Respondent taken steps to positively address their behavior or otherwise educate themselves on issues of discrimination and harassment? Note: The Sanctioning Official(s) recognizes the parties have a right to appeal the investigation outcome; Respondent's disagreement with a finding of responsibility does not constitute an aggravating circumstance.
- Did the Respondent exhibit a significant amount of cooperation with University and/or public officials responding to the incident? Note: The Sanctioning Official(s) recognizes the parties have the option not to participate in the University process; Respondent's non-participation does not constitute an aggravating circumstance.

B. Composition of Sanctioning Meeting

Each Sanctioning Meeting will have two staff members from the Center for Student Conduct assigned as the Sanctioning Officials.

Both parties will receive written notice of the Sanctioning Officials' names via their official University e-mail account. Sanctioning Officials shall remove themselves from resolving a case if they believe that they cannot be impartial. Additionally, either party may seek the removal of a Sanctioning Official if they believe that said Sanctioning Official cannot be impartial by submitting a written statement to the Case Coordinator stating the specific reasons they believe said Sanctioning Official cannot be impartial. This written statement must be submitted to the Case Coordinator within 24 hours of receipt of the notice of the Sanctioning Officials selected to hear the case. If the Case Coordinator determines that the challenged individual may not be impartial, that individual will be removed from the meeting and a new Sanctioning Official will be selected. If at all feasible, the Sanctioning Meeting date will not be changed.

C. Information Considered by Sanctioning Officials

The Sanctioning Officials will review a copy of the AAEO Report of Investigation, and any appendices thereto, prior to the Sanctioning Meeting.

In addition to review of the AAEO Report of Investigation and findings, the Sanctioning Officials will consider other information presented by the parties relevant to sanctioning. Such information may be presented in the form of personal statement(s) at the Sanctioning Meeting (written or oral). If a party elects not to participate in the Sanctioning Meeting, but would like to submit a written statement, reasonably in advance, to the Coordinator, that statement will be read aloud by a Sanctioning Official at the meeting.

If either party wishes to have a third party address the Sanctioning Officials, in person or by written statement (which will be read aloud on their behalf by a Sanctioning Official), for the sole purpose of speaking to the existence of aggravating or mitigating circumstances, a summary of their expected statement(s), and their names, must be provided a minimum of two (2) business days prior to the scheduled Sanctioning Meeting. The Case Coordinator will review the summary of expected statement(s) by third parties and will assess their relevance to consideration of the appropriate sanctions. If the Case Coordinator determines that the expected statements are not relevant, they will exclude third parties from the Sanctioning Meeting. Third-party character statements are generally not considered relevant.

The Case Coordinator will inform the other party of the names of all third parties who will be permitted to address the Sanctioning Officials. Third parties not identified to the Case Coordinator in accordance with the provisions of this section will not be heard.

Requests for individuals to participate via remote audio or video device must also be submitted a minimum of two (2) business days prior to the scheduled Sanctioning Meeting to ensure appropriate technology is available. The identity of all individuals who provide statements to the Sanctioning Officials remotely must be made known. Sanctioning Officials will not accept or hear any information coming from an anonymous source.

D. Sanctioning Meeting Procedure

All proceedings are closed. Both parties and their respective AAEO Process Advisors may be present throughout the Sanctioning Meeting. Third party witnesses, if any, shall be present only during their own statements.

Sanctioning Officials are responsible for maintaining order during the meeting and may take all steps reasonably necessary to ensure an orderly meeting up to and including removal of disruptive individuals.

Sanctioning Meetings are not recorded; the Sanctioning Officials' decision letter serves as documentation of the information presented.

At the beginning of the Sanctioning Meeting, Sanctioning Officials shall introduce themselves, each party, and their advisors. The Sanctioning Officials shall also confirm that both parties have received and had an opportunity to read the AAEO Report of Investigation.

Both parties will have the opportunity to ask any initial questions concerning the process at this time.

Both parties will be given the opportunity to provide personal statement(s) to the Sanctioning Officials addressing the existence of aggravating or mitigating circumstances. After each party has had the opportunity to provide a personal statement, the Sanctioning Officials will then hear from third parties, provided advance notice of their appearance and general content of their statement(s) was provided to the Case Coordinator in accordance with these Procedures. Please note that a third party who provides a statement to a Sanctioning Officials may not serve in any other capacity during the meeting (e.g., advisor).

Sanctioning Officials, in their discretion, may ask questions of any individual making a statement. However, no individual addressing Sanctioning Officials is required to answer any questions that Sanctioning Officials pose. Participation in the sanctioning process is strictly voluntary. After Sanctioning Officials are satisfied with their opportunity to ask questions, the Sanctioning Officials shall invite both parties to make any final statement(s) regarding sanctions, including providing a response, if they would like, to any statement(s) provided by others at the Sanctioning Meeting.

At the conclusion of the Sanctioning Meeting, Sanctioning Officials will advise both parties of the timeframe for issuance of the decision letter, and will provide information about the University's appeal process. The Sanctioning Meeting will then be considered closed, and further information will not be considered by the Sanctioning Officials in rendering a sanctioning decision.

III. Issuance of Sanction(s)

A. Decision Letter

The Sanctioning Officials shall compose and send the sanctioning decision to both parties' official University email address, to the extent required and permitted by federal law and University policy. The decision letter will state what information was considered and a rationale for the decision that was reached. Additionally, the decision letter will reiterate the parties' right to appeal, as detailed in the University's Discrimination, Harassment, and Sexual Misconduct Policy. The decision letter will be sent to both parties no later than five (5) business days from the date of the Sanctioning Meeting, absent extenuating circumstances.

B. Sanction Descriptions

Sanctions that may be imposed include, but are not limited to, the following:

Probation: An official notice indicating that subsequent violations of University policy will result in a review for suspension or dismissal from the University.

Educational Sanctions: The Sanctioning Officials may require completion of a variety of educational sanctions, examples of which may include (1) a reflective essay or a research paper on a designated topic, (2) creating or attending a program, reading books, watching videos, (3) a formal apology, in writing or in person, (4) a presentation, or (5) alcohol or other drug education or referral.

Fines or Fees: The Respondent must pay all fines or fees associated with required education, consultations, and classes, as well as those for sessions with a Certified Drug and Alcohol Counselor. Such fines may be billed to a student's financial account.

Community Restitution: The Sanctioning Officials may also require performance of a specified number of community restitution hours. This sanction will be fulfilled either on or off campus, as specified. On campus service will take place in a specified department.

Suspension from Residence Halls: This sanction prohibits the student from residing in any University operated residence hall on either a temporary or a permanent basis. The Respondent may reapply for housing after the stated period of suspension. Specific restrictions on access to residence halls during the period of suspension may also be imposed.

Suspension from the University: This sanction separates the student from the University for a specified period of time. This sanction prohibits attendance at any classes and participation in

the University Study Abroad program during the suspension period. The terms of the suspension may restrict access to University grounds or buildings, as well as attendance at University-sponsored social events, or other functions, as deemed appropriate by the Center for Student Conduct. The student may not register or enroll until the stated period of suspension is completed and any requirements for the period of suspension are fulfilled.

Deferred Suspension: This sanction is offered to students in lieu of suspension from the University of Vermont and serves as a designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the University's expectations of behavior. The duration of any deferred suspension period, and the specific restrictions imposed, will be determined by the Sanctioning Officials on a case-by-case basis. During a deferred suspension period, the student may continue to attend classes. However, the underlying suspension will be automatically enforced for failure to complete any assigned deferred suspension program or other imposed sanction by the deadline, or for any subsequent violation of University policy. Acceptance into a deferred suspension program is contingent upon successful application.

Dismissal: This sanction separates the student permanently from the University of Vermont.

In addition to the sanctions listed above, the Center for Student Conduct may place a hold on the student's future registration privileges with the University should there be any incomplete sanctions. Such a hold results in a cancellation of all pre-registered courses. The hold remains in effect until the outstanding student conduct matter and sanctions have been resolved.

Additionally, a student who fails to comply with sanctions imposed will be billed a \$150 noncompliance fee to the student's account, and the Center for Student Conduct may impose additional sanctions on the Respondent, up to and including dismissal from the University.

C. Role of AAEO Process Advisors in Sanctioning Process

Each party is entitled to be supported by one (1) AAEO Process Advisor of their choice at both the Initial Meeting and Sanctioning Meeting. While bringing an advisor to the Initial Meeting and Sanctioning Meeting is not required, it is strongly encouraged.

Advisors are permitted to speak during the Initial Meeting for the purpose of seeking clarification on these procedures. The Case Coordinator will not, however, engage in discourse about the AAEO Report of Investigation. The role of advisors during the Sanctioning Meeting is restricted to providing support to, or otherwise privately consulting with, their advisee. Advisors may not speak on behalf of their advisee or otherwise directly participate in the Sanctioning Meeting. If an advisor does not abide by the rules for participation in either setting, the advisor will be asked to leave.

IV. Appeal Procedures

A. Bases for Appeal

Either party may appeal the final AAEO decision and/or any resulting sanction(s) 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 Investigator or Sanctioning Official.

B. Submitting an Appeal

To appeal, a party must submit a written statement to the Dean of Students or designee within five business days of the date of the sanctioning decision 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 Dean of Students, or designee, shall then provide a copy of the written appeal and any supporting documentation to the other party. The other party may submit a written response to the appeal to the Dean of Students, or designee, within five business days of the date the appeal was sent to that party. A copy of this response, if any, will be sent to the appealing party from the Dean of Students or designee.

C. Written Appeal Decision

The Dean of Students 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 Dean of Students or designee will promptly notify both parties of the revised (expected) timeframe. The Dean of Students 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, modify, or overturn the original investigative and/or sanctioning decision, or, in appropriate cases, refer the matter back to AAEO. The appeal decision rendered by the Dean of Students or designee is the final action taken by the University.

Additionally, if the Respondent is a student in a program with established professional standards: At the conclusion of the applicable appeal period outlined above, the 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. While the decision of AAEO, the Center for Student Conduct, and the Appellate Official shall be considered final following expiration of the applicable appeal period, the Respondent's program may also, in its discretion, review conduct under the program's established professional standards to determine whether any additional, program-specific disciplinary action is needed.

Contacts

Questions concerning the daily operational interpretation of this UOP should be directed to the following:	
Title(s)/Department(s):	Contact Information:
Center for Student Conduct	Nicholson House 41 South Prospect Street sconduct@uvm.edu (802) 656-4360
Office of Affirmative Action and Equal Opportunity	428 Waterman Building aaeo@uvm.edu (802) 656-3368
Vice Provost for Student Affairs	Nicholson House 41 South Prospect Street (802) 656-3380

Forms/Flowcharts/Diagrams

- [Bias, Discrimination, and Harassment Reporting Form](#)

Related Documents/Policies

- [Discrimination, Harassment, and Sexual Misconduct Policy](#)
- [Handling and Resolving Discrimination, Harassment, and Sexual Misconduct Complaints](#)

Training/Education

Training related to this procedure is as follows:

Training Topic:	Discrimination and harassment offenses and how to conduct an impartial sanction process		
Training Audience:	Center for Student Conduct Staff	Delivered By:	Title IX Coordinator and Student Conduct Institute
Method of Delivery:	In-Person and Remote	Frequency:	Provided Annually.

About This Procedure

Responsible Official:	Vice Provost for Student Affairs	Approval Authority:	Vice Provost for Student Affairs
Affiliated Policy Number(s):	V. 4.30.1	Effective Date:	August 13, 2020
Revision History:	<ul style="list-style-type: none"> • Removed interim status February 28, 2019 • Interim procedure approved October 17, 2018 • Replaces the Procedural Guidelines for Handling and Resolving Discrimination Complaints procedure and Discrimination and Harassment Sanctioning Procedures for Student Respondents procedure August 13, 2020 		