



Vermont  
College of  
Fine Arts

**Vermont College of Fine Arts  
Sexual Misconduct, Domestic Violence, Dating  
Violence and Stalking Policy and Procedures**

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## **Notice of Nondiscrimination on the Basis of Sex**

Vermont College of Fine Arts complies with Title IX of the Higher Education Amendments of 1972, which states:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

In accordance with Title IX requirements, VCFA prohibits discrimination on the basis of sex in all educational programs, activities or employment practices. This includes but is not limited to: admissions, academic programs, recruiting, financial aid, recreation, housing, and employment. Prohibited sex discrimination includes sex--based discrimination, sexual violence, and sexual misconduct as described in this policy. Title IX protects all people regardless of their gender from sex discrimination.

For more information on Title IX and VCFA compliance and standards, see below regarding the College's Title IX Coordinator.

### **Title IX Coordinator**

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the College's Title IX Coordinator has primary responsibility for coordinating the College's efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all the operations of the College, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.

David Markow and Jericho Parns are the College's Title IX Coordinators, and is responsible for coordinating the College's efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator's responsibilities are outlined in greater depth below, but the Title IX Coordinator's core responsibilities include overseeing the school's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. To accomplish this, subject to the exemption for confidential employees discussed below, the Title IX Coordinators must be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. The Title IX Coordinators is available to respond to inquiries regarding violations of this policy, including sex based discrimination or sexual misconduct, and to meet with students, employees or third parties regarding Title IX related issues, such as issues related to the College's compliance with Title IX, response to Title IX reports or complaints, related grievance procedures,

relevant patterns of conduct, or related education and prevention programs. The contact information for the Vermont College of Fine Arts Title IX Coordinator is:

David Markow  
Vice President for  
Student Services  
Title IX Coordinator  
36 College Street, Montpelier VT 05602.  
Telephone: 802-828-8535.  
Email: [David.Markow@vcfa.edu](mailto:David.Markow@vcfa.edu)

Jericho Parns  
Director of Alumni Affairs & Diversity Initiatives  
Title IX Coordinator  
36 College Street, Montpelier VT 05602  
Telephone: 802-828-8839  
Email: [Jerich.Parns@vcfa.edu](mailto:Jerich.Parns@vcfa.edu)

### ***Role of Title IX Coordinator***

Sexual misconduct against students and employees, including sexual assault, rape, and sexual exploitation, can be a form of sex discrimination under Title IX. The Title IX Coordinator oversees the College's response to reports and complaints to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the College can address issues that affect the wider school community. The College's Title IX Coordinator also oversees, in collaboration with other College offices as necessary, the College's response to reports and complaints of domestic violence, dating violence and stalking involving College students and employees, or sexual assault of employees.

A student or employee should contact the Title IX Coordinator or Deputy Title IX Coordinator in order to:

- seek information or training about students' rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including sexual misconduct;
- file a complaint or make a report of sex discrimination, including sexual misconduct;
- notify the College of an incident or policy or procedure that may raise potential Title IX concerns;

- get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct;

- ask questions about the College’s policies and procedures related to sex discrimination, including sexual misconduct.; and
- seek or provide information about any of these issues as they relate to domestic violence, dating violence or stalking involving College students or employees, or sexual assault of employees.

Any immediate safety concerns should be reported to the Campus Safety Team, the telephone number for which is: (802) 828---8888.

In the event that the incident, policy, or procedure about which the student or employee seeks to file a report or complaint creates the appearance of a conflict of interest with the Title IX Coordinator and the Deputy Title IX Coordinator, students or employees may contact the Vice President of Administration/CFO. The Vice President of Administration/CFO or designee will appoint another person to handle the College’s related responsibilities, as appropriate.

Inquiries or complaints that involve potential violations of Title IX may also be referred to the U.S. Department of Education’s Office for Civil Rights, which can be reached at: Boston Office, Office for Civil Rights, US Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109---3921, Telephone: 617---289---0111, FAX: 617---289---0150, TDD: 800---877---8339, Email: OCR.Boston@ed.gov, or the Educational Opportunities Section of the Civil Rights Division of the U.S. Department of Justice (DOJ): <http://www.justice.gov/crt/complaint/#three>.

### ***Functions and Responsibilities of the Title IX Coordinator***

The Title IX Coordinator’s functions and responsibilities include the following:

#### **(1) Training for Students, Faculty, and Staff**

The Title IX Coordinator communicates the availability of ongoing training, consultation, and technical assistance on Title IX for all students, faculty and staff, including:

- regular training for faculty and staff outlining their rights and obligations under Title IX, including the appropriate response to reports of sexual misconduct, the obligation to report sexual misconduct to appropriate College officials, and the extent to which counselors and advocates may keep a report confidential, and
- regular training for students outlining their rights under Title IX; with regard to sexual misconduct, this training will include what constitutes sexual misconduct and when it creates a hostile environment, the definition of consent, reporting options (including reports to responsible employees, campus and local law enforcement, and confidential reporting to counselors or advocates), the grievance procedures used to process complaints, applicable

disciplinary code provisions relating to sexual misconduct and the consequences of violating those provisions, the role of alcohol and drugs in sexual misconduct, the effects of trauma, strategies and skills for bystander intervention, the offices or individuals with whom students can speak confidentially, the offices or individuals who can provide support services, the employees who must report incidents to the Title IX coordinator, and Title IX's protections against retaliation.

## (2) Investigations

The College will conduct adequate, reliable, and impartial investigations of reports and complaints of sexual misconduct. The College will also investigate domestic violence, dating violence and stalking to the extent appropriate and practicable given the alleged perpetrator's relationship, if any, with the College. The Title IX Coordinator oversees many aspects of this response, including:

- determining whether the report or complaint alleges conduct that may, upon investigation, constitute prohibited sexual misconduct, domestic violence, dating violence or stalking,
- appointing an investigator or investigators (either employed by the College or retained specifically, at the College's discretion) upon such determination,
- making certain that individual reports and complaints are handled properly and in a prompt and timely manner,
- informing all parties regarding applicable procedures,
- confirming that all parties have been notified of decisions and of the right to, and procedures for, appeal,
- maintaining information and documentation related to the investigation in a secure manner, and
- monitoring compliance with timeframes specified in applicable procedures.

The Title IX Coordinator evaluates requests for confidentiality by those who report or complain about sexual misconduct in the context of the College's responsibility to provide a safe and nondiscriminatory environment for all students and employees. Confidentiality issues are discussed in more detail below.

## (3) Remedies, Including Interim Measures

Upon learning of a report or complaint of sexual misconduct, domestic violence, dating violence or stalking, the Title IX Coordinator promptly takes steps to ensure the complainant's equal access to the College's programs and activities and protect the complainant as necessary. Such steps may include taking interim measures before the final outcome of any investigation, providing remedial measures after the final outcome of investigation, and making the complainant aware of all available resources, including resources such as victim advocacy, housing assistance, academic support, counseling, disability

services, health and mental health services, and legal assistance. Interim measures are discussed in more detail below.

Upon a finding of prohibited sexual misconduct, the Title IX Coordinator will determine whether campus-wide remedies should be adopted in response, including, by way of example but not limitation, review and revision of the College's sexual misconduct policies, increased monitoring, supervision or security at locations where sexual misconduct is reported to occur, and increased education and prevention efforts.

If it is found through the College's disciplinary processes that an individual engaged in prohibited sexual misconduct, the Title IX Coordinator reviews proposed sanctions before they are imposed to ensure that they, along with the College's interim and long-term measures taken in response to the sexual misconduct, are reasonably calculated to stop the sexual misconduct and prevent its recurrence.

## **Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy**

The College expects all members of the VCFA community to conduct themselves in a manner that does not infringe upon the rights of other members of the VCFA community in ways addressed by Title IX and the amendments to the federal Clery Act made by the Violence Against Women Reauthorization Act of 2013.

### **General Definitions**

#### ***Complainant***

For purposes of this policy, a complainant is usually a student, employee, or third party involved in some way in an academic, extracurricular or residential program of the College (“covered third party”) who has allegedly been subjected to conduct in violation of this policy by a student or employee respondent. In some cases (such as, for example, cases in which a student, employee, or covered third party involved in an alleged incident of sexual misconduct, domestic violence, dating violence or stalking does not wish to participate in the process but the College decides that the alleged misconduct needs to be investigated and addressed), the College may move forward with an investigation and/or related disciplinary proceedings. In such cases, the College may extend the full rights of a complainant as defined in this policy to affected parties as deemed appropriate by the College. For ease of reference and consistency, the term “complainant” is used hereafter in this policy to refer to a person who believes that he or she has been subjected to sexual misconduct, domestic violence, dating violence or stalking, or who is believed by another to have been subjected to such conduct.

#### ***Respondent***

For purposes of this policy, a respondent is an individual (student, faculty, staff, or third party over whom the College has some form of jurisdiction) who is reported to have violated the College’s Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy.

#### ***Retaliation***

Prohibited retaliation includes any attempt by a member of the College community to penalize, intimidate, or retaliate in any way against a person because he or she makes a report or complaint, in good faith, of unwelcome conduct of a sexual nature, sexual misconduct, domestic violence, dating violence or stalking, or for cooperating in the investigation of a complaint of such conduct. Such retaliation violates this policy and may be unlawful. Retaliation includes, but is not limited to, adverse actions that have a substantial adverse effect on the working or

educational environment of any individual involved in the complaint or an investigation that is motivated by such involvement, such as:

- intimidation;
- reprisal;
- ostracism;
- actions altering the person's assignments, assessment of his or her work, or his/her academic environment;
- threats;
- coercion; or
- otherwise discriminating against any individual for exercising his or her rights or responsibilities under this policy.

Any person who believes that he or she has been subjected to such retaliation should immediately contact the Title IX Coordinator. Any person who takes such retaliatory actions will be subject to disciplinary action.

## **Sexual Harassment**

Sexual harassment is contrary to the educational mission of Vermont College of Fine Arts and threatens the well-being of students, faculty, and staff. It is a form of sex discrimination, which is illegal under state and federal law, including Title IX of the Education Amendments of 1972, as amended. Conduct, whether intentional or unintentional, that results in sexual harassment is prohibited and will not be tolerated. This policy applies to the entire College and to the conduct of students, faculty, administration, and staff alike, as well as any third parties participating in the College's programs or activities, regardless of sexual orientation or gender identification.

As outlined in the school's Discrimination & Harassment Policy, The Vice President of Administration/CFO has primary responsibility for resolving sexual harassment complaints. Vermont College of Fine Arts encourages members of the College community and covered third parties to report unwelcome conduct of a sexual nature so that the College may investigate reports appropriately. If the College determines a respondent's conduct is sufficiently serious—that is, sufficiently severe or pervasive—to deny or limit a student's ability to participate in or benefit from the College's program based on sex and thereby creates a hostile environment, it will take prompt, appropriate and effective action to eliminate the hostile environment, prevent its recurrence, and address its effects. In the employment context, the College will take prompt, appropriate remedial action if it determines that a sexually hostile environment has been created. The College may also choose to take remedial action in cases where conduct is deemed inappropriate, even if it does not rise to the level of sexual harassment as defined in the policy. For more information, refer to VCFA's Discrimination & Harassment Policy, which can be found at [www.vcfa.edu/policies](http://www.vcfa.edu/policies).

## **Sexual Misconduct Policy**

The College is committed to take action, and may be required to take action, if it learns of potential sexual misconduct, even, in some instances, if the person subjected to such misconduct does not wish to formally file a complaint.

Sexual misconduct is a broad term that encompasses sexual assault and other unwelcome behavior of a sexual nature as explained within this policy. The College prohibits a broad range of inappropriate sexualized activity through this sexual misconduct policy. The prohibitions of this policy apply regardless of the sex, sexual orientation or gender identity of any involved individual.

### ***Sexual Exploitation***

Sexual misconduct includes sexual exploitation. "Sexual exploitation" occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include but are not limited to: prostituting another person; recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent; distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and/or objects to such disclosure; and, viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire. Sexual exploitation may occur regardless of whether sexual activity takes place.

### ***Sexual Violence***

Sexual violence is one type of prohibited sexual misconduct. Committing sexual violence upon another person, either male or female, is against the law and violates College policies. Sexual violence occurs when a person engages in a sexual act with another person:

- Without his or her consent. (see definition below); or
- By threatening, intimidating or coercing the other person; or
- By placing the other person in fear that any person will suffer imminent bodily injury; or
- When the person knows, or reasonably should know based on an objective standard (that is, what a reasonable, unimpaired person reasonably would have known under the circumstances), that the other person's ability to give or withhold consent is impaired: 1) by the consumption of

drugs, alcohol or other intoxicants; or 2) because the other person is subject to a physical or mental incapacity such as sleep or unconsciousness;

- Engaging in a sexual act with a person who is under the age of 16 also constitutes sexual violence.

The College defines a **sexual act** as conduct between persons consisting of:

- Contact between the penis and the vulva.
- Contact between the penis and the anus.
- Contact between the mouth and the penis.
- Contact between the mouth and the vulva.
- Any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.

### ***Consent***

Under College policy, there must be clear, knowing and voluntary consent prior to and during sexual activity. Under Vermont law, “consent” to sexual activity is defined to mean “words or actions by a person indicating a voluntary agreement to engage in a sexual act.” For purposes of the College’s Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy, the following is true of consent:

- Consent is informed, active, and freely given and is grounded in rational and reasonable judgment. It requires clear communication between all persons involved in the sexual encounter.
- Consent can be communicated verbally or by action(s). Consent must be mutually understandable by all parties involved in the sexual experience, which a reasonable person would interpret as a willingness to participate in agreed-upon sexual conduct.
- The person initiating the sexual contact is always responsible for obtaining consent from their partner(s). It is not the responsibility of one party to resist or communicate “no” to the sexual advances of another.
- Consent is not the absence of resistance. Silence is an inactive behavior and does not constitute consent. If a partner is inactive (for example, silent or physically still) sexual activity must stop until both partners have communicated clearly with each other about what, if any, sexual activity is mutually desired.
- Consent to one form of sexual activity does not imply consent to another form of sexual activity. Each new sexual act requires new consent. Consent can be rescinded at any time.

- Consent at one time and to one sexual act does not imply consent at any other time to that or any other sexual act at a later date and regardless of previous relations.
- Consent to engage in sexual activity with one person does not imply to consent to engage in sexual activity with another;
- Consent cannot be given by minors, mentally disabled individuals, or by incapacitated persons. A person may be incapacitated as a result of alcohol or other drug use. A person who is unconscious, unaware, or otherwise physically helpless cannot give consent to sexual activity.
- A person will be considered unable to give valid consent, for example, if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing.

The College will use an objective standard when determining incapacitation---related questions; that is, the College will determine whether from the standpoint of a reasonable, unimpaired person, the respondent knew or should have known that the complainant could not effectively consent because he or she was incapacitated.

It should be noted that ignorance of the policy noted above, or the intoxication of the respondent, will not (particularly given the College’s objective standard) be considered an excuse for violating this policy.

## **Domestic Violence, Dating Violence and Stalking Policy**

Vermont College of Fine Arts prohibits conduct by students, faculty or staff that affects other students, faculty, staff or covered third parties, and that constitutes domestic violence, dating violence or stalking, as defined below. While this policy incorporates by reference definitions of domestic violence, dating violence and stalking used in the criminal law, the College determines responsibility for such conduct through its own procedures and standard of proof (a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

The College encourages individuals who believe they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the College through the procedures described below, and to seek the support of the College and/or external resources identified in this policy. The College also encourages individuals affected by such conduct to seek support from the College and the resources identified here, even if they choose not to pursue a formal complaint with the College. Consistent with the above definitions of “Complainant” and “Respondent,” the following policy only applies where a reported policy violation involves a complainant who is a student, employee

or third party involved in some way in an academic, extracurricular or residential program of the College (“covered third party”) and a respondent who is a student, faculty, staff or third party over whom the College has some form of jurisdiction.

### ***Domestic Violence***

The term “domestic violence” includes violence committed (1) by a current or former spouse or intimate partner of the complainant,<sup>1</sup> (2) by a person with whom the complainant shares a child in common, (3) by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, (4) by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Vermont, or (5) by any other person against an adult or youth complainant who is protected from that person’s acts under the domestic or family violence laws of Vermont.

Under Vermont law, it is unlawful to attempt to cause or to willfully or recklessly cause bodily injury to a family or household member, or to willfully cause a family or household member to fear imminent serious bodily injury. “Household members” are defined as those persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or have dated.

As a matter of Vermont College of Fine Arts policy, the College prohibits domestic violence as defined here.

### ***Dating Violence***

“Dating violence” that is prohibited as a matter of Vermont College of Fine Arts policy is defined as violence by a person who is or has been in a social relationship of a romantic, intimate or sexual nature with the complainant. The factors that will be considered in determining whether such a relationship exists or existed, include: the reporting party’s statement of whether such a relationship exists or existed and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

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<sup>1</sup> Vermont law refers to such individuals as “victims”, but for the sake of consistency, the term “complainant” is substituted for that term throughout this policy.

Under Vermont law, it is unlawful to attempt to cause or to willfully or recklessly cause bodily injury to a person one is dating or has dated, or to willfully cause such person to fear imminent serious bodily injury, and such conduct is prohibited by College policy. Factors considered under Vermont law when determining the existence of a dating relationship include: (a) the nature of the relationship; (b) the length of time the relationship has existed; (c) the frequency of the interaction between the parties; and (d) the length of time since the relationship ended, if applicable.

As a matter of Vermont College of Fine Arts policy, the College prohibits dating violence as defined here.

### ***Stalking***

As defined by federal law, “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a. fear for his or her safety or the safety of others; or
- b. suffer substantial emotional distress.

For purposes of this definition, “course of conduct” means two or more acts, including, but not limited to, acts in which the alleged 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. “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Under Vermont law, “stalking” is defined to mean engaging in a course of conduct which consists of one of the following, when such conduct serves no legitimate purpose and would cause a reasonable person to fear for his or her physical safety or health or would cause a reasonable person to suffer emotional distress.

- a. **Following** --- defined as maintaining over a period of time a visual or physical proximity to another person in such a manner as would cause a reasonable person to have a fear of unlawful sexual conduct, unlawful restraint, bodily injury or death; or
- b. **Lying in wait for** – defined as hiding or being concealed for the purpose of attacking or harming another person; or
- c. **Harassing** --- defined as actions directed at a specific person, or a member of the person’s family, which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including but not limited to verbal threats, written, telephonic, or other electronically communicated threats, vandalism, or physical contact without consent.

As a matter of Vermont College of Fine Arts policy, the College prohibits stalking as defined here.

When part of a pattern of behavior that falls within the definition of stalking described above, examples of stalking behaviors or activities may include, but are not limited to:

- Non---consensual communication, including face---to---face communication, telephone calls, voice messages, e---mails, text messages, written letters, gifts, or any other communications that are unwelcome;
- Use of online, electronic or digital technologies in connection with such communication, including but not limited to:
  - Posting of pictures or text in chat rooms or on websites;
  - Sending unwanted/unsolicited e---mail or talk requests;
  - Posting private or public messages on Internet sites, social networks, and/or school bulletin boards;
  - Installing spyware on a person’s computer;
  - Using Global Positioning Systems (GPS) or similar technology to monitor a person.
- Pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person;
- Surveillance or other types of observation including staring or “peeping”;
- Trespassing;
- Vandalism;
- Non---consensual touching;
- Direct verbal or physical threats;
- Gathering information about an individual from friends, family, or co---workers;
- Accessing private information through unauthorized means;
- Threats to harm self or others;
- Using a third party or parties to accomplish any of the above.

## **Options for Reporting and Confidential Disclosures**

The College encourages individuals who experience an incident of sexual misconduct, domestic violence, dating violence or stalking to talk to someone about what happened – so they can get the support they need, and so the College can respond appropriately. There is no such thing as an “unofficial” complaint of sexual misconduct, domestic violence, dating violence or stalking. The College takes all reports seriously and to that end feels it is important, and our legal obligation, to address all such complaints appropriately and as practicable given and/or while balancing the circumstances of each case, the complainant’s wishes regarding the handling of the report, and the College’s obligation to maintain a safe campus community.

## ***Confidential Resources | Off Campus***

However, the College also recognizes that individuals who have concerns about sexual misconduct, domestic violence, dating violence or stalking may wish to speak to someone without making a report to the College. The College does not employ or have contractual relationships with confidential resources, and while it handles reports with sensitivity and discretion, it cannot promise complete confidentiality. However, health care providers, mental health providers, and sexual assault and domestic/dating violence support organizations such as the Vermont Network Against Domestic and Sexual Violence (*see* <http://www.vtnetwork.org/> or call 802-479-5577) usually can receive reports and provide support on a confidential basis (at least where the abuse of a minor is not involved.) Anonymous inquiries may also be made to such organizations in order to understand any limitations on their ability to maintain confidentiality. The College encourages individuals to seek support from confidential resources if they wish, and also to contact the College for discreet, but not necessarily completely confidential, support and investigation when and if they are ready to do so.

## ***Non---Confidential Resources(also called ‘Responsible Employees’) | On Campus***

A responsible employee is a College employee who has the authority to address incidents of sexual violence, domestic violence, dating violence, or stalking and is obligated to report such incidents, or whom an individual could reasonably believe has this authority or duty. Responsible employees are respectful of a complainant’s wishes to the extent appropriate and are discreet, but they are not able to maintain confidentiality. Responsible employees at the college include Program Directors, Assistant Directors, and staff members at the Director level or above.

General inquiries or questions about the Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy and procedures do not have to be reported, and the College will strive to protect the privacy interests of individuals to the extent it can while maintaining its obligations to uphold relevant policies and regulations and/or to take reasonable steps to promote the safety of members of the College community. Otherwise, once any employee learns of an incident of sexual misconduct, dating violence, domestic violence, or stalking, written or unwritten, the employee must immediately notify the Title IX Coordinator of such complaint. The employee must report all relevant details about the incident (such as the name of the complainant and respondent, any witnesses, and other relevant facts, such as the date, time and specific location of the alleged incident). Such notice to the College generally obligates the College to investigate the incident and take appropriate steps to address the situation. Within the requirements of applicable laws and policy, confidentiality will be observed as practicable.

If a complainant discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College will weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all individuals, including the complainant. If the College honors the request for confidentiality, a complainant must understand that the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Although rare, there are times when the College may not be able to honor a complainant's request in order to provide a safe, non-discriminatory environment for all individuals.

The College will protect the confidentiality of individuals allegedly subjected to sexual misconduct, domestic violence, dating violence and/or stalking to the extent practicable in light of the need to do investigations and conduct disciplinary proceedings. Campus security employees who become aware of Clery crimes will report them to a member of the Director of Facilities & Campus Safety ([see http://vcfa.edu/campus-safety](http://vcfa.edu/campus-safety)) so that they may be included in the College's compilation of campus crime statistics. The College will not include the names of complainants or other identifying information in publicly-available reports that are compiled as required by the Clery Act.

### ***Additional Resources | Off Campus***

There are a number of local and national agencies available to provide support to individuals who have experienced sexual misconduct, dating violence, domestic violence, or stalking. The College can assist an individual with accessing these, and other, resources.

- National Sexual Assault Hotline 800-656-HOPE
- National Domestic Violence Hotline 800-799-7233
- Vermont Network Against Domestic and Sexual Violence (victim advocacy and legal assistance) 802-223-1302
- Central Vermont Medical Center 802-371-41

Note that an individual is not obligated to notify or utilize any of these resources.

### ***Additional Resources | On Campus***

- Director of Enrollment Management Financial Aid (for advice regarding, e.g., how an incident-related leave of absence may impact financial aid eligibility) 802-828-8535
- Registrar (for visa and immigration assistance) 802-828-8724

Disability Services (ADA), Academic Support, and Housing Assistance are all addressed through initial contact with a student's program staff. The Program Director and/or Assistant Director will then assist the student to meet their individual needs and put them in contact with additional VCFA staff as needed.

### ***External Reporting Options***

In addition to the off-campus resources noted above, complainants may also seek assistance through other external organizations. Making a complaint pursuant to the College's Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking policy does not foreclose either civil or criminal legal action by the complainant, and a complainant who wishes to consider pursuing such action should seek legal advice. A complainant may simultaneously pursue a criminal and/or civil complaint and a complaint under these procedures.

A complainant may also file a complaint by writing or calling the following state or federal agencies, as applicable:

- Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, VT 05602, phone: 802-828-3171 (voice/TDD).
- Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114, phone: 617-565-4000 (voice), 617-565-3204 (TDD).
- Vermont Human Rights Commission, 133 State Street, Montpelier, VT 05633-6301, phone: 802-828-2480 (voice/TDD).
- Office for Civil Rights (OCR), U.S. Department of Education, 8<sup>th</sup> Floor, 5 Post Office Square, Boston, MA 02109, phone: 617-289-0111 (voice), 800-877-8339 (TDD).

These agencies can conduct impartial investigations, facilitate conciliation, and, if it is found that there is probable cause or reasonable grounds to believe sexual misconduct occurred, they may file a charge or a complaint. The Title IX Coordinator and/or the Vice President of Administration/CFO will offer to, and will upon request, assist students or employees in contacting law enforcement agencies. This action may be taken regardless of whether an individual chooses to file a complaint with the College. For his or her own part, a complainant may choose to notify such agencies with or without assistance from the College, or may choose not to notify such authorities.

Individuals who are being or who may have been subjected to domestic violence, dating violence, sexual assault or stalking may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from Vermont courts. The College will support complainants if they wish to have the College's assistance in making contact with law enforcement authorities and other external resources to seek such orders. The College will respect such orders to the extent applicable. In addition, the College can also impose no-contact conditions on students, employees and third parties over which it has some measure of control. The College will inform complainants of their options in this regard.

## **Leniency**

Sometimes, individuals are reluctant to come forward to report perceived violations of this policy out of fear that they may be charged with violations of Student Conduct standards (for example, illegal drug use at the time of the incident). It is of paramount importance to the College that all perceived violations of this policy be reported, so that those affected can receive the support and resources needed. Therefore, in order to facilitate reporting, the College may choose to not charge students who report violations of this policy with violations of conduct standards.

## **Medical Care**

Whether or not a person decides to pursue criminal charges or a complaint at the College, individuals are encouraged to immediately seek any necessary medical care after an incident of sexual misconduct, domestic violence or dating violence, and to seek help from appropriate law enforcement, medical or College personnel.

## **Preservation of Evidence**

Even if a person is unsure initially whether she or he will want to pursue criminal charges or seek a protection order, it is important to preserve all possible evidence in case an individual later decides to do so. Therefore, a person should refrain from changing clothes, showering or otherwise changing his or her physical state after an incident, until after he or she has consulted with medical personnel about how to best preserve evidence. Any such individual should also consult with College officials, law enforcement officers or health care professionals regarding his or her ability to have evidence collected by a Sexual Assault Nurse Examiner (“SANE”). Individuals should also endeavor to preserve other evidence that may be relevant to a case of sexual misconduct, domestic violence or dating violence or stalking, such as text messages, email messages, other electronically stored information, and other physical evidence. Anyone with questions about how to do this should consult with College officials, medical professionals, or law enforcement officials.

## **Interim Accommodations**

Pending the final outcome of an investigation, the College may, in its sole discretion, and if requested and reasonably available, take interim measures to promote the safety and general well---being of the parties involved and/or the broader College community. Such interim measures may include one or more of the following or additional accommodations as determined by the College:

- academic accommodations (i.e., alter academic schedules, withdraw from/retake a class without penalty, access academic support such as tutoring);
- change in housing;
- changing in dining facilities;
- change in work schedules;
- issuance of no contact orders;
- change in transportation and/or working situations.

## **VCFA Procedures for Investigating and Adjudicating Complaints**

The information in the sections below, except as noted, applies to VCFA students, staff, faculty and covered third parties who wish to report a complaint of sexual misconduct, dating violence, domestic violence, stalking or related retaliation, as defined above, against a VCFA student, staff or faculty member, through VCFA's processes. The College may decide to pursue an investigation and adjudication under this policy and procedure even if the person allegedly subject to the misconduct does not wish to act as a complainant or participate in the process. For ease of reference, this policy will use the term "complainant" to refer to such individuals, even if they do not wish to participate in the process.

If conduct that does not appear to be sexual misconduct, domestic violence, dating violence or stalking as defined in this policy, but that may be in violation of other VCFA policies, is reported as occurring in connection with or arising out of an incident or incidents that fall(s) within the scope of this policy, all such conduct will be investigated and adjudicated through the procedures outlined here.

All VCFA students, faculty members, staff members and covered third parties have the right to pursue sexual misconduct, domestic violence, dating violence and stalking complaints beyond VCFA, and are encouraged to use local, state, or federal enforcement agencies, including local police, as applicable, regardless of whether they choose to file a complaint with the College.

VCFA will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolve complaints under this policy. VCFA will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, VCFA may need to delay temporarily an investigation under this policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed its initial gathering of evidence, VCFA will promptly resume and complete its investigation. VCFA may also take interim measures to promote the safety and well-being of the complainant and the College community while law enforcement is gathering evidence.

## ***Making a Complaint***

Any VCFA student, faculty member, staff member or covered third party who has reasonable cause to believe that sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation has occurred or is occurring should report this information to the immediate attention of the Title IX Coordinator or Deputy Title IX Coordinator.

A complaint may be made verbally or in writing<sup>2</sup> and will ultimately need to be recorded in written form by the complainant, reporting person, or a member of the staff involved with the investigation. If the Title IX Coordinator or Deputy Title IX Coordinator are unavailable, or if both have a conflict of interest, the report should be made to the Vice President of Administration/CFO, who will report one or more individuals to receive and/or handle the report and related matters.

### **Rights of Complainants**

Individuals whose complaints of sexual misconduct, domestic violence, dating violence, stalking or related retaliation are being investigated and adjudicated by VCFA can anticipate that:

- They will be treated with sensitivity, dignity, respect and in an unbiased manner by all involved administrators, investigators and adjudicators.
- They will be informed in writing that their complaint is being investigated, and of any other related policy violations being explored through this investigation.
- They will be provided with written notification of VCFA's Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy and procedures, which include notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for complainants, both on campus and in the community, and which also include notification of options for, available assistance in, and how to request changes to academic, living, transportation, and working situations if so requested by the complainant and if such accommodations are reasonably available, regardless of whether the complainant chooses to report a crime to campus public safety or law enforcement.

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<sup>2</sup> For the purposes of this entire policy, "in writing" means "via email."

- They will be provided with a written explanation of the procedures for VCFA disciplinary action in cases of alleged domestic violence, dating violence, sexual assault or stalking.
- Such notification of procedures, rights and options will be provided whether the alleged conduct occurred either on or off campus.
- They will be afforded the same rights and opportunities as the respondent throughout the investigation and adjudication process.
- They will be given periodic status updates throughout the investigation and adjudication process.
- They may access external resources for medical and counseling services at any time.
- They may choose to pursue a formal complaint with or notify external law enforcement authorities or other federal or state agencies at any time, and be assisted by VCFA personnel in notifying law enforcement authorities if they so choose, or they may decline to do so.
- They may invite an advisor of their choice to accompany them at all meetings regarding the investigation and adjudication process.
- In the event of a finding of a policy violation, they may submit a Sanction Statement.<sup>3</sup>
- They will be informed in writing, simultaneously with the respondent, of the adjudication outcome, as well as the outcome of any appeal, to the extent permitted by law.
- They will have the right to appeal the outcome in cases where a student is a respondent based on the grounds designated in this policy, provided they have participated in the investigation process. Complainants wishing to appeal in cases involving faculty or staff respondents should consult the Title IX Coordinator for more information; the Title IX Coordinator will also provide written notification to a complainant of any applicable appeal procedures at the time the complainant receives notice of the outcome decision.
- They may retain legal counsel at any time. Attorneys who wish to communicate with VCFA about a case may contact VCFA's legal counsel, Jeff Nolan, directly. Attorneys who are asked to serve as advisors during this process are subject to the same restrictions applicable to all advisors (see below).

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<sup>3</sup> A Sanction Statement is a document sharing any thoughts the individual would like the decision-maker to consider when assigning a sanction.

## **Rights of Respondents**

Individuals responding to complaints of sexual misconduct, domestic violence, dating violence, stalking or related retaliation that are being investigated and adjudicated by VCFA can anticipate that:

- They will be treated with sensitivity, dignity, respect and in an unbiased manner by all involved administrators, investigators and adjudicators.
- They will be informed in writing that a complaint of sexual misconduct, domestic violence, dating violence, stalking or related retaliation against them is being investigated, and of any other related policy violations are being explored through this investigation.
- They will be advised of VCFA's Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy and procedures.
- They will be given periodic status updates throughout the investigation and adjudication process.
- They may access external resources for medical and counseling services at any time.
- They may invite an advisor of their choice to accompany them at all meetings regarding the investigation and adjudication process.
- In the event of a finding of a policy violation, they may submit a Sanction Statement.
- They will be informed in writing, simultaneously with the complainant, of the adjudication outcome, as well as the outcome of any appeal, to the extent permitted by law.
- If they are a student, they will have the right to appeal the outcome based on the grounds designated in this policy, provided that they have participated in the investigation process. Faculty or staff respondents wishing to appeal should contact the Title IX Coordinator for more information; the Title IX Coordinator will also provide written notification to a respondent of any applicable appeal procedures at the time the respondent receives notice of the outcome decision.
- They may retain legal counsel at any time. Attorneys who wish to communicate about a case with VCFA may contact VCFA's legal counsel directly. Attorneys who are asked to serve as advisors during this process are subject to the same restrictions applicable to all advisors (see below).

## ***Complaint Receipt and Review***

When the Title IX Coordinator or designee (hereinafter referred to as the "Title IX Coordinator") receives actual notice – i.e., a written or oral complaint or report directed to the Title IX Coordinator – of conduct that may constitute sexual misconduct, domestic violence, dating violence, stalking, or related retaliation as defined by this policy, VCFA will initiate the following process, except as otherwise provided in subsection I, below:

1. The Title IX Coordinator will promptly determine whether the report or complaint alleges conduct that may be prohibited by this policy.
2. Prior to an investigation or adjudication, the Title IX Coordinator and/or designee will consider and make a determination regarding any request by the complainant for confidentiality.
3. If it is determined that the complaint will be investigated and adjudicated, the Title IX Coordinator will decide whether the Title IX Coordinator or a designee will facilitate this process.
4. Upon receiving the complaint, and at any point during the investigation and adjudication process, the Title IX Coordinator may determine if a complaint of sexual misconduct, domestic violence, dating violence, stalking or related retaliation also contains allegations that, if proven, could constitute violations of other VCFA policies, the other alleged policy violations will be investigated and adjudicated in accordance with the procedures set forth herein.
5. In cases where the Title IX Coordinator believes that the allegations, if proven, would not constitute a violation of this policy, the complainant will be advised of other judicial and support options as appropriate, and no further investigation will be pursued under this policy. Alleged violations of other policies may be pursued separately. If new information is subsequently provided to the Title IX Coordinator, this decision may be reevaluated.

### ***Investigation Overview***

1. The Title IX Coordinator will provide a copy of this policy to the complainant and respondent, and will inform both parties in writing that VCFA is investigating and adjudicating the possibility that the respondent may have committed sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation. This will include notification of any additional possible policy violations being investigated and adjudicated in relation to the incident.
2. If a respondent who has been notified of an investigation/adjudication fails to cooperate with the investigator, the investigation may proceed, a finding may be reached, and a sanction may be imposed based on the information available.
3. A No Contact Order is normally issued to restrict contact and communication between the complainant and respondent for at least the duration of the investigation. In particularly serious cases, temporary removal of a student or employee from campus may be initiated by VCFA at any time. The No Contact Order would be issued from the Academic Dean in cases involving faculty or students, or from VP/CFO for cases involving staff.
4. While not condoning infractions of any kind, VCFA considers reporting incidents of sexual misconduct, domestic violence, dating violence, stalking and related retaliation to be of paramount importance. Therefore, to encourage reporting, VCFA may, where appropriate, offer leniency with respect to other policy violations that may be revealed as a result of a report. The nature and scope of the leniency will depend on the particular circumstances involved. The Academic Dean and/or Vice President of

Administration/CFO and/or other supervisory authority, as appropriate (in the case of faculty or staff), will have sole discretion in determining the appropriate course of action.

5. VCFA may choose to discontinue an investigation at any time. The complainant may request that an investigation be discontinued at any time. VCFA will attempt to honor the wishes of the complainant. However, to accommodate cases where compelling evidence suggests significant individual or community safety concerns, the decision to discontinue an investigation is within the sole discretion of VCFA.

6. To the extent permitted by law, the complainant and respondent will be afforded the same rights and opportunities throughout the investigation and adjudication process, including the opportunity to recommend witnesses and submit evidence. However, the decision to interview particular witnesses or consider evidence offered by the parties is within the sole discretion of VCFA.

7. Complainants and respondents are entitled to the same opportunities to have an advisor of their choice present at any interviews or meetings related to the investigation and adjudication process under this policy. Such advisors may advise the complainant or respondent privately, but cannot act as speaking advocates at a meeting. An investigator or other VCFA representative may terminate meetings and proceed with the investigation or adjudication based on otherwise---available information if advisors refuse to comply with these requirements.

8. If a complainant or respondent is concerned that another person involved in the investigation or adjudication (such as, for example, an investigator or the Title IX Coordinator) may be biased or have a conflict of interest, the person should inform the Title IX Coordinator, Deputy Title IX Coordinator or Vice President of Administration/CFO (if the concern is about the Title IX Coordinator) of that concern immediately. The Title IX Coordinator or alternate person, as applicable, will consider the concern and inform the parties of a decision as to whether an alternate will be named.

## ***Investigation***

1. If it is determined that an investigation and adjudication should proceed under this policy, an investigator will be appointed to conduct an investigation that is appropriate under the circumstances, and is prompt, thorough, fair, equitable, objective and impartial.

2. VCFA's investigation and adjudication process does not require or permit the complainant and respondent to interact or communicate directly or indirectly with each other at any time. The parties are therefore not permitted to question or cross---examine each other during the course of the investigation.

3. The investigator is authorized to contact any and all individuals with potentially relevant information. VCFA recognizes, however, that individuals who are bound by legal privileges may not be able to

disclose privileged information, unless an exception applies. The investigator is authorized to access relevant records, except those legally protected as confidential or privileged, and may collect any additional evidence relevant to the complaint. The nature and scope of the investigation is within the sole discretion of the investigator and/or VCFA.

4. The College may also at any time take appropriate steps, including by way of example only, issuance of No Contact Orders and/or No Trespass Orders, temporary changes in assignment of duties or housing, changes in schedules or program requirements, transportation or working accommodations, or other accommodations, if requested and reasonably available, to protect complaining parties on an interim basis. These measures can be taken if requested and reasonably available, regardless of whether a complainant pursues a complaint under this policy.

5. The complainant and respondent will be asked to identify all relevant evidence they would like the investigator to review, as well as witnesses they would like the investigator to interview. Both parties may provide, if they wish, a list of questions they would like the investigator to ask of particular witnesses or of each other. The investigator is not required to consider the evidence submitted or interview any particular witness, even if identified by one of the parties, nor to ask questions provided by either party. However, in determining whether to interview witnesses or review evidence, the investigator should consider such factors as equity, fairness, thoroughness, and impartial treatment of both parties.

6. All participants in the investigation are expected to cooperate fully by providing complete, accurate, and truthful information. They may also be expected to sign statements or other documents memorializing the information they provided, and may be asked to keep the substance of the interview confidential. Failure to cooperate fully with the investigator may subject the individual to the full range of disciplinary actions, as applicable.

7. Formal rules of evidence do not apply in the process described herein. In cases where an evidentiary or procedural question arises in connection with the investigation or adjudication process, VCFA will make a decision on such questions.

8. At the conclusion of the investigation, the complainant and respondent may review the witness statements and other relevant materials. Both will have an opportunity to respond to this information in writing within seven days.

9. If at any stage following the submission of these responses new relevant evidence is gathered, it will be shared with the complainant and respondent, who will have an opportunity to submit a written response within a time frame determined by the Title IX Coordinator.

10. The complainant and respondent may request to see the other party's written statement once it has been submitted.

### ***Determination and Sanction***

1. The investigator will submit a final report to the Title IX Coordinator. The final report will include all investigation materials deemed permissible, the complainant's and respondent's written responses, both parties' character references, the investigator's recommended finding of whether this policy and any additional policies being explored through this investigation have been violated, and the investigator's rationale. This recommendation will be based on the standard of preponderance of evidence, i.e., whether it is more likely than not that a policy was violated.
2. The Title IX Coordinator will review the investigator's report and recommendation and determine whether any further investigation needs to be done. If so, the Title IX Coordinator will direct the investigator to perform additional investigation as deemed necessary.
3. Once the Title IX Coordinator is satisfied that the investigation is complete, he or she will provide the report and recommendation to the College official who is responsible for making disciplinary decisions about individuals in the respondent's status. The Academic Dean will be the decision-maker as to student respondents, the Vice President of Administration/CFO will be the decision-maker as to staff respondents, and the Academic Dean and Vice President of Administration/CFO will be the decision-makers as to faculty respondents. The Vice President of Administration/CFO will be the decision-maker as to any other respondents over whom the College has some sort of jurisdiction.
4. The responsible decision-maker will consider the investigator's report and recommendation. The decision-maker is not bound by the investigator's report; rather, it is advisory to the decision-maker. The decision-maker may accept or reject the investigator's recommended finding in whole or in part, and may request additional relevant information or investigation before making a determination. The decision-maker may consult with other persons as deemed appropriate.
3. Either party may choose to (but does not have to) meet individually with the decision-maker prior to the decision-maker's determination. The decision-maker may also request an individual meeting with either party or any other person(s) as deemed appropriate.
4. After review of the investigator's report and recommended finding, the decision-maker shall issue a determination as to whether sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation (or a violation of other VCFA policies, if applicable) occurred. The decision-maker's determination will be based on a preponderance of the evidence standard.
5. If the decision-maker finds that the respondent has engaged in conduct that violates this policy or other College policies investigated under this policy and procedure, the decision-maker will invite each party to submit a Sanction Statement sharing any thoughts they would like the decision-maker to consider when assigning a sanction. After consideration of any such statements and any relevant prior misconduct (information about which may be received from College offices or officials with knowledge, once a finding of responsibility has been made), the decision-maker will make and implement a decision regarding discipline or other appropriate action.
6. Sanctions for sexual misconduct, domestic violence, dating violence, sexual assault or stalking could include written reprimands, probationary status and/or educational requirements (in addition to other

sanctions listed here), dismissal from employment, or suspension or expulsion from any or all VCFA program(s) in which a student is enrolled or participating. A resolution may also include other non-disciplinary actions as deemed appropriate under the circumstances (e.g., actions taken with respect to the respondent to address the needs of the complainant, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of No Contact Orders to favor the complainant, and other actions to preserve the rights of the complainant to a safe environment.) Although sanctions for violation(s) of this policy can include any form of discipline as stated in this section, respondents found to have committed sexual assault will most likely receive a sanction of suspension or expulsion.

7. To the extent permitted by law, the complainant and respondent will be simultaneously informed, in writing, of (a) the decision-maker's determination and the outcome of any disciplinary or other action arising out of an allegation of sexual misconduct, domestic violence, dating violence, stalking and/or related retaliation; (b) VCFA's procedures for complainants and respondents to appeal the decision-maker's decision and/or discipline and/or actions imposed, if applicable; (c) any change to the results of a disciplinary process that occurs prior to the time that such results become final; and (d) when such results become final.

8. In cases where the respondent is a student, the complainant and the respondent each has the right to an appeal in accordance with the procedures in Section H, "Appeals," below.

### ***Time Frames for the Investigation and Adjudication***

Absent extenuating circumstances, the investigation of a report or complaint under this policy will ordinarily be completed within 45 days from the time a report or complaint is made to the Title IX Coordinator. This time period may be shorter or longer depending on the circumstances, including but not limited to the complexity of the case, the intervention of College breaks, the VCFA schedule, and the availability of witnesses. If either the complainant or respondent would like to request an extension of this time frame, a request with a description of the reasons for the request should be directed to the Title IX Coordinator. The Title IX Coordinator will notify the other party, make a decision, and inform the parties and any other individual who needs to know of that decision. If extenuating circumstances are present, the Title IX Coordinator may also decide independently to extend this general 45-day time frame, and will inform the parties, and any other individual who needs to know, of any such decision. Absent extenuating circumstances, the decision-maker will issue a finding regarding whether this policy and/or other VCFA policies have been violated within 15 days after receipt of the investigator's complete report. The 15-day period may be extended if the Title IX Coordinator or decision-maker determines that further information or investigation is needed.

## ***Appeals***

In cases where the respondent is a student, the complainant and respondent each has the right to appeal the outcome under the circumstances described below. To learn more about appeal options for cases involving staff or faculty respondents, please contact the Title IX Coordinator; the Title IX Coordinator will provide written notification to the complainant and the respondent of any applicable appeal procedures at the time the complainant and respondent receive notice of the outcome decision. The purpose of an appeal is to review the adjudication process.

### **Grounds**

Appeals are accepted on the basis of one or more of the following:

- discovery of significant new factual material not available to the investigator that could have affected the original outcome; however, prior omission of factual information by the appealing party is not a ground for an appeal;
- procedural error where the error prevented fundamental fairness;
- abuse of discretion in the issuance of a sanction, meaning that the decision-maker imposed a sanction significantly disproportionate to the offense.

The right of appeal is only available to a respondent or complainant who participated in the investigative process.

### **Procedures**

An appeal must be made in writing to the President. Appeals must be made within 5 days of receipt of the decision-maker's determination or within 5 days of receipt of the decision regarding sanctions and/or other actions, if applicable, and must include the grounds for appeal and an outline of any supporting evidence. Parties may have access to the investigator's report following the determination of a finding and sanction, if applicable, and prior to the deadline for submission of the appeal. Appeals transmitted via e-mail will be considered to be "in writing" for the purposes of this section.

The President will invite an informational response to the appeal from the decision-maker and the other party (to the extent permitted by law), who may respond within 5 business days of the request. The President may request assistance and/or information from the original investigator, or from a new investigator, or any other relevant individual, as necessary.

The President may deny the appeal, or if one or more of the appeal grounds have been met, may:

- return the case to the Title IX Coordinator or the decision-maker, as appropriate, for reconsideration; or
- appoint an Alternate Title IX Coordinator and/or decision-maker, as applicable, to review the case, which will ordinarily occur when the original outcome was deemed to be based on an abuse of discretion.

It is the responsibility of the President to determine which aspects of the case merit a new review, and to direct the Title IX Coordinator and/or decision-maker, as appropriate, accordingly.

Absent extenuating circumstances, the President will notify the complainant and respondent of the appeal decision simultaneously in writing within fifteen days, to the extent permitted by law, and will notify the Title IX Coordinator and/or decision-maker, as applicable, in writing of instructions for any further action.

All decisions by the President are final.

### ***Disposition Without Adjudication***

If at any point a respondent chooses to accept responsibility for violating all policies under investigation, the Title IX Coordinator will issue a determination and refer the matter to the decision-maker. The decision-maker may invited Sanction Statements from the parties and may consider prior conduct as described above, and will issue a sanction and/or take other action that is reasonably calculated to address the prohibited conduct and prevent its recurrence.