

Virginia State University  
Policies Manual

Title: Discrimination, Harassment, and Retaliation Prevention Policy.....1101

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**Policy Statement**

Virginia State University (“VSU” or “University”) is a community of trust, collegiality and mutual respect. The University is committed to maintaining an environment that is safe and free from discrimination and harassment based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, disability or on any other status protected by law.

This Policy also addresses 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 encourages the reporting of all violations of this policy. Questions about this policy or reporting options should be referred to the Office of EEO & Title IX Compliance.

**Purpose**

The purpose of this policy is to establish that Virginia State University prohibits discrimination and harassment on the basis of age, color, race, sex, disability, marital status, national and ethnic origin, religion, sexual orientation, gender identity or expression, pregnancy, veteran status or genetic information, as well as other forms of sex discrimination not covered by the *Title IX Sexual Harassment Policy*.

All allegations of discrimination, harassment, retaliation, or non-compliance with any of the laws indicated above or other applicable federal or state laws, regulations, or policies relating thereto are governed by this policy.

**Authority, Responsibility, and Duties**

This policy applies to on-campus conduct involving students, employees, faculty and staff, visitors to campus (including, but not limited to, students participating in camp programs, non-degree seeking students, exchange students, and other students taking courses or participating in programs at the University), and contractors working on campus who are not Virginia State University employees, and to students, visiting students, employees, faculty, and staff participating in University-sponsored activities.

Allegations of conduct in violation of this policy are reported to the Office of EEO & Title IX Compliance in accordance with the *Discrimination Grievance Procedures*.

**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

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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 their 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. Under Title VII, the term is defined as 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, or what is male/masculine, or a failure to conform to those gender stereotypes.

This policy prohibits the following types of sexual harassment:

1. "Quid Pro Quo." Acts that alter a term or condition of employment or education. This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, services, academic grades or opportunities, living environment or participation in a 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 University program or activity.
2. 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

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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.

**E. Responsible employee** includes any employee who has the authority to take action to redress violations of this policy, or any employee who has been given the duty to report incidents in violation of this policy. A responsible employee includes anyone a student could reasonably believe has this authority or responsibility. A responsible employee must report to the Office of EEO & Title IX Compliance all relevant information received about an incident that potentially is in violation of this policy as soon as practicable after addressing any immediate needs of the victim of such conduct.

**F. Confidential employee** is an employee who is not required to report to the Office of EEO & Title IX Compliance or the Title IX coordinator, and includes campus mental health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person who holds a professional license requiring confidentiality and whose official responsibilities include providing counseling or similar services, and who is functioning within the scope of the license when they receive the report, or who is supervised by such a person.

**G. Retaliation** means any adverse action taken against a person for making a good faith report of conduct prohibited under this policy or participating in any proceeding under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. The definition of retaliation does not preclude an individual from engaging in good faith actions, lawfully pursued, in response to a report of conduct prohibited under this policy.

**H. Formal Complaint** is a spoken or written statement of allegations relating to the conduct of a student, employee, contractor, or visitor that violates University policy. The complaint is considered a request for the University to investigate the incident and take appropriate actions.

**I. Report** means to inform or give notice of an incident or conduct that violates University policy to a responsible employee, i.e. supervising staff or faculty member. For data purposes, a report is viewed and counted as a complaint.

**J. Investigation** is the process for fact-finding, collecting and reviewing information relating to complaints and reports of alleged misconduct, which may include interviewing the complainant and respondent, and any witnesses or other parties with knowledge of the alleged incident to help determine whether a policy violation occurred.

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**K. Remedies** are designed to restore or preserve equal access to the University’s educational programs or activities, or employment opportunities.

**L. Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Office of EEO & Title IX Compliance is responsible for coordinating the effective implementation of supportive measures.

**General Provisions**

This policy replaces the prior *Discrimination, Harassment, Sexual Misconduct and Retaliation Policy, 1101* and supersedes any and all previously adopted policies or procedures for the handling of discrimination, harassment, some forms of sexual misconduct, not covered by the University’s *Title IX Sexual Harassment Policy*.

Students who violate this policy may receive sanctions up to and including permanent removal from the residence halls and expulsion from the University. Employees who violate this policy may receive sanctions up to and including employment termination.

For allegations of discrimination, harassment, including sexual harassment and retaliation, the University may utilize supportive measures, sanctions, and community resource referrals as detailed in the University’s *Title IX Sexual Harassment Policy*.

**Reporting and Filing Complaints**

- A. Conduct in violation of this policy may be reported to the Office of EEO & Title IX Compliance. This office will oversee the investigation of reports alleging discrimination, harassment, or retaliation in accordance with the *Discrimination Grievance Procedures*.
- B. No VSU employee shall undertake any independent efforts to determine whether or not a complaint or report of discrimination, harassment or retaliation has merit or can be substantiated before reporting it to the Office of EEO & Title IX Compliance.

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- C. 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 discrimination, harassment and retaliation and will take appropriate disciplinary or corrective action in each instance. A detailed description of the investigation procedures is found in the *Discrimination Grievance Procedures*.
- D. All members of the VSU community are expected to provide truthful information in any report or proceeding under this policy and the *Discrimination Grievance Procedures*. Submitting or providing false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this policy is prohibited and subject to honor code charges for a student or discipline under the appropriate policy for an employee. This provision does not apply to reports made or information provided in good faith, even if the facts as alleged are not later substantiated by a preponderance of the evidence.

**Confidentiality, Privacy and Anonymity**

University 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 keep a report confidential, it must be made to a confidential employee as defined in this policy. These individuals will encourage you to make a report to the Office of EEO & Title IX Compliance. Students and student organizations cannot keep reports confidential, even if working with officials who are able to maintain confidentiality of reports.

The University will safeguard the privacy of an individual who has made a report of conduct allegedly in violation of the policy, a complainant, a respondent, and any witness to the extent reasonably possible while balancing the need to gather information to effectively assess and appropriately respond to the misconduct. Privacy under the policy means that information related to a report will be shared with a limited circle of University employees who “need to know” in order to assist in the assessment, investigation and resolution of the complaint. Based on the nature of the misconduct and whether it poses a safety or health emergency to the complainant and/or campus community, the University may be obligated to share the report with law enforcement and/or other authorities.

The University may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Office of EEO & Title IX Compliance to administer a meaningful and fair investigation.

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**Amnesty for Other Violations**

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, i.e., Student Code of Conduct or other University policy.

**Standard of Evidence**

The University will apply the preponderance of the evidence standard when determining whether a policy violation occurred. 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 prohibited conduct happened.

**Academic Freedom and Free Speech**

This policy does not allow curtailment or censorship 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 Discrimination and Grievance Procedures  
Virginia State University Student Code of Conduct

*This policy will be reviewed, at a minimum, annually and/or revised as needed by University Legal Counsel.*

Approval By: \_\_\_\_\_



President

Date: \_\_\_\_\_

4/12/2021