

Virginia State University Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

Purpose

The purpose of this policy is to establish clearly and unequivocally that Virginia State University prohibits sexual assault, harassment, dating violence, domestic violence, stalking and retaliation as well as any other sexual misconduct by individuals subject to its control or supervision. Additionally, this policy will outline the procedures for reporting any such incidents, filing a complaint, and establishing appropriate disciplinary sanctions and corrective actions against those found in violation of the Virginia State University Sexual Misconduct, Interpersonal Violence and Retaliation Policy. Lastly, this policy will delineate the rights of the victim and the accused, outline the protocol for responding to complaints of sexual misconduct and describe the education and awareness programs provided by the University.

Authority, Responsibility, and Duties

This policy governs the conduct of all university employees (faculty, administrators, and staff) students and visitors (including, but not limited to, students participating in camp programs, non-degree seeking students, exchange students, when on the campus of Virginia State University, on university property, or in facilities, owned, or controlled by Virginia State University, or being utilized for university-related events. Any exceptions in the application or enforcement of these policies must be approved by the President of Virginia State University or his/her designee. This policy also is applicable to any conduct that occurs off campus that has continuing effects that create a hostile environment on campus. Allegations of on-campus or off-campus violations of this policy should be reported to the Title IX Coordinator in accordance with the guidance below and the Discrimination Grievance Procedures. This policy replaces Policy #1101 Prohibition of Workplace Harassment.

Policy Statements

Virginia State University is a community of trust, collegiality and mutual respect whose existence depends on strict adherence to standards of conduct set by its members. The University is committed to maintaining an environment that is safe and free from harassment, sexual assault, stalking, dating and domestic violence, and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law. In pursuit of this goal, any question of impermissible discrimination on these bases will be addressed with efficiency and energy and in accordance with this policy and the Discrimination Grievance Procedures. (Appendix A) The Sexual Misconduct, Interpersonal Violence, and Retaliation Policy and the Discrimination Grievance Procedures also address complaints or reports of retaliation against those who have opposed practices prohibited by this policy, those who have filed complaints or reports under this policy, and those who have testified or otherwise participated in enforcement of this policy. The University will not tolerate acts of sexual misconduct against its students, faculty, staff, approved volunteers or visitors. In an ongoing effort to prevent and appropriately respond to sexual assaults, stalking, and relationship violence, the University does the following:

1. Investigates complaints of harassment, sexual assault, stalking, and relationship violence;

Revised Date: December 5, 2014

Page | 1

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

2. Dispenses corrective or disciplinary action where appropriate;
3. Provides information on obtaining appropriate counseling and medical care;
4. Provides victims with information on pursuing criminal or other legal action; and
5. Provides and describe in the annual security report, ongoing awareness education and prevention programs for students and employees.

Prohibited Acts

A. The following acts are prohibited and therefore are policy violations:

1. Engaging in sexual assault, harassment, stalking, or relationship violence or any other act of sexual misconduct;
2. Retaliating in any manner against an individual who reports sexual assault, harassment, stalking, or dating violence or any other act of sexual misconduct;
3. Interfering with procedures to investigate or redress a complaint of sexual assault, harassment, stalking, or dating violence or any other act of sexual misconduct; and
4. Making an intentionally false accusation of sexual assault, harassment, stalking, or dating violence or any other act of sexual misconduct through the University's procedures.

B. Any member of the University community who engages in one of these prohibited acts against any other member of the University community may be subject to corrective action, inclusive of sanctions, termination, and/or legal prosecution.

Definitions

A. Discrimination is inequitable and unlawful treatment based on an individual's protected characteristics or statuses -- race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, disability, or any other status protected by law -- that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an educational program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

B. Harassment is a form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of his or her protected characteristics or statuses, by any member of the campus community. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment violates this policy when it creates a hostile environment, as defined below.

C. Sexual harassment is a form of discrimination based on sex. It is defined as

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature including: verbal (e.g., specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures); or physical (e.g., touching, pinching, brushing the body, any unwelcome or coerced sexual activity, including sexual assault). Sexual harassment, including sexual assault, can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes.

This policy prohibits the following types of sexual harassment:

a. Term or condition of employment or education. This type of sexual harassment (often referred to as "quid pro quo" harassment) occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a Virginia State University activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a Virginia State University program or activity.

b. Hostile environment. Acts that create a hostile environment, as defined below.

D. Hostile environment may be created by oral, written, graphic or physical conduct that is sufficiently severe, persistent or pervasive and objectively offensive that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs, services, opportunities, or activities or the individual's employment access, benefits or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (e) the nature of higher education.

Sexual Misconduct includes sexual assault, sexual exploitation, dating violence domestic violence and stalking.

E. Sexual Assault is non-consensual contact of a sexual nature. It includes any sexual contact when the victim does not or is unable to consent through the use of force, fear, intimidation, physical helplessness, ruse, impairment or incapacity (including impairment or incapacitation as a result of the use of drugs or alcohol, knowingly or unknowingly) when the victim does not give or is unable to give consent; intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch, a person's genital area, groin, inner thigh, buttock or breast; and non-consensual sexual intercourse, defined as anal, oral, or vaginal

Revised Date: December 5, 2014

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

penetration with any object. Some types of sexual acts which fall under the category of sexual assault include the following: rape, attempted rape and fondling.

Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling is defined as the unwanted touching of the private parts of another person or forcing an unwilling person to touch another person's intimate parts (e.g. genitalia, groin, breast or buttock, or clothing covering them) for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

F. Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.

Consent cannot be granted by an individual who:

1. Is incapacitated by any drug or intoxicant;
2. has been purposely compelled by force or threat of force;
3. is unaware that the act is being committed;
4. is impaired because of a mental or physical condition;
5. is coerced by supervisory or disciplinary authority; or
6. is less than the statutory age of consent.

G. Coercion is unreasonable pressure for sexual activity. Coercion cannot be used to obtain consent. Coercion includes the use of physical force, threats, and intimidating behavior to get another party to engage in sexual activity. When someone makes it clear that he or she does not want to be a part of such sexual activity, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

H. Incapacitation occurs when an individual is unable to give consent because she or he is mentally and/or physically helpless, unconscious, or unaware, due to drug or alcohol consumption (voluntarily or involuntarily) or for some other reason. Engaging in sexual activity with someone a person knows to be – or should know to be – mentally or physically incapacitated is non-consensual and a violation of this policy. Mental or physical incapacitation can be a result of alcohol or other drug use, unconsciousness, blackout, sleep, involuntary physical restraint, or consuming so-called “date-rape” drugs, Rohypnol, Ketamine, Gamma Hydroxybutyrate (GHB), Burundanga, etc.

I. Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual

Revised Date: December 5, 2014

Page | 4

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

exploitation includes prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensual distribution of photos, or postings (such as audio, video, images, or transcriptions) of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism and observation of people engaging in intimate behaviors, performing normal bodily functions, or displaying various states of undress without the person's consent; knowingly transmitting a sexually transmitted infection (STI); or exposing one's genitals to another in a non-consensual circumstances, or inducing incapacitation with the intent to engage in sexual misconduct.

- F. Stalking** is a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for her, his or others' safety, or (ii) suffer substantial emotional distress, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Examples include, but are not limited to:

1. Following a person;
2. Appearing uninvited and unwanted at their home, place of business, or classroom;
3. Making harassing phone calls;
4. Mailing written messages, or sending electronic messages, including but not limited to e-mail, voice-mail, text messaging, and use of GPS and social networking sites;
5. Leaving messages or objects at a person's home, place of business, vehicle, or classroom;
6. Stealing personal property and identity information
7. Vandalizing personal property; and,
8. Posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth.

G. Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. A social relationship of a romantic or intimate nature means a relationship which is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship will be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse. Dating violence does not include acts covered under the definition of domestic violence.

H. Domestic Violence is a pattern of behavior, including acts or threatened acts, that includes asserted violent misdemeanor and felony offenses committed by (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the Commonwealth of Virginia; or (v) by any other person

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

- I. Relationship Violence** is a term used to reference conduct associated with dating or domestic violence.

Retaliation Prohibited

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, sexual harassment, or sexual misconduct or any person cooperating in the investigation of allegations of discrimination, sexual harassment, or sexual misconduct to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Discrimination Grievance Procedures is strictly prohibited by this policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, sexual harassment or sexual misconduct

Reporting and Filing Complaints

Complaints and reports of discrimination, retaliation, sexual misconduct, and sexual harassment should be made to the Title IX Coordinator. VSU's Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual harassment, or sexual misconduct in accordance with the Discrimination Grievance Procedures. Employees receiving such reports or complaints should immediately notify the Title IX Coordinator and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator.

The Virginia State University's Title IX Coordinator is Julia Walker. The Deputy Title IX Coordinators are Deborah Mallory and Sachiko Goode. Their contact information, including that for other members of the Title IX Team are listed below:

Julia Walker
Room 101 Virginia Hall
804-524-1007 or 804-524-5090
jawalker@vsu.edu

Sachiko Goode
Room 201 Virginia Hall
804-524-5305 or 804-524-5090
sgoode@vsu.edu

Deborah Mallory
Athletics Building

Revised Date: December 5, 2014

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

20720 4th Avenue
804-524-5571 or 804-731-0945
dmallory@vsu.edu

Confidential and Anonymous Reporting.

Confidential reporting resources are available on campus in the Counseling Center, Student Health and United Campus Ministries. Licensed mental health providers, medical providers, and the campus minister are the only persons who may guarantee confidentiality on campus. Off campus confidential counseling resources are listed below. VSU officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to make a confidential report, it must be made to physicians and other medical personnel at Student Health Services or Counseling Center staff. These individuals will encourage victims to make a report to VSU police, the Title IX Coordinator, or local law enforcement.

The victim- otherwise called the complainant- and the accused - otherwise called the respondent - should ask about confidentiality before reporting to other offices because other offices are limited in their ability to maintain confidentiality. Students and student organizations cannot keep reports confidential, even if working with officials above that are able to maintain confidentiality of reports. Other faculty and staff receiving reports of conduct in violation of this policy are mandated reporters but will maintain privacy to every extent possible without compromising VSU's ability to investigate and respond in accordance with applicable law and regulations. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation. If the complainant requests confidentiality or that the complaint not be pursued, the University may also be limited in the actions it is able to take and its ability to respond.

Reporting

The University strongly encourages the reporting of all incidents of sexual misconduct to the appropriate university officials. A report is an account or description of a specific incident. There is no time limit for filing a complaint of sexual misconduct. However, complainants should report as soon as possible to maximize the University's ability to respond. Failure to report promptly could result in the loss of relevant evidence and impair VSU's ability to adequately respond to the allegations. The reporting person has the right to file a complaint with law enforcement and the option to be assisted by the Title IX Coordinator and other University authorities in notifying the proper law enforcement authorities of the alleged sexual misconduct. An incident may be reported without filing a formal complaint.

- A. Filing a formal complaint is a written or verbal request for the University to investigate an incident and take appropriate actions. The University will investigate all formal complaints of sexual misconduct and will take appropriate disciplinary or corrective action in each

Revised Date: December 5, 2014

Page | 7

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

instance. A detailed description of the investigation procedures is found in the Discrimination Grievance Procedures. The University will investigate informal and formal complaints of sexual misconduct in a manner that preserves to the greatest extent possible the confidentiality of both parties.

- B. A student or employee, who files a formal complaint of sexual misconduct, will be provided a written explanation of her or his rights and options found in the Trojan Bill of Rights. (Appendix B) The information provided will include options for criminal or other legal action and information on health care, counseling and other support services available for students, faculty, staff, and visitors who have reported sexual assault, stalking, or relationship violence. The reporting person has the right to choose whether or not to file a formal complaint. In addition to pursuing administrative penalties through a disciplinary hearing and remedies at the University, the reporting person or complainant maintains the right to pursue criminal charges.
- C. The university's complaint procedure provides for prompt, adequate, and impartial investigation of all claims of sexual misconduct. When an incident has been reported, the University will take appropriate remedial action that is commensurate with the severity of the offense.
- D. The University encourages individuals who make a report or file a formal complaint of sexual assault, stalking and relationship violence, regardless of where the report is made, to also contact the Sexual Assault Services Coordinator for assistance. The Coordinator will assist the victim in accessing and navigating services, resources, and referrals both on and off campus
- E. Sexual assault, stalking and relationship violence may be reported to VSU Department of Police and Public Safety, local law enforcement, Sexual Assault Services, Student Conduct, Vice President of Student Affairs, Associate Vice President of Human Resources, Title IX Coordinator, or anonymously to a Campus Security Authority (CSA).

Campus Security Authority

A Campus Security Authority (CSA) is an official of an institution who has a significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. CSAs should explain to the reporting person how to get assistance; CSAs should also share with the reporting person written information that explains the rights of victims. For reporting persons who do not wish for the report to go any further than the CSA, the CSA should explain that he or she is required to submit the report for statistical purposes; however, the report will not identify the reporting person or the victim. Upon receiving a report of sexual misconduct, the CSA should submit the reporting form to the campus police station, in person or electronically, as soon as possible but not later than 48 hours after receiving the report.

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

Campus Reporting and Investigation:

Julia Walker, Title IX Coordinator	VSU Police
Virginia Hall	(804) 524-5411 or (804) 524-5360
P.O. Box 9412	Address: 21012 Service Rd Email: Police@vsu.edu
804-524-1007 or 804-524-5090	
jawalker@vsu.edu	Office of Student Conduct
	(804) 524-5866 or (804) 524-5504
Sachiko Goode, Deputy Title IX Coordinator	Foster Hall room 306
Virginia Hall	
Office of the Provost	VP of Student Affairs
804-524-5305	(804) 524-5350
s.goode@vsu.edu	
	Office of Human Resources
Deborah Mallory, Deputy Title IX Coordinator	(804) 524-5090
20720 4th Avenue	
Athletics	Sexual Assault Services
804-524-5571`	(804) 524-6942 or (804) 524-5939
dmallory@vsu.edu	Memorial Hall room 401

Timely Warnings

VSU is required by federal law to issue timely warnings for reported incidents that pose a significant threat of bodily harm or danger to members of the campus community. The University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the VSU community to make decisions to address their own safety in light of the potential danger.

Sexual Misconduct Survivor Procedures and Services

Individuals who experience sexual assault or relationship violence are strongly encouraged to seek medical attention and to be examined for physical injury, the presence of sexually transmitted diseases, or pregnancy.

Medical Care and Preservation of Evidence. An individual who has been sexually assaulted should seek medical care and a forensic examination as soon as possible after the assault at one of the local hospitals listed below. An individual may request a Sexual Assault Advocate at any hospital, if one is not provided.

Revised Date: December 5, 2014

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

It is important for the individual to be examined within 72 hours of the assault to recover physical evidence. The Preliminary Evidence Recovery Kit (PERK) is a free exam that is used to collect evidence. Preserving evidence is often a key step in the successful investigation of alleged sexual misconduct.

Individuals have the right to have evidence collected and retained anonymously by law while they consider whether or not to pursue criminal charges.

Individuals who have been assaulted can enhance the preservation of physical evidence if they Do not wash their hands, bathe, douche, or urinate until after the forensic examination;

Do not eat, blow their noses, drink liquids, smoke or brush their teeth if oral contact took place until after the forensic examination;

1. Do not change clothes until after the forensic examination. Individuals who change clothes should place in a paper bag the clothing worn during the assault and take the bag with them to the forensic examination;
2. Do not clean or straighten the location of the crime until law enforcement officials have an opportunity to collect evidence;
3. Do not erase or destroy text messages, pictures, online postings, video and other documentary or electronic evidence that may corroborate a complaint.

On-campus care For Virginia State University students, medical care/consultation is available at Student Health Services if the complainant chooses not to go to the hospital. Student Health Services provides pregnancy and STI testing, and prophylactic treatment for STIs.

Students may obtain taxi vouchers for transportation to a medical facility for the forensic or PERK exam. A taxi voucher is obtained from Student Health Services, Counseling Services or Residence Life staff. Transportation by ambulance is obtained by dialing 911. The campus police can assist in transporting individuals who choose to report to law enforcement.

Hospitals:

VCU Health System, Medical College of Virginia
Forensic Nurse Examiner available 24 hours (804) 828-5250
1006 E. Marshall St. Richmond, VA 23298

Bon Secours St. Mary's Hospital
Forensic Nurse Examiner available 24 hours (804) 285-2011
5801 Bremond Rd. Richmond, VA 23226

Southside Regional Medical Center
(804) 765-5000
200 Medical Park Boulevard – Petersburg, VA 23805

Revised Date: December 5, 2014

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

Campus Support Resource Numbers:

Counseling and Support Services (All offices are located in Memorial Hall):

Sexual Assault Services..... (804) 524-6942 or (804) 524-5939

Counseling Services..... (804) 524-5939 or (804) 524-5061

Student Health Services..... (804) 524-5711

Free Off Campus Counseling Resources:

The James House 24 hr. Hotline/TTY (804) 458-2840

Chesterfield Domestic and Sexual Violence Resource Center..... (804) 318-8265

YWCA Domestic and Sexual Violence Hotline.....(804) 643-0888

LGBTQ Partner Abuse & Sexual Assault Helpline 1-866-356-6998

Criminal Reporting

- A. If a victim is in immediate danger or needs immediate attention, the individual should contact 911 or use the emergency call box (blue emergency lights) to connect directly to the campus police station. Some conduct in violation of this policy may also be a crime under Virginia law. Individuals are encouraged to report incidents of sexual misconduct to law enforcement; even if the reporting individual is not certain if the conduct constitutes a crime. Crimes dealing with minors must be reported to law enforcement.
- B. Reports of sexual misconduct made to campus police will automatically be referred to the Title IX Coordinator for investigation whether the complainant chooses to pursue criminal charges or not. A student or employee, who reports sexual misconduct, will be given a written explanation of his or her rights and options found in the Trojan Bill of Rights.

Amnesty for Other Violations

The University encourages reporting of incidents of sexual misconduct. Sometimes, complainants are hesitant to make reports because they fear that they may be charged with violations of the Student Code of Conduct, such as underage drinking at the time of the incident. To encourage reporting of sexual misconduct incidents, the University will consider all factors and exercise discretion on a case by case basis towards a complainant with respect to taking action for other violations of the Student Code of Conduct.

Interim Measures

During the investigation and resolution of complaints, the University may take interim measures to protect the complainant and other members of the VSU community from any harassment, discrimination, retaliation, and/or further violation perpetrated by the accused individual. If in the judgment of the Vice President of Student Affairs, Title IX Coordinator or other VSU administrative leader, the accused individual jeopardizes the safety and well-being of any member of the VSU community, the University may provide interim remedies to address the situation. To the degree feasible, VSU will seek the consent of the complainant before taking

Revised Date: December 5, 2014

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

interim measures. Interim measures may include, but are not necessarily limited to, changing class schedules and housing, enforcing no-contact orders, barring access to campus, utilizing escorts on campus, requiring referral and coordination of counseling and health services, and modifying work, academic or training requirements. The University may temporarily reassign or place on administrative leave an employee alleged to have violated the University's Sexual Misconduct, Interpersonal Violence and Retaliation Policy. In such a situation, the employee will be given the opportunity to meet with the Title IX Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented.

Student Investigation Procedures

Criminal investigations will be conducted by the Virginia State University Department of Police and Public Safety. In cases where students face criminal charges in the Commonwealth of Virginia's court system, or are the subject of a criminal investigation by a law enforcement agency other than the Virginia State University Department of Police and Public Safety, the University's Student Conduct office hearing procedures will commence at the conclusion of those proceedings. When a case is not pursued by the Commonwealth's Attorney, the campus police investigator will notify the complainant and respondent and refer the case to the Student Conduct Office for a hearing.

Administrative Investigation. The University, in the interest of safety, may be obliged to pursue complaints through internal disciplinary procedures without the cooperation of the complainant. In such instances, the University will inform the complainant of its obligation to address the issue. The Title IX Coordinator will provide for the adequate, reliable, and impartial investigation of all complaints. Administrative investigations of student versus student complaints will be coordinated by the Director of the Office of Student Conduct or his/her designee. Cases will be conducted by hearing officers who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and on best practices in student investigation and hearing processes that protect the safety of victims and promote the accountability of the accused .

Employee Investigative Procedures

Administrative investigations of student versus employee complaints will be coordinated by the Associate Vice President of Human Resources with support from the Director of the Department of Student Conduct. Administrative investigations of employee versus employee complaints will be coordinated by the Associate Vice President of Human Resources and/or designee.

Rights of the Complainant and the Respondent

Regardless of whether or not a complainant elects to pursue a hearing or whether or not the incident is alleged to have occurred on or off campus, the University will assist complainants of sexual assault, domestic violence, dating violence, and stalking and will provide each

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

complainant with a written explanation of her or his rights and options (see Trojan Bill of Rights in the appendix).

1. Confidentiality of the names of both parties and personally-identifiable information will be protected and excluded from timely warning, emergency notifications and record-keeping such as Campus Security Authority reports. Personally-identifiable information will be safeguarded in disciplinary proceedings and criminal investigations.
2. Both parties are entitled to the same opportunities to attend any pre-hearing and to review each other's written statements, and have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.
3. Both parties have the right to change university housing and academic arrangements if requested and such changes are reasonably available.
4. Both parties have the right to have access to existing campus mental health and support services.
5. A complainant who obtains an Order of Protection from Virginia should provide a copy to campus police and the Title IX Coordinator. A complainant may then meet with campus police to develop a Safety Action Plan, which is a plan for campus police and the complainant to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to, escorts, special parking arrangements, or independent study arrangements.

Corrective Actions and Disciplinary Procedures

1. If the respondent is a student, the University utilizes the process outlined in the Code of Student Conduct. Mediation or informal, cooperative resolution is not appropriate in cases of sexual misconduct.
2. If the respondent is a faculty or staff employee, the University utilizes the process outlined in the Faculty Handbook, administrative regulations, Human Resources Policies and Procedures, and other applicable university policy.
3. The Sexual Assault Services Coordinator, in consultation with the Vice President of Student Affairs or designee, Office of Human Resources, and/or the Office of University Counsel, can advise a complainant of the procedures applicable in a given case.
4. **Standard of Evidence.** In accordance with the Office on Civil Rights (OCR), a preponderance of the evidence is the standard for investigation and conduct of student discipline proceedings in domestic violence, dating violence, sexual assault, and stalking cases. The "preponderance of the evidence" standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that the alleged misconduct occurred. Decisions based on a preponderance of evidence may not meet other evidentiary standards required for a finding of guilt in criminal proceedings.

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

5. Sanctions that may be imposed for students resulting from the University disciplinary process include verbal warning, written reprimand, denial of specified university privileges, fines, restitution, removal of the student from the course in progress, community service, probation, mandatory assessment or education program, suspension, and expulsion.
6. Sanctions that may be imposed for faculty, staff, and approved volunteers include verbal warning, written reprimand, denial of specified university privileges, suspension, mandatory participation in employee assistance program, and termination of employment.
7. Both the complainant and the respondent shall be informed simultaneously and in writing of the outcome of any institutional disciplinary proceeding, appeal procedures; any change to the result before it becomes final; and when the result becomes final.

Education and Prevention Programs

The University engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end discrimination, sexual harassment, dating violence, domestic violence, sexual assault and stalking that:

- A. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- B. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and employees that:

1. identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct and uses definitions provided both by the Department of Education as well as state law to categorize such behaviors;
2. defines sexual misconduct, coercion, and consent, and the behaviors and actions that constitute consent to sexual activity in the Commonwealth of Virginia and/or uses the definition of consent found in the Sexual Misconduct Policy;
3. provides a description of safe and positive options for bystander intervention. Bystander interventions are safe and positive options that may be carried out by an individual or individuals to prevent harm or to provide intervention when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and

Revised Date: December 5, 2014

Page | 14

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;

4. includes information on risk reduction. Risk reductions are options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence;
5. explains statistics and risk factors for sexual assault; explains the role of alcohol and drugs in sexual assault; identifies the rights of victims and accused; explains confidentiality and reporting options;
6. includes disciplinary procedures and sanctions; resources available on campus and in the community which include advocacy, counseling, medical attention, and law enforcement regulations and web-based resources; the VSU Sexual Misconduct, Interpersonal Violence and Retaliation Policy; and provides an overview of information contained in the Annual Security Report in compliance with the *Clery Act*.

Academic Freedom and Free Speech

This policy does not allow curtailment or censorships of constitutionally protected expression, which is valued in higher education. In addressing all complaints and reports of alleged violations of this policy, the University will take all permissible actions to ensure the safety of students and employees while complying with any and all applicable guidance regarding the free speech rights of students and employees. This policy does not in any way apply to curriculum and curriculum decisions or abridge the use of particular textbooks or curricular materials.

References

Virginia State University Procedures Discrimination and Grievance Procedures (Appendix A)
Virginia State University Trojan Bill of Rights (Appendix B)
Virginia State University Violence Prevention/Threat Assessment
Virginia State University Student Code of Conduct
Virginia State University Protocol for Student Administrative Withdrawal for Medical, Emotional or Psychological Emergencies

Other Resources:

Rape, Abuse and Incest National Network - <http://www.rainn.org>
Department of Justice - <http://www.ovw.usdoj.gov/sexassault.htm>
Department of Education, Office of Civil Rights -
<http://www2.ed.gov/about/offices/list/ocr/index.html>
The White House Task Force Report to Protect Students from Sexual Assault
<https://www.notalone.gov/assets/report.pdf>

Revised Date: December 5, 2014

Virginia State University
Policies Manual

Title: DRAFT Sexual Misconduct, Interpersonal Violence and Retaliation Policy

Approval By: _____
President

Date: _____