



## Manual of Policy and Procedures

Title	Number	Page
<b>SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING</b>	311-A	1 of 15
	Date <b>7/23/2015</b>	

### **I. NOTICE OF NONDISCRIMINATION**

As a recipient of federal funds, each member College of the Vermont State Colleges (collectively “the VSC”) is required to comply with Title IX of the Higher Education Amendments Act of 1972 (“Title IX”). In accordance with Title IX, as well as applicable state and federal law, the VSC prohibits discrimination on the basis of sex in its education programs and activities, admission, and employment. Prohibited sex discrimination includes sexual harassment, as defined in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*. Prohibited sex discrimination also includes sexual misconduct as defined in this policy.

Inquiries concerning the application of Title IX may be referred to VSC’s Title IX Coordinators or to the United States Department of Education for the Office of Civil Rights. Contact information for the Title IX Coordinators and the Office of Civil Rights is located in Appendix A to the *Chancellor’s Procedures for Implementation of Policy 311-A: Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking*.

### **II. POLICY STATEMENT**

The VSC is committed to maintaining an educational and working environment free from all forms of sex discrimination, including sexual misconduct. The VSC is also committed to maintaining an educational and working environment free from domestic violence, dating violence, sexual assault, and stalking. Such misconduct will not be tolerated. These acts not only violate a person’s feelings of trust and safety but can also substantially interfere with a person’s education or employment.

### **III. POLICY SUMMARY**

It is the policy of the VSC that, upon learning that an act of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking has occurred, prompt and appropriate remedial action reasonably calculated to stop the misconduct shall be taken. Disciplinary sanctions for any member of the VSC community engaging in conduct prohibited under this policy includes the suspension or dismissal/expulsion of students, the suspension or termination of employment or other appropriate disciplinary action such as warnings, reprimands and educational sanctions, as well as possible referral for criminal investigation and prosecution under Vermont law.

**Reporting:** The VSC encourages, and in the case of its employees requires, the prompt and accurate reporting of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking. This allows the VSC to respond quickly to allegations and offer support to individuals who may have been subjected to these forms of misconduct. The VSC is committed to protecting the confidentiality of victims, wherever possible, and will work closely with individuals seeking confidential assistance regarding misconduct under this policy. Certain professionals are permitted by law to offer confidentiality. Those who do not have the privilege of offering confidentiality are expected to handle reports discreetly to the extent permitted or required under the law and VSC policy. All allegations will be investigated promptly and thoroughly, and both the accuser and the accused will be afforded equal rights during the investigatory and adjudicatory process.

**Prevention and Education:** It is the collective responsibility of all members of the VSC community to foster a safe and secure campus environment. In an effort to promote this environment and prevent acts of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking from occurring, the VSC provides ongoing prevention and awareness programs. Incoming students and employees are expected to participate, and other members of the VSC community are encouraged to participate, in these programs.

**Retaliation:** Retaliation against any person for reporting, supporting a victim, or providing information in connection with a complaint of misconduct under this policy is prohibited and may result in disciplinary action, up to and including suspension, expulsion/dismissal or termination of employment. Retaliation may be found whether or not the underlying complaint is ultimately found to have merit. A complaint of retaliation should be reported, and will be investigated and adjudicated, using the procedures implementing this policy.

**False Information:** Providing false information in connection with a complaint of misconduct under this policy or intentionally misleading officials in the investigation or resolution of such a

complaint is prohibited and may result in disciplinary action, up to and including suspension, expulsion/ dismissal or termination of employment.

**Academic Freedom:** This policy shall not be construed or applied to restrict academic freedom at the VSC, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant or even hateful.

**Interpretation:** This policy is to be read consistent with federal and state law. If there is any conflict between this policy and federal or state law, this Policy is to be interpreted consistent with federal or state law.

#### **IV. SCOPE OF COVERAGE**

**Who:** This policy applies to all members of the VSC community, including students, employees, and other third parties who come on to campus (such as parents, visitors, independent contractors, and vendors), who are involved in an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking (including those who witness an incident or report an incident on behalf of another). It covers misconduct between individuals in different types of relationships. These include, but are not limited to, student to student, employee to employee, faculty member to faculty member, visitor/contracted employee to employee/student, faculty member to student, employee to student, supervisor to subordinate, coach to student athlete, and student to employee/faculty member. Misconduct under this policy may be acts committed by an individual or collective actions committed by members of a group or organization. These acts may be committed against an individual or against a group or organization. These acts may be committed by a stranger, an acquaintance, or someone with whom the victim has a social, romantic, or intimate relationship. These acts may be committed by or against any individual, regardless of sexual orientation or gender identity.

**What:** This policy prohibits sexual misconduct, domestic violence, dating violence, sexual assault, and stalking as defined herein, in the VSC's educational, extracurricular, athletic, and other programs and activities, as well as in the employment setting. These terms are further defined in the Definitions section below. Sexual harassment is also prohibited by the VSC, and is addressed separately in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.

**Where:** This policy covers conduct that takes place on VSC campuses and in any building or property owned or controlled by the VSC and used in direct support of, or in a manner related to, the VSC's mission. This includes public property within or immediately adjacent to and accessible from VSC property, as well as any building or property not within the same reasonably contiguous geographic area of VSC that supports or relates to VSC's educational

purposes and is used frequently by students. This policy also covers conduct that takes place off-campus, or through the use of online, electronic or digital technologies, that may have a nexus to any VSC education program or activity, for example by creating a hostile environment on campus or representing a threat to the safety of members of the VSC community or to the continuance of normal VSC operations.

**When:** The length of time between an incident and making a report of misconduct under this policy will not affect the willingness of the VSC to investigate the allegations or provide support and other services to the individual reporting the conduct. However, a prompt report will enhance the VSC's ability to conduct an investigation and the effectiveness of any criminal or VSC adjudicatory process. Therefore, the VSC strongly encourages individuals to report incidents of misconduct immediately following their occurrence.

## **V. RESOURCES FOR VICTIMS**

Written information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for individuals who report that they have been subjected to misconduct in violation of this policy, both on campus and in the local community, is available from the Office of the Chancellor and each of the member Colleges. The VSC will provide written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or other protective measures. The VSC will make such accommodations or provide such protective measures if requested and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Requests for accommodations should be made to the Title IX Coordinator.

## **VI. CLERY ACT**

The VSC is committed to complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").<sup>1</sup> Employees who are designated as Campus Security Authorities are required to report certain sex offenses and other crimes to the Department of Public Safety for the purpose of compliance with the Clery Act. The Offices of Public Safety for the member Colleges shall include any reported incidents of dating violence, domestic violence, sexual assault, and stalking, along with other crimes, in the daily crime log, and the annual security report. Public Safety will issue a timely warning when a Clery Act crime, which is considered to pose a serious or continuing threat to the VSC community, is reported to Public Safety or to local law enforcement (if local law enforcement makes Public Safety aware

---

<sup>1</sup> The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and report information about crime on or near their campuses.

of such reports). No personally identifying information will be included in the public reports required by the Clery Act.

## **VII. CONFIDENTIALITY**

The VSC is committed to maintaining the privacy of all individuals involved in a report of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking to the extent it reasonably can do so. While the VSC encourages individuals to report incidents of misconduct in violation of this policy, the VSC understands that it can be difficult for individuals to come forward to report such misconduct. The following resources have differing obligations to maintain confidentiality and to report incidents.

### **A. Confidential Off-Campus Resources**

Crisis services and off-campus healthcare providers will generally maintain confidentiality, to the extent permissible under applicable law.

### **B. Counselors and Health Services Professionals**

The VSC's licensed professional counselors and health services staff respect and protect confidential communications from students and employees to the extent permissible under applicable law. They may have the responsibility to disclose otherwise-privileged information in the event they perceive an immediate and/or serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under age 18. These professionals will report incidents, without any identifying information, to the Title IX Coordinator so VSC is aware that an incident of alleged misconduct under this policy has occurred. If the incident is a crime covered by the Clery Act, these professionals will report it, without any identifying information, to the appropriate Office of Public Safety for Clery Act purposes. The non-identifying information to be reported includes the nature, date, time and general location of the incident.

### **C. Employees**

Employees of the VSC, other than those employed by the VSC in their capacity as licensed professional counselors and health services staff, are not able to guarantee confidentiality. General inquiries or questions about policies and procedures do not have to be reported. Employees who learn of an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking are required to report this information to the Title IX Coordinator, the Dean of Students, or the President. Employees who are Campus Security Authorities are also required to report certain sex offenses and other crimes to the Department of Public Safety for

the purpose of the VSC's compliance with the Clery Act. All information will be kept securely and, even if an individual does not request confidentiality, the information will be shared on a "need to know" basis only with those assisting in any review, investigation or adjudication of the report, or who otherwise need to know the information to perform the duties of their position. Although not bound by confidentiality, these individuals should be discreet and respect the privacy interests of all individuals involved in the process.

The VSC will strive to protect the privacy interests of individuals to the extent it can while fulfilling its obligations to uphold relevant policies and regulations, to conform to any legal requirements, and to take reasonable steps to promote the safety of members of the VSC community. The VSC has an obligation to investigate complaints of sexual harassment, sexual misconduct, dating violence, domestic violence, sexual assault, and stalking, and to take reasonable steps to prevent recurrence of such behavior. Therefore, in some circumstances, the VSC may report an incident of misconduct under this policy to law enforcement or investigate and pursue disciplinary action against the offender, even if an individual requests confidentiality or chooses not to file a complaint. For this reason, absolute or strict confidentiality cannot be guaranteed. The VSC will evaluate requests for confidentiality on a case-by-case basis, within the context of its responsibility to provide a safe and nondiscriminatory environment for all students, employees and third parties, and to promote the health, safety, and wellbeing of the VSC community.

If an individual filing a report insists that his or her name or other identifiable information not be revealed and the VSC is able to respect that request, the VSC's ability to respond fully to the report may be limited. For example, a person accused of engaging in misconduct under this policy has the right to know the name of the accuser and information regarding the nature of the allegations in order to defend against the allegations in an adjudicatory process. Thus, the VSC may not be able to maintain a request for confidentiality and also adjudicate a complaint. If an individual insists on confidentiality, the VSC may be able to take action to limit the effects of the alleged sexual misconduct, domestic violence, dating violence, sexual assault, or stalking and prevent its recurrence to the extent warranted and practicable.

#### **D. Law Enforcement**

If a crime of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking appears to have occurred, the VSC encourages accurate and prompt reporting of these crimes to the Office of Public Safety and/or to state or local law enforcement. Victims subjected to such misconduct have the option to notify law enforcement, to be assisted by VSC officials in notifying law enforcement, or to decline to notify law enforcement. A victim may inform law enforcement of an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking without making a formal criminal complaint. A victim may choose to pursue

a criminal complaint, a complaint through the VSC's disciplinary process, or both simultaneously. A victim who chooses not to notify law enforcement immediately has the option to notify law enforcement at a later time. Completing a forensic exam is important to preserve evidence and does not require the examinee to file a police report. Reports to law enforcement are not confidential.

## **VIII. DEFINITIONS**

### **A. Clery Act Crimes**

The definitions of dating violence, domestic violence, sexual assault, and stalking used in this policy are consistent with the Clery Act, as amended effective 2014. In its primary prevention and awareness programs for incoming students and new employees, as well as in its primary prevention and awareness programs for students and employees, the VSC shall include the definitions of dating violence, domestic violence, sexual assault, and stalking under the criminal law of Vermont. However, the VSC utilizes its own definitions of these prohibited behaviors, which are consistent with the Clery Act as set forth below, for purposes of this policy and determines responsibility for violations of this policy through its own procedures and standards of proof (*i.e.* by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

**Dating Violence:** "Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(i) The existence of such a relationship shall be determined based on the reporting party's statement 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.

(ii) For the purposes of this definition—

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence."<sup>2</sup>

Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

**Domestic Violence:** "A felony or misdemeanor crime of violence committed—

(A) By a current or former spouse or intimate partner of the victim;

(B) By a person with whom the victim shares a child in common;

---

<sup>2</sup> 34 C.F.R. § 668.46(a).

- (C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
- (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (E) By any other person 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.”<sup>3</sup>

Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

Examples of **domestic violence and dating violence** behaviors or activities directed against a family member, a household member, or a person one is dating or has dated include, but are not limited to: (1) violence or threats of violence (even in the absence of bodily injury); (2) negligent or reckless use of physical force; (3) conduct that may reasonably be expected to exploit or coerce another; (4) restraint; (5) prevention of another's ability to communicate or move freely by the use of threats, intimidation, abuse or physical force; (6) unauthorized entry and, specifically, uninvited threatening presence in another's room or office; and (7) other conduct intended to intimidate, manipulate, humiliate, terrorize, or isolate the other person. Domestic violence and dating violence can be a single act or a pattern of behavior in a relationship. Engaging in such behaviors or activities is a violation of VSC policy and is prohibited.

**Sexual Assault:** “An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program[.]”<sup>4</sup> The Federal Bureau of Investigation's Uniform Crime Reporting Program defines these offenses as follows:

**Rape:** “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.”<sup>5</sup>

**Sex Offenses:** “Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. *Fondling*—The touching of the private body parts of another person for the purpose 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.

---

<sup>3</sup> 34 C.F.R. § 668.46(a).

<sup>4</sup> 34 C.F.R. § 668.46(a).

<sup>5</sup> Appendix A to Subpart D of 34 C.F.R. Part 668.



B. *Incest*—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. *Statutory Rape*—Sexual intercourse with a person who is under the statutory age of consent.”<sup>6</sup>

Sexual assault can be committed by any person against another person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

Any incident meeting one or more of these definitions is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

**Stalking:** “(i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) Fear for the person’s safety or the safety of others; or

(B) Suffer substantial emotional distress.

(ii) For purposes of this definition—

(A) *Course of conduct* means two or more acts, including, but not limited to, acts in 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.

(B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

(C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.”<sup>7</sup>

Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

Examples of **stalking** behaviors or activities, when conducted in connection with the above definition, include, but are not limited to: (1) 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; (2) use of online, electronic or digital technologies, such as posting pictures or text in chat rooms or on websites, sending unwanted or 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, or using Global Positioning Systems (GPS) or similar technology to monitor a person; (3) pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or

---

<sup>6</sup> Appendix A to Subpart D of 34 C.F.R. Part 668.

<sup>7</sup> 34 C.F.R. § 668.46(a).

other places frequented by the person; (4) surveillance or other types of observation, including staring and voyeurism; (5) trespassing; (6) vandalism; (7) non-consensual touching; (8) direct verbal or physical threats against a person or a person's family member, pet or personal property; (9) gathering information about a person from friends, family, or co-workers; (10) accessing private information through unauthorized means; (11) threats to harm self or others; (12) defamation and/or lying to others about the person; and (13) using a third party or parties to accomplish any of the above. Engaging in such stalking behaviors or activities is a violation of VSC policy and is prohibited.

## **B. Additional Definitions Applicable to This Policy**

**Coercion:** The act of compelling or forcing someone to act based on pressure, harassment, threats, or intimidation.

**Consent:** For purposes of this policy, effective consent means words or actions that demonstrate to a reasonable person a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective consent cannot be gained by threat, force, coercion or intimidation or by ignoring words or actions that indicate a lack of consent or objection to the activity. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be rescinded at any time. It is the responsibility of the person who wants to engage in the sexual activity to ensure that he or she has effective consent from any other person involved. Silence, lack of protest, or lack of resistance are not sufficient standing alone to establish consent. The actions of the individuals involved and the context in which those actions occurred will be considered in determining whether or not there was consent. The existence of a dating relationship or a past sexual relationship between the persons involved is not a sufficient basis to assume consent. Past consent between two individuals does not imply present or future consent to sexual activity.

Consent is not valid when a person is incapable of giving consent: (1) due to the person's use or consumption of drugs or alcohol; (2) when intimidation, threats, physical force, or other actions that are coercive are applied; (3) when a physical or mental condition is present such that the person cannot knowingly or voluntarily give consent; or (4) when a person is under the age of 16.

Alcohol-related incapacity results from a level of alcohol ingestion that is more severe than mere impairment, being under the influence, drunkenness or intoxication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards and includes an analysis of the objective behaviors of the person alleging sexual misconduct and whether the accused person knew or reasonably should have known that the person was incapacitated, or if

the accused person played a role in creating the circumstances of incapacity. Whether the accused person knew or reasonably should have known the other person was incapacitated will be assessed in light of all relevant circumstances. Objective physical indications of incapacity include slurred speech, difficulty walking or standing, vomiting, and losing consciousness.

The use of alcohol or other drugs does not make a victim at fault for sexual misconduct. The use of alcohol or other drugs does not minimize or excuse a person's responsibility for committing sexual misconduct. Nor does the use of alcohol or other drugs minimize or excuse a person's responsibility for determining whether another person is capable of giving consent, as described above.

**Retaliation:** Retaliation against any person for reporting, supporting a victim, or providing information in connection with a complaint of sexual misconduct, domestic violence, dating violence, and stalking includes, but is not limited to: (1) pressuring a person to drop or not support a complaint; (2) encouraging a person to provide false and misleading information; (3) engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living or work environment; (4) threatening, intimidating or coercing the person; or (5) otherwise discriminating against any person for exercising their rights and responsibilities under this policy. Depending on the particular circumstances, retaliation may also be unlawful.

Retaliation as defined here violates VSC policy and is prohibited.

**Sexual Misconduct:** Any non-consensual act of a sexual nature, which may or may not involve physical contact. Sexual misconduct may vary in severity and includes a range of behaviors and attempted behaviors, including, but not limited to sexual harassment as defined in Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.<sup>8</sup> Sexual misconduct includes sexual assault (as defined above) and also includes unwelcome sexual conduct that does not constitute sexual assault but is sexually violating in nature, such as nonconsensual physical contact of a sexual nature including, but not limited to, intentional contact of a sexual nature with the breasts, buttocks, groin, or mouth or contact of a sexual nature with any other body parts.

Sexual misconduct also includes sexually exploitative behavior and attempted sexually exploitative behavior. Examples of sexually exploitative behavior include, but are not limited to: (1) prostituting another person; (2) recording or capturing (through any means) images or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent, and/or sharing this material without the other person's consent; (3) viewing or allowing or aiding others to view another person's sexual activity, intimate body parts, or nudity without the

---

<sup>8</sup> Conduct that violates both Policy 311 and this Policy may be addressed under either policy.

person's consent; and (4) sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.

Exception: The VSC's prohibition of sexual exploitation is not intended to prohibit the use of sexually-explicit materials that are reasonably related to the VSC's academic mission. Specifically, this section is not intended to proscribe or inhibit the use of sexually-explicit materials, in or out of the classroom, when in the judgment of a reasonable person the use of such materials appropriately promotes genuine discourse, inquiry and learning.

Sexual misconduct as defined here violates VSC policy and is prohibited.

## **IX. PROCEDURES**

The Chancellor shall establish and periodically update the procedures for handling complaints of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking to ensure that the process is prompt, fair and impartial. Officials who are responsible for investigating and adjudicating complaints under this policy shall receive annual training relevant to their specific duties and responsibilities on how to conduct investigations involving sexual misconduct, domestic violence, dating violence, sexual assault, and stalking, and the adjudication process so as to protect the safety of victims and promote accountability. The procedures shall identify the persons responsible for overseeing the development of prevention and awareness programs at each of the member Colleges and the Office of the Chancellor. The procedures shall outline the steps available to victims of misconduct prohibited by this policy and describe the procedures for reporting, investigating and adjudicating incidents of such misconduct. The procedures shall contain the definitions of dating violence, domestic violence, sexual assault, stalking, and consent under the criminal laws of Vermont.

The standard of proof applicable in investigating and adjudicating complaints under this policy shall be "by a preponderance of the evidence," meaning that it is more likely than not (*i.e.* there is more than a 50% likelihood) that the alleged actions or behavior in violation of the policy occurred.

The procedures established by the Chancellor may be modified as necessary to comply with federal and state law so that the VSC may respond promptly and effectively to incidents of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking.

## **X. DUTY TO COOPERATE**

All students and employees have a duty to cooperate in investigations undertaken pursuant to this policy and are expected to provide complete, accurate, and truthful information. They may be

asked to sign statements or other documents memorializing the information they provide, and may be asked to keep the substance of any interview confidential. Failure to cooperate fully with the investigation may subject the individual to the full range of disciplinary actions, up to and including expulsion or termination.

All actions taken to investigate and resolve complaints pursuant to this policy shall be conducted with as much privacy, discretion and confidentiality as possible without compromising the thoroughness and fairness of the investigation. All persons involved are expected to treat the situation under investigation with respect. To conduct a thorough investigation, the investigator(s) may discuss the complaint with witnesses and those persons involved in or affected by the complaint, and those persons necessary to assist in the investigation or to implement appropriate disciplinary actions. Nothing herein shall be deemed to limit the procedural rights of unionized and other employees with regard to such investigations.

## **XI. SANCTIONS**

Violation of the prohibitions set forth in this policy is grounds for discipline up to and including the dismissal/expulsion of students or the termination of employees. Generally, the range of sanctions for **students** includes verbal and written warnings, written reprimands, counseling, loss of privileges, probationary status, removal from College housing, suspension, dismissal/expulsion, revocation of degree, and/or withholding of transcript or other action determined to be appropriate under the circumstances. Generally, the range of sanctions for **employees** includes verbal warnings, written warnings, written reprimands, probation, suspension, termination of employment, non-renewal of a contract, or other action determined to be appropriate under the circumstances.

The VSC may also impose certain non-disciplinary remedial actions where appropriate, such as required counseling or training for the respondent and/or a group of students or employees, to stop the misconduct, prevent its recurrence, and remedy its effects. Additional non-disciplinary outcomes, such as extending and modifying no contact orders, room changes, class changes, work schedule changes, building restrictions, and extracurricular activity restrictions may also be imposed, regardless of the finding, to maintain an environment free from sexual misconduct, dating violence, domestic violence, sexual assault, sexual misconduct, and stalking.


## **XII. OTHER POLICY VIOLATIONS**

The VSC's primary goals in responding to complaints of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking are to promote the safety of the VSC community, to address the misconduct, and to prevent it from recurring. A person (whether a victim of misconduct under this policy or someone with knowledge of such an incident) should not be

deterred from reporting a violation of this policy because alcohol, drugs, or other violations of VSC's policies were involved in the incident. VSC officials may, in their discretion and on a case-by-case basis, decide not to pursue relatively minor drug, alcohol or other policy violations related to incidents of misconduct under this policy or, if they do pursue such violations, to handle them separately from complaints brought under this policy.

Misconduct that does not meet the definition of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking may violate other VSC policies, student handbooks, codes of conduct, or collective bargaining agreements and, if so, shall be handled as set forth in such other documents. Where related misconduct involves a combination of elements of alleged sexual assault, domestic violence, dating violence, sexual assault, or stalking and other types of sexual misconduct, it will be handled under the procedures adopted in connection with this policy.

Signed by:



Jeb Spaulding, Chancellor

### **Relevant Legal Authorities**

- 20 U.S.C. § 1681 *et seq.*, Title IX of the Higher Education Amendments of 1972
- 34 C.F.R. Part 106 (Title IX regulations)
- 20 U.S.C. § 1092(f), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Section 485(f) of the Higher Education Act of 1965 (as amended)
- 34 C.F.R. § 668.46 (Clery Act regulations)
- 42 U.S.C. § 13925(a)(20), Violence Against Women Act of 1994 (as amended) (definition of personally identifying information)
- 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act of 1974 (FERPA)
- 34 C.F.R. Part 99 (FERPA regulations)
- 13 V.S.A. § 3251(3), Sexual Assault - Definitions
- 13 V.S.A. § 3252, Sexual Assault
- 13 V.S.A. § 1042, Domestic Assault
- 15 V.S.A. § 1101(2), Domestic Relations, Abuse Prevention - Definitions
- 13 V.S.A. § 1061, Stalking – Definitions
- 16 V.S.A. § 178, Harassment and Hazing Prevention Policies; Postsecondary Schools
- 16 V.S.A. § 14, Harassment; Notice and Response
- 16 V.S.A. § 11(a)(26), Classifications and Definitions, Harassment

### **Additional Resources**

- United States Department of Education Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence*, issued April 29, 2014 (<http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>)
- United States Department of Education Office for Civil Rights, *Dear Colleague Letter*, issued April 4, 2011 (<http://www.title9.us/wp-content/uploads/2014/03/colleague-201104.pdf>)
- United States Department of Education Office for Civil Rights, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, issued January 19, 2001 (<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>)
- United States Department of Education's *Handbook for Campus Safety and Security Reporting* (2011) (<http://www2.ed.gov/admins/lead/safety/handbook.pdf>)
- White House Task Force to Protect Students from Sexual Assault, *Not Alone*, issued April 29, 2014 ([http://www.whitehouse.gov/sites/default/files/docs/report\\_0.pdf](http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf))

### **Cross References**

- VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*
- *Chancellor's Procedures for Implementation of Policy 311-A: Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking*