



# UNIVERSITY OF RICHMOND

## Policy Manual

<b>Policy #:</b>	GOV-3102	<b>Policy Title:</b>	Policy Prohibiting Sexual Misconduct
<b>Effective:</b>	08/01/2022	<b>Responsible Office:</b>	Compliance and Title IX
<b>Date Approved:</b>	07/07/2021	<b>Approval:</b>	Director of Compliance & Title IX Coordinator and Vice President & General Counsel
<b>Replaces Policy Dated:</b>	10/01/2021	<b>Responsible University Official:</b>	Director of Compliance & Title IX Coordinator

### PURPOSE:

The [University of Richmond prohibits discrimination](#) and harassment against applicants, students, faculty, or staff on the basis of race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity, gender expression, disability, status as a veteran, or any classification protected by local, state, or federal law.

Consistent with its mission, values and commitment to non-discrimination, the University is unwavering in its commitment to prevent sexual violence, respond promptly to reports of any type of sexual misconduct, support survivors of sexual misconduct, and investigate and adjudicate reports in a manner that is prompt, fair and equitable to all parties involved.

The term sexual misconduct, as further defined in this Policy, includes, but is not limited to but is not limited to, dating violence, domestic violence, non-consensual sexual contact, non-consensual sexual intercourse, sexual assault, sexual exploitation, sexual harassment, and stalking. This Policy prohibits sexual misconduct and sets forth the process by which the University will respond to and investigate sexual misconduct.

The conduct prohibited by this Policy may also violate criminal laws. As such, the University encourages members of the campus community to report sexual misconduct to both the University's Title IX Coordinators and to the University Police Department.

The University also prohibits [retaliation](#) against anyone who reports or witnesses an incident of possible sexual misconduct. The University's Policy Prohibiting Retaliation can be found [here](#).

As a recipient of federal funds, the University of Richmond complies with [Title IX of the Education Amendments of 1972](#) (Title IX). Title IX provides: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

## SCOPE:

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### 1. Individuals Covered

This Policy Prohibiting Sexual Misconduct (Policy) applies to all students, staff (including Resident Assistants), faculty, applicants for admission, and third parties, such as contractors or vendors serving the University or visitors to the University.

The term “student” includes all persons taking courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Individuals who are not officially enrolled for a particular term but who have a continuing relationship with the University, such as student studying abroad or taking a leave of absence, are also considered “students.” Each student shall be subject to this Policy and the process described herein from their first day on campus through the actual awarding of a degree (even though the conduct may occur before classes begin or after classes end), as well as during the academic year and during periods between terms of actual enrollment.

This Policy and the process described herein to respond to and investigate reports of sexual misconduct are the same for all Complainants and Respondents regardless of gender, sexual orientation, gender identity or expression. No matter a person’s sexuality (e.g. bisexual, gay, lesbian, queer, straight, etc.) or how someone identifies (e.g. female, gender expansive, gender fluid, male, questioning, trans, etc.), all members of the University community have the same rights and access to the same level of services and support. The University’s Title IX Coordinators and University Hearing Board members are Safe Zone trained.

This Policy and the processes described herein will be implemented without regard to an individual’s nationality or immigration status. The University, including the University Police Department, Title IX Coordinators, and Title IX Investigators, will not inquire into an individual’s immigration status when responding to a report of possible sexual misconduct.

### 2. Locations Covered for Sexual Misconduct

The Policy shall apply to conduct that occurs on the campus of the University, on or in off-campus buildings or property of the University, and at University sponsored activities, including off-campus education programs and activities, or on public property, as defined below.

The term “campus” includes any building or property owned or controlled by the University within the same reasonably contiguous geographic area of the University and used by the University in direct support of, or in a manner related to, its educational purposes, including residence halls and apartments and any building or property within or reasonably contiguous to the campus that is owned by the University, is frequently used by students, and supports University purposes.

The term “off-campus buildings or property of the University” includes any building or property owned or controlled by a student organization officially recognized by the University and any building or property owned or controlled by the University, used in direct support of, or in relation to, the University’s educational purposes, and frequently used by students.

The term “public property” includes streets, sidewalks, or parking facilities within the campus or immediately adjacent to and accessible from campus.

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## ***Sexual Misconduct that is pursued under a Title IX formal complaint:***

While this policy covers a broader range of locations, complaints of sexual harassment under Title IX, as defined in section 3102.3, are limited to conduct that has occurred within the University's education program or activity which includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent (defined below) and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University. Title IX formal complaints involve conduct that has occurred within the United States only.

## ***Sexual Misconduct that is pursued under a sexual misconduct formal complaint:***

A complaint of sexual misconduct under this policy applies to University students studying abroad through a University-approved study abroad program as well as conduct involving students, faculty or staff that occurs at other off campus locations, for example in an off campus residence, or in connection with other activities, if the Title IX Coordinator (or designee) determines that such conduct may have a continuing adverse effect that limits or precludes the individual's ability to participate in or benefit the University educational program or activity.

Regardless of the location of an incident of possible sexual misconduct, [Responsible Employees](#), including all faculty, must report the incident, and all other staff and students are strongly encouraged to report so that appropriate action may be taken and support and resources may be provided to the individual or individuals involved.

If the reported sexual misconduct involves an individual at another university or educational institution, the University, after considering the confidentiality wishes of the person who experienced the misconduct and applicable privacy laws, may call the appropriate authorities at that institution to make them aware of the alleged misconduct.

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## **POLICY STATEMENT:**

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### ***3102.1 – Summary of the University's Obligations***

The University of Richmond has an obligation to make reasonable efforts to investigate and appropriately address reports of sexual misconduct (as defined in this Policy). As more fully explained in this Policy, this

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obligation applies even when the Complainant does not wish to participate in an investigation. Upon receipt of a report, the University will respond in an effort to stop the reported misconduct, eliminate any hostile environment, take reasonable steps to prevent a recurrence of such misconduct, and address any effect that such misconduct may have on the larger University community.

## ***3102.2 – Questions or More Information***

For questions about sex discrimination in education, please contact the University's Director of Compliance & Title IX Coordinator, Kristine Henderson at (804) 289-8186 or Carl Sorensen, Senior Associate Vice President for Human Resources and Deputy Title IX Coordinator for Employees at (804) 289-8747. Further information about Title IX and sex discrimination in education is available from the Assistant Secretary for Civil Rights, [U.S. Department of Education, Office of Civil Rights](https://www.ed.gov/office-of-civil-rights), 400 Maryland Avenue, SW, Washington, DC, 20202-1100; (800) 421-3481; [OCR@ed.gov](mailto:OCR@ed.gov).

## ***3102.3 – Definitions***

### **A. Complainant**

The term “Complainant” as used in this Policy, The Policy on Preventing and Responding to Discrimination and Sexual Misconduct Involving Faculty or Staff and in the University’s Standards of Student Conduct refers to the individual who is alleged to be the victim of conduct that could constitute sexual misconduct. The Complainant may or may not be the individual who makes the report of sexual misconduct.

A Complainant can be a person of any gender, sexual orientation, gender identity or gender expression. A Complainant need not be a University student, faculty, or staff member, but, if not, the administrative response and investigation described in this Policy will apply only if the Respondent is a University student, staff, or faculty member. The University Police Department will respond to reports of crimes within the Department’s jurisdiction regardless of the status of the Complainant and Respondent.

### **B. Consent**

Consent means clear and unambiguous agreement to engage in sexual activity as evidenced by words or actions that demonstrate a knowing and voluntary willingness to engage in mutually agreed upon sexual activity. Consent cannot be gained by force, duress, intimidation, coercion, ignoring objections, or taking advantage of another's incapacitation. Consent may not be inferred from silence or any other lack of active resistance. Consent may not be inferred from the way a person is dressed. Consent may not be assumed from the fact of spending money on another person (e.g., buying a meal on a date).

Prior consent does not imply consent to future sexual acts. A current or prior consensual dating or sexual relationship, alone, does not imply consent to sexual activity or preclude a finding of sexual misconduct. In addition, consent to one type of sexual act does not automatically imply consent to any other type of sexual act.

Consent may be withdrawn at any time through clear words or actions such as walking or running away, pushing the other party away, or attempting to physically stop the other party. Once a person withdraws consent, sexual activity must stop, regardless of the extent or nature of the sexual behavior that has occurred up to the moment that consent is withdrawn. For example, if one individual clearly says "no" and the other continues penetration or another form of sexual contact, it is sexual misconduct.

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Consent may not be given by the following persons:

- o Individuals who are mentally incapacitated at the time of the sexual contact in a manner that prevents them from understanding the nature or consequences of the sexual act involved, including incapacitation as a result of alcohol or drug use;
- o Individuals who are asleep, unconscious or otherwise physically helpless; and
- o Minors.

## 1. Incapacitation

Incapacitation is defined as the physical and/or mental inability to make informed, rational judgments that prevents an individual from giving valid consent. Incapacitation may be caused by a permanent or temporary physical or mental impairment. Incapacitation may also result from the consumption of alcohol or the use of drugs.

The use of alcohol or drugs may, but does not automatically, affect a person's ability to consent to sexual contact. The consumption of alcohol or drugs may result in incapacitation if the nature and degree of the intoxication go beyond the stage of drunkenness, intoxication, or reduced inhibition to the point where the individual is unable to make knowing, informed decisions or to understand the nature and consequences of the sexual act. In such case, the person cannot consent to sexual activity, regardless of their words or actions.

A person violates this policy if they have sexual contact with someone they know or should know is incapacitated or has reached the degree of intoxication that results in incapacitation. The test of whether an individual should know about another's incapacitation is whether a reasonable, sober person would know about the incapacitation. A Respondent cannot rebut a sexual misconduct charge merely by arguing that they were drunk or otherwise impaired and, as a result did not know that the other person was incapacitated.

A person who is passed out or unconscious is incapacitated and, therefore, is not able to consent.

## 2. Coercion

Coercion is unreasonable, inappropriate pressure to engage in sexual activity. Coercive behavior is different than romantic or seductive behavior because coercive behavior involves inappropriate or unreasonable pressure to obtain consent from another person for sexual activity. Continued pressure to engage in sexual activity after the other person makes it clear that they do not want to engage in, want to stop, or do not want to go further with sexual activity can be coercion.

## 3. Physical Force

Physically restraining a person against their will, using violence or the threat of violence, or using a weapon or threatening to use a weapon constitutes physical force. An example of physical force includes using bodyweight to hold someone in place.

## 4. Threats

Threats cause a person to do something that they would not have done without the threat. Examples of threats include, but are not limited to:

- o “If you do not have sex with me, I will harm someone close to you.”

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- o “If you do not do what I want, I will tell people that you are gay.”
- o “If you do not hook up with me, I will tell people you are a whore.”
- o “If you stop hooking up with me, I will kill myself.”

### 5. Intimidation

Intimidation is defined as an implied threat. Examples of intimidation include use of body size to block an exit, breaking or smashing items, or using looks or gestures to create fear.

## C. Formal Complainant

*Filing a Title IX or Sexual Misconduct Formal Complaint:* A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, and must contain the complainant’s physical or digital signature.

### ***Title IX Formal Complaint:***

A Title IX Formal Complaint is a document filed by a Complainant and signed by the Title IX Coordinator alleging sexual harassment under Title IX, as defined in section 3102.3, against a Respondent and requesting that the University investigate the allegations of sexual harassment or that the Complainant and University enter into voluntary mediation with the Respondent.

### *Dismissal of a Title IX Formal Complaint*

- If the conduct alleged under a Title IX Formal Complaint does not constitute Sexual Harassment under Title IX (defined below), did not occur in the University’s education program or activity, or did not occur against a person in the United States, the University must dismiss the Title IX formal complaint. The Complainant will then have the opportunity to file a Sexual Misconduct Formal Complaint (defined below).
- The University may dismiss the formal complaint if the Complainant would like to withdraw the formal complaint, if the Respondent is no longer enrolled or employed by the University or specific circumstances prevent the University from gathering sufficient evidence to reach a determination.
- The parties have the right to appeal the decision by the University to dismiss the formal complaint.

### ***Sexual Misconduct Formal Complaint:***

A Sexual Misconduct Formal Complaint is a document filed by a Complainant and signed by the Title IX Coordinator alleging sexual misconduct as defined in this policy (not to include Sexual Harassment under Title IX) against a Respondent and requesting that the University investigate the allegations of sexual misconduct or to enter into voluntary mediation with the Respondent.

### *Dismissal of a Sexual Misconduct Formal Complaint*

The University may dismiss a formal complaint if the Complainant would like to withdraw the formal complaint, if the Respondent is no longer enrolled or employed by the University or specific circumstances prevent the University from gathering sufficient evidence to reach a determination. The parties have the right to appeal the decision by the University to dismiss the formal complaint.

## D. Respondent

The term “Respondent” as used in this Policy, The Policy on Preventing and Responding to Discrimination and Sexual Misconduct Involving Faculty or Staff, and in the University’s Standards of Student Conduct refers to the individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct.

A Respondent can be a person of any gender, sexual orientation, gender identity or gender expression. The University Police Department will respond to reports of crimes within the Department’s jurisdiction regardless of the status of the Complainant and Respondent

## E. Retaliation

Retaliation is retribution in any form against: (a) an individual who reports, in good faith, an actual, potential, or suspected violation of applicable laws, regulations, or University policies, including this Policy; or (b) an individual participating in the investigation of a sexual misconduct report. Retaliation is misconduct prohibited by the University. Retaliation includes both direct conduct and indirection conduct by a third party on behalf of the individual charged with retaliation.

## F. Sexual Misconduct

Sexual misconduct is a broad range of behavior that includes, but is not limited to dating violence, domestic violence, non-consensual sexual contact, non-consensual sexual intercourse, sexual assault, sexual exploitation, sexual harassment, and stalking.

Conduct prohibited as sexual misconduct under this Policy may also violate criminal law. As a result, in addition to any investigation and conduct proceeding by the University, such conduct may be investigated by the police and prosecuted in a court of law.

1. ***Dating Violence*** is any type of violence, including sexual or physical assault or abuse, or the threat of such assault or abuse, between adults who are in a social relationship of a romantic or intimate nature. The existence of such a relationship will 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. Dating violence is sexual misconduct prohibited by the University.
2. ***Domestic Violence*** Includes: (a) a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the Complainant; or (b) the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over the Complainant, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the Complainant; is cohabitating or has cohabitated with the Complainant as a spouse or intimate partner, shares a child in common with the Complainant; or commits acts against a youth or adult Complainant who is protected from those acts under applicable family or domestic violence laws. Domestic violence is sexual misconduct prohibited by the University.
  - a. ***Economic Abuse***, as used in the definition of Domestic Violence, means the behavior is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use or maintain economic resources they are entitled including using coercion, fraud, or manipulation to: (i) restrict a person’s access to money, assets, credit or financial information; (ii) unfairly use a person’s personal economic resources, including money,

assets and credit for one's one advantage; or (iii) exert undue influence over a person's financial and economic behavior and decisions including forcing default on joint or other financial obligations, exploiting power of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interest of a person to who one has a fiduciary duty.

- b. ***Technological Abuse***, as used in the definition of Domestic Violence, means an act or pattern of behavior that occurs within domestic violence, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.
3. ***Non-Consensual Sexual Contact*** is any sexual contact that occurs without consent constitutes non-consensual sexual contact. Sexual contact means physical contact committed with the intent to sexually molest, arouse or gratify any person, where one person intentionally touches another's intimate parts or clothing directly covering such intimate parts or causes a person to touch their own intimate parts or clothing directly covering such intimate parts. Examples of sexual contact include, but are not limited to, the intentional touching of a person's genitalia, groin, breast, or buttocks or the clothing covering any of those areas, or using force to cause the person to touch their own genitalia, groin, breast, or buttocks. *Non-Consensual Sexual Contact may also be referenced as fondling.* Non-consensual sexual contact is sexual misconduct prohibited by the University.
4. ***Non-Consensual Sexual Intercourse*** is the act of sexual intercourse that occurs without consent constitutes non-consensual sexual intercourse. Sexual intercourse is defined by penetration (anal, oral, or vaginal), however slight, by a penis, tongue, finger, or inanimate object. *Non-consensual sexual intercourse may also be referred to as rape. Non-consensual sexual intercourse may also constitute statutory rape or incest as defined by the Virginia state law.* Non-consensual sexual intercourse is sexual misconduct prohibited by the University.
5. ***Sexual Assault*** is any sexual act directed against another person, without consent including instances where the victim is incapable of giving consent. Non-consensual sexual contact and non-consensual sexual intercourse constitute sexual assault under this policy. Sexual assault is sexual misconduct prohibited by the University.
6. ***Sexual Exploitation***: Taking sexual advantage of another person without effective consent constitutes sexual exploitation. Sexual exploitation is distinct from sexual assault which constitutes a separate violation of this Policy. Examples of sexual exploitation include but are not limited to causing the incapacitation of another person for a sexual purpose; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images of another person, including images of someone undressed or partially undressed; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and knowingly a sexually transmitted disease to another person. Sexual exploitation is a form of sexual misconduct and is prohibited by the University.
7. ***Sexual Harassment under Title IX*** is defined as conduct on the basis of sex that satisfies one or more of the following:

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- a. Unwelcome conduct of a sexual nature as determined by a reasonable person to be so severe, pervasive **and** objectively offensive that it effectively denies a person equal access to the University's education program or activity.  
Unwelcome conduct of a sexual nature can be severe, pervasive and objectively offensive by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents, particularly if the conduct is physical.
- b. A University employee conditions the granting of University aid, benefit or service on an individual's participation in unwelcome sexual conduct.
- c. Sexual assault, dating violence, domestic violence and stalking as defined in this policy.

Sexual Harassment under Title IX is sexual misconduct prohibited by the University.

8. **Sexual Harassment (Non-Title IX)** is defined as conduct on the basis of sex that satisfies one or more of the following:
  - a. Unwelcome conduct of a sexual nature as determined by a reasonable person to be sufficiently severe, persistent, **or** pervasive such that it limits or denies an individual's employment, academic performance, or ability to participate in or benefit from University programs or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective.
  - b. Unwelcome conduct of a sexual nature can be created by persistent or pervasive conduct or by a single or isolated incident, if severe. The more severe the conduct, the less need there is to show a repetitive series of incidents, particularly if the conduct is physical.
  - c. Submission to unwanted sexual conduct is an implicit or explicit term or condition of an individual's employment, academic standing, or participation in any University programs and/or activities, or is used as the basis for University decisions regarding the individual who is the subject of the unwanted sexual conduct.

Sexual Harassment (non-Title IX) is sexual misconduct prohibited by the University.

9. **Stalking** is engaging in a course of unwanted conduct toward a specific person (including surveillance, repeated phone calls, emails, text messages, social media messages, use of other technology or in-person contact) that would cause a reasonable person to fear for their own safety or the safety of others or to suffer substantial emotional distress.

A course of conduct means two or more acts, including, but not limited to, acts in which the person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, another person, or interferes with another person's property.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Any act that constitutes stalking under Virginia law is also prohibited under this Policy.

Stalking is sexual misconduct prohibited by the University.

10. **Sexual Violence** is any physical sexual act or acts perpetrated against a person's will or against a person incapable of giving consent. Examples of sexual violence include Non-consensual sexual contact and non-consensual sexual intercourse. Depending upon the circumstances, may also include dating violence or domestic violence. Sexual violence is sexual misconduct prohibited by the University.

## G. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, reasonably available and without fee or charge. Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening either party and/or to protect the safety of all parties; or the University's educational environment; or to deter sexual harassment. To the extent possible, supportive measures will remain confidential.

Reasonable and appropriate supportive measures will be implemented regardless of whether the Complainant wishes to file a formal complaint, participate in a criminal investigation or any other disciplinary proceeding.

Supportive measures will be tailored to meet the needs of the individuals. Listed below are examples of the type of supportive measures that the Title IX Coordinator may implement when appropriate:

- Issuing a “No Contact” order to the involved individuals prohibiting the Respondent and the Complainant from having any contact with each other, including face-to-face, telephonic or electronic (e.g., texting, email, social media, etc.) contact. A “No Contact” order will be issued when requested by one of the parties involved in a report or when the Title IX Coordinator determines it is necessary to ensure safety or prevent the creation of a hostile environment. To the extent appropriate under the circumstances, the terms of a “No Contact” order issued will not unreasonably burden either the Complainant or the Respondent;
- Making changes to the class assignment or class schedule of either the Complainant or the Respondent to eliminate or limit, to the extent possible, contact between the parties;
- Changing residence hall assignments for the party seeking the supportive measure;
- Changing work schedules or job assignments;
- Contacting faculty members on behalf of the Complainant, Respondent or witnesses for academic accommodations such as approved absences from class or work, extensions on class assignments, or permission to withdraw from a class or be granted an incomplete;
- Providing information about and facilitating access to counseling and health care resources both on and off campus;
- Engaging the University Police Department in the creation of a personal safety plan for the Complainant, Respondent, and/or witnesses;
- Engaging the University Police Department in seeking a protective order.

## *3102.4 – Roles and Responsibilities*

### A. The Title IX Coordinator

The University's Title IX Coordinator shall have primary responsibility for coordinating the University's efforts to comply with and carry out its responsibilities under this Policy and Title IX. The Title IX Coordinator oversees the formal complaint and grievance processes relating to reports of sexual misconduct for the campus community, ensures the prompt and thorough investigation of any report of sexual misconduct, establishes processes to identify and address patterns or systemic problems that may arise during the investigation of a sexual misconduct complaint, and coordinates the activities of all Deputy Title IX Coordinators.

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The Title IX Coordinator may delegate any of the responsibilities set forth in this Policy to the appropriate Deputy Title IX Coordinator and, as a result, references in this Policy to the Title IX Coordinator, should be construed to include the Deputy Title IX Coordinators.

The Title IX Coordinator receives and responds to reports of sexual misconduct falling within the scope of this Policy. When a Title IX Coordinator receives a report of possible sexual misconduct, the first priority is to ensure that the Complainant is safe and that the members of the campus community are protected.

As detailed in Section 3102.7(B)(1) of this Policy, the Title IX Coordinator provides Complainants and Respondents with information about their respective rights, a description of the grievance process, the availability of supportive measures, with or without the filing of a formal complaint, and the process for filing a formal complaint.

The Title IX Coordinator will respond to and/or meet with any member of the campus community who wishes to report possible sexual misconduct and/or has questions relating to this policy or Title IX.

The Title IX Coordinator is responsible for evaluating and implementing supportive measures, where appropriate, as described in Section 3102.7(B)(2) of this Policy. The Title IX Coordinator may delegate responsibility for the investigation to a trained Title IX investigator, in accordance with Section 3102.8(A)(1) of this Policy.

The Title IX Coordinator is responsible for ensuring that University students, faculty, and staff receive training regarding Title IX, sexual misconduct, and this Policy, including reporting and responding to possible incidents of sexual misconduct. The Title IX Coordinator also implements educational programs and communication plans designed to inform students of their rights under this Policy and Title IX and how to file a Title IX Formal Complaint of Sexual Misconduct Formal Complaint.

### **B. The University Police Department**

The University of Richmond Police Department (URPD) is a full-service law enforcement agency accredited by the Commission on Accreditation for Law Enforcement Agencies and the International Association of Campus Law Enforcement Administrators.

The University Police Department responds to all reports of criminal activity occurring on campus to include incidents of sexual assault, domestic violence, stalking, and dating violence. The police department enforces Virginia law and will coordinate certain investigations with the Commonwealth Attorney. In response to a call for service, the University of Richmond Police Department will dispatch an officer to assist the victim with filing an incident report. The University of Richmond Police Department notifies the University's Title IX coordinators of any report of sexual misconduct and all Title IX violations. The detectives from the University Police Department will investigate a report of criminal sexual misconduct occurring on the University's campus or will assist students in reporting to other law enforcement agencies if the misconduct occurs off campus.

URPD is the designated reporter under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act for the University of Richmond, issues Timely Warnings, and maintains the University's crime log.

### **C. The College Deans' Offices and Deans of Students**

The University college deans' offices and, the deans or directors responsible for student affairs in the Law School, School of Professional and Continuing Studies, and the MBA Program are important

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sources of information, support, and guidance to students involved in a sexual misconduct proceeding. They do not conduct sexual misconduct investigations or sexual misconduct hearings, but they do provide individuals with information on the University’s sexual misconduct policies and procedures, connect individuals with the Title IX Coordinators and the University Police Department, and assist the Title IX Coordinator with the implementation of supportive measures including academic accommodations to students involved in a sexual misconduct report

The staff of the college dean’s offices and the deans or directors responsible for student affairs in the Law School, School of Professional and Continuing Studies, and the MBA Program are Responsible Employees, as defined in Section 3102.4(E) of this Policy and, as a result, will promptly notify the Title IX Coordinator of any report of sexual misconduct they receive.

For undergraduate students, contact the Richmond College Dean’s Office at (804) 289-8061 or the Westhampton College Dean’s Office at (804) 289-8468. For law students, contact Alex Sklut, Associate Dean Student Services, Law School Dean’s Office, (804) 289-8013. For MBA students, contact Debbie Fisher, Associate Director, MBA Program, (804) 289-8012. For SPCS students, contact David Kitchen, Associate Dean, School of Professional and Continuing Studies, (804) 287-8382.

## **D. Human Resource Office**

The University’s Human Resource Office serves as an important source of information, support, and guidance to employees involved in a sexual misconduct proceeding. Under certain circumstances, this office plays a crucial role in investigating and adjudicating allegations of sexual misconduct involving faculty and staff in accordance with the University’s Policy Prohibiting Discrimination and Harassment Involving Faculty and Staff.

Carl Sorenson, Senior Associate Vice President for Human Resources and Deputy Title IX Coordinator for Employees can be reached at (804) 289-8747.

## **E. Responsible Employees**

The term “Responsible Employee” as used in this Policy and as defined by Virginia law refers to an employee of the University who has the authority to take action to redress alleged sexual misconduct, including sexual violence, who has been given the duty of reporting acts of sexual misconduct, to the Title IX Coordinators, or is a person whom a student could reasonably believe has the authority to take action.

The following University employees are Responsible Employees because they have the authority to take action to redress alleged sexual misconduct, including sexual violence:

- The Title IX Coordinators;
- The Vice President for Student Development;
- The Deans, Associate Deans, and Assistant Deans of Westhampton College and Richmond College, the Law School’s Associate Dean for Student Services & Administration, the Law School Dean's Office, the Program Coordinator for Graduate Studies in Business, and the Associate Dean, School of Professional and Continuing Studies;
- The University’s Conduct Officers;
- The Associate Vice President for Human Resources; and
- The sworn officers of the University of Richmond Police Department.

Other than individuals designated as [confidential resources](#), the following University employees are Responsible Employees because they have a duty to report acts of sexual misconduct, including sexual violence, to the appropriate Title IX Coordinator:

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- All faculty members;
- All University employees with the title of assistant director, associate dean or above;
- Residence Life & Housing staff including Resident Assistants and Area Coordinators;
- All employees engaged in academic advising;
- University staff accompanying students on off-campus programs or other University-related trips, within and outside the United States;
- All employees identified as Campus Security Authorities (CSA) under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) including:
  - URPD ;
  - Other individuals with security responsibilities, such as those monitoring access to campus property (e.g., parking lots, residence halls, and athletic venues);
  - Individuals or organizations designated in the institution’s security policy as those to whom students and employees should report crimes;
  - Officials with significant responsibility for student and campus activities, such as student housing, student discipline, and campus judicial proceeding.
- All employees who are designated as Responsible Employees under Virginia Law and this policy in the following divisions, departments, or offices:
  - Academic Deans;
  - Academic Skills Center;
  - Admissions;
  - Athletics;
  - Bursar;
  - Events Conferences and Support Services
  - Career Services;
  - Chaplaincy (Non-Ordained Staff Members);
  - Financial Aid;
  - Human Resources;
  - International Education;
  - President’s Office;
  - Provost’s Office;
  - Registrar;
  - Student Development; and
  - University of Richmond Public Safety Department.

## ***3102.5 – Immediate Actions, Help, and Resources***

### **A. Immediate Actions**

Any individual who has experienced sexual misconduct, is encouraged to do the following as promptly as possible:

- Get to a safe place as soon as possible.
- Try to preserve all physical evidence. Do not wash clothes or use the toilet. Put all clothing you were wearing at the time of the incident in a paper bag, not in a plastic bag. All physical evidence should be provided to police as soon as possible.
- Contact University Police by calling 8911 (from a campus phone) or (804) 289-8911. The University Police Department can assist in contacting other local law enforcement agencies for incidents occurring off campus. On campus, a blue light emergency phone will connect

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callers directly to the [University Police](#) dispatcher.

- Get medical attention as soon as possible. The University Police can provide transportation to the hospital if needed. A medical examination will provide any necessary treatment and collect important evidence. Injuries may not be immediately apparent. The Student Health Center can assist with injuries, preventative treatment for sexually transmitted diseases, and other health services.
  - It is important to seek immediate and follow-up medical attention for several reasons:
    - To assess and treat any physical injuries that may have sustained.
    - To determine the risk of sexually transmitted diseases or pregnancy and take appropriate medical measures.
    - To gather evidence that may aid criminal prosecution.
- A special hospital exam (PERK: Physical Evidence Recovery Kit) should be performed by an emergency department. University students can receive the exam at St. Mary's Hospital or through the Virginia Commonwealth University Health System.
  - The hospital emergency departments follow national standards for survivor care, sexual assault exams, and evidence collection procedures.
  - Anyone concerned about anonymity or having their parents being notified, can speak with hospital personnel regarding options for confidentiality. Inform the triage nurse of this request for anonymity upon arrival to an emergency room. There are many resources available to individuals that may assist with PERK exam costs, and medical personnel will provide more information. At the hospital, individuals may choose to undergo a PERK exam even if they are unsure whether they want to report the sexual misconduct to the police and want time to think about it. Hospital nurses will collect the evidence without revealing the identity of the individual to the authorities. The evidence will be held for at least two years before being discarded. The individual must contact the storage facility in writing for an extension beyond that point.

## B. Counseling and Emotional Support Resources

### 1. On-Campus Resources

- *CAPS*. Counselors at the University's [Counseling and Psychological Services \(“CAPS”\)](#) are available to assist in a crisis and to provide information about options, including medical assistance, psychological counseling, University disciplinary procedures, and legal prosecution. CAPS counselors can be reached at (804) 289-8119 during regular office hours. The CAPS staff also maintains an on-call schedule for emergencies and may be reached through the University Police dispatcher at (804) 289-8715.

Counselors at CAPS can provide safe, confidential support during this difficult period. They can inform you of common reactions to crisis situations and discuss coping methods that may assist you immediately following the misconduct and later. Talking about your concerns with one of these counselors may help you sort through feelings and decide what to do. You do not need to disclose your name if you call CAPS for information. Counselors will not reveal your identity to anyone without your permission. All CAPS Counselors are Safe Zone Allies and Title IX-trained. This resource is available for students only.

- *C.A.R.E Advocate*. The C.A.R.E Advocate (*Advocate*) is a confidential resource to students

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that have experienced, or are experiencing, sexual misconduct The Advocate can assist students in understanding reporting options and navigating the reporting process, provide accompaniment to medical and legal services as requested, and aid with crisis intervention. The Advocate can be reached at (804) 801-6251 or [advocate@richmond.edu](mailto:advocate@richmond.edu). This resource is available for students only.

- *Chaplaincy.* Members of the University community seeking pastoral care and support may contact the Office of the Chaplaincy at (804) 289-8500. Reports to ordained members of the Chaplaincy are confidential. (See Section 3102.6(E)(2) of this Policy).
- *Employee Assistance Program.* All employees have access to the University's Employee Assistance Program (EAP) offered through the University's insurance provider, Cigna. The EAP provides personal advocates who will work with employees and their household family members to help resolve issues they may be facing, connect them with mental health professionals, and direct them to a variety of helpful resources in the community. EAP can be reached 24 hours a day, seven days a week at 1-877-622-4327 or by logging onto the MyCigna website using the employer ID 'richmond'. This resource is available to employees only.
- *Onsite Behavioral Health Counselor.* The Behavioral Health Counselor will assist employees in an environment to support and foster personal well-being. The Behavioral Health Counselor will also help employees' access EAP services. Confidential appointments are available on Wednesdays from 10:00 am – 2:00 pm. The Onsite Behavioral Health Counselor can be reached at 804-240-8628 or by email at [jdoran2@richmond.edu](mailto:jdoran2@richmond.edu).
- *URPD Victim/Witness Services.* The University of Richmond Victim/Witness Assistance Program is operated out of the University Police Department, which is located on the ground floor of the Special Programs Building, and may be contacted by calling (804) 289-8715, 24 hours a day, seven days a week. University of Richmond Detectives serve as liaisons between the City of Richmond and the County of Henrico courts systems. Detectives assist victims to obtain services to include counseling and psychological support, guidance to area resources, and assistance through the court process. This resource is available to students and employees.

### 2. Off-Campus Resources

- *Greater Richmond Regional Hotline.* The Greater Richmond Regional Hotline, available at (804) 612-6126, is a crisis response system for people across the region impacted or affected by domestic, intimate partner, and/or sexual violence. This resource is available to students and employees.

Calling the hotline will connect callers to a local specialist who can offer support and information about resources and experts in the Richmond area. The hotline is available 24 hours per day, seven days a week and is open to survivors and supporters. The YWCA, Safe Harbor, and other area organizations, sponsor the hotline.

- *Safe Harbor.* [Safe Harbor](#) supports those who are experiencing or have experienced domestic and/or sexual violence. Safe Harbor offers comprehensive services for survivors of sexual and/or intimate partner violence including: a [24-hour helpline](#) at (804) 612-6126, children/youth services, community education and training, counseling, court advocacy, emergency shelter, and hospital accompaniment. This resource is available to students and employees.
- *Virginia Anti-Violence Project.* The [Virginia Anti-Violence Project](#) offers support for

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lesbian, gay, bisexual, transgender, queer, and questioning survivors of sexual assault and/or intimate partner violence as well as hate-motivated violence. Virginia’s 24/7 LGBTQ+ Helpline can be reached by calling 1-866-356-6998. This resource is available to students and employees.

## C. Other Available Resources

### 1. Transportation

The University Police are always available to transport victims of sexual misconduct to the hospital. To ask for transportation, call the University Police dispatcher at (804) 289-8715 and ask for immediate assistance. Members of the University Richmond Police Department are considered Responsible Employees and have an obligation to report information regarding sexual misconduct to the Title IX Coordinator.

### 2. Non-Emergency Medical Procedures

Even if someone chooses not to have a hospital exam, it is still important to get medical attention. An exam, in these instances, will include treatment of any physical problems and lab tests for sexually transmitted diseases and/or pregnancy. Any non-emergency treatment can be arranged on campus by calling the [Student Health Center](#) at (804) 289-8064 and making an appointment. Students and employees may seek medical services after hours and on weekends at St. Mary’s Hospital and other local hospitals.

## ***3102.6 – Reporting Sexual Misconduct***

The University of Richmond strongly supports and encourages prompt reporting of sexual misconduct to the Title IX Coordinator and to the University Police Department. Reporting provides resources to Complainants and contributes to keeping the campus safe.

Unless designated as a [confidential resource](#) under Section 3102.6(E)(2) of this Policy, all [Responsible Employees](#), as defined in Section 3102.4(F) of this Policy, are required to report incidents of possible sexual misconduct to the Title IX Coordinators and those employees designated as Campus Security Authorities must also report to the University Police.

### **A. Reporting Sexual Misconduct to University Officials**

Members of the University community who have experienced or anyone who knows of someone who may have experienced sexual misconduct, are encouraged to report incidents to the University's Title IX Coordinators and to the University Police Department. Sexual misconduct may violate both this Policy and criminal law. As a result, the University encourages Complainants to pursue their reports through both the University's procedures and through the criminal justice system. If a Complainant makes a report to the University Police or if the University Police otherwise become aware of possible sexual misconduct (for example, as a result of transporting a student to the hospital), the University Police will notify the Title IX Coordinator of the report. If the Complainant reports first to the Title IX Coordinator, the Title IX Coordinator will assist the Complainant with making a report to the University police, if the Complainant chooses to do so.

#### 1. University of Richmond Police Department.

Reports to the University Police can be made 24/7 by calling 8911 (from a campus phone) or (804) 289-8911. On campus, a blue light emergency phone will connect directly to the University Police dispatcher. Members of the campus community may also contact Eric Beatty, Major, University

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Police at 804-289-8723, for general information about reporting options and the University's policies and procedures.

## 2. Title IX Coordinators.

Reports of possible sexual misconduct can be made to any one of the University of Richmond's Title IX Coordinators. Students should contact Tracy Cassalia, Deputy Title IX Coordinator for Students at (804) 289-8464. Faculty and staff should contact Carl Sorensen, Senior Associate Vice President, Human Resources and Deputy Title IX Coordinator for Employees, (804) 289- 8166. They can discuss options on campus and make connections to resources in the University community. The University's Title IX Coordinators are Safe Zone trained.

## 3. Online Incident Report.

All members of the University community can file a report using the University's online incident report form, which can be found [here](#). ***This form should not be used for emergency situations.*** In an emergency situation, please call the University Police at 8911 (from a campus phone) or (804) 289-8911. University faculty and staff designated as Responsible Employees using this form must provide all requested information, if known, including the name and contact information of the reporter.

## **B. University Employees Required to Report Sexual Misconduct**

All University faculty and staff, except those designated as [confidential resources](#) in this Policy, are encouraged to report to one of the University's Title IX Coordinators as soon as they become aware of possible sexual misconduct.

Under Virginia law and University Policy, all [Responsible Employees](#), as defined in this Policy, who, in the course of their employment by the University, obtain information regarding a possible act of sexual misconduct, including but not limited to sexual violence, against either:

- a University student; or
- any person on campus, in a non-campus building or property, or on public property falling within the scope of this Policy

must report to one of the University's Title IX Coordinators as soon as practicable after attending to the immediate needs of the person who experienced sexual misconduct. The report must contain all relevant information, including the identity of the individuals involved, if known. This report may be made by calling the Title IX Coordinator or, if it is not an emergency, or using the University's online [incident reporting form](#).

This reporting requirement does not apply to University employees who are designated as a [confidential resource under this Policy](#).

All University employees are also encouraged to report potential crimes, including sexual misconduct, to the University Police Department. All employees designated a Campus Security Authority under the Clery Act must report to the University Police Department.

## **C. Time Frame for Reporting / Reporting an Incident from the Past**

The University encourages individuals to report possible sexual misconduct to the University Police and the University's Title IX Coordinators as soon as possible. Making a prompt report allows Complainants to get help and access resources quickly. It also allows the University to conduct a timely and thorough investigation and contributes to campus safety. A prompt report to the University Police

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will enable the University Police to gather evidence that could be used should the Complainant choose to pursue a criminal investigation. A delay in reporting to the University Police or other appropriate law enforcement officials may result in the loss of important evidence.

However, the University recognizes that many individuals who experience sexual misconduct do not tell anyone about it at the time of the incident. If someone experienced sexual misconduct weeks ago or even years ago, supportive measures are still available.

Upon filing a formal complaint, the University will investigate a report of possible sexual misconduct even if it is made weeks, months or years after the incident, although the ability to gather important information may be affected by the passage of time. The University's Title IX Coordinator will investigate a report of sexual misconduct as long as any of the involved individuals are members of the University community (e.g., students, staff, or faculty). The University Police will investigate all reports over which it has jurisdiction, regardless of whether an involved individual is a member of the University community.

### **D. Reporting Will Not Result in a Conduct Charge for Alcohol or Drugs**

If a case involves underage drinking or use of other illicit substances, the University will not pursue a conduct or disciplinary charge a violation of the University's Alcohol, Tobacco & Other Drug Policy against the individual rendering assistance to someone who may have experienced sexual misconduct, individuals reporting possible sexual misconduct, the Complainant, the witnesses, and other individuals participating in an investigation or hearing.

### **E. Anonymous or Confidential Reports**

#### **1. Anonymous Reporting**

The University encourages individuals who may have experienced sexual misconduct or who have witnessed an incident of sexual misconduct to report directly to the Title IX Coordinators.

However, the University recognizes that, in some cases, individuals may be reluctant to make a direct report. Individuals may report an incident anonymously by filling out the [incident report form](#).

Faculty and staff should also use the [incident report form](#). Faculty and staff who are designated as Responsible Employees are required to provide identifying information when known. Faculty and staff cannot report anonymously.

#### **2. Reporting to Confidential Resources**

The following confidential resources are available on-campus and to students only

- *CAPS and Student Health*. Students can discuss an incident of sexual misconduct, on a confidential basis, with any licensed health care professional in the University's Counseling and Psychological Services ("CAPS") or in the University's Student Health Center.
  - Counseling and Psychological Services ("CAPS")  
(804)-289-8119  
Office Hours: Monday - Friday 8:30 a.m. to 5:00 p.m. Summer: Closed to Patient Care
  - Student Health Center (SHC)  
(804)-289-8700  
Office Hours: Mon. – Fri. 8:30 a.m. to 4:30 p.m. Summer: Closed to Patient Care

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*After Hours Resources:* Students may call 804-289-8700 to be connected to an after-hours nurse advice line where the registered nurse will assess your concerns and direct you to the most appropriate care. Please note: the nurse advice line *cannot* assist with scheduling appointments or prescription refills.

- *Office of the Chaplaincy.* Students may also discuss an incident of sexual misconduct, on a confidential basis, with ordained personnel within the Office of the Chaplaincy.
  - Wilton Center (804)-289-8500  
Office Hours: Mon. – Fri. 8:30 a.m. to 5:00 p.m.

Licensed health care professionals at CAPS, the Student Health Center, and the Office of the Chaplaincy’s ordained personnel will only disclose a confidential report if:

- the individual making the reports consents to such disclosure;
  - there is an imminent threat of serious harm to the individual making the report or to another individual; or
  - to the extent required by Virginia law (e.g., in the case of a report of abuse or neglect of a minor).
- *C.A.R.E. Advocate.* Students may also report on a confidential basis to the on campus C.A.R.E. Advocate. The Advocate can be reached at (804) 801-6251 or [advocate@richmond.edu](mailto:advocate@richmond.edu).
  - *Healthy Relationships & Violence Prevention Educator.* Students can confidentially report an incidence of sexual misconduct to the Healthy Relationships & Violence Prevention Educator. The Healthy Relationships & Violence Prevention Educator is located in the Center for Awareness, Response and Education (C.A.R.E) and can be reached at [ktingle@richmond.edu](mailto:ktingle@richmond.edu) or by phone at 804-289-8654. The Healthy Relationships and Violence Prevention Educator is also designated a Campus Security Authority under the Cleary Act. As such, they are required to disclose reports of sexual misconduct without identifying information to the University of Richmond Police Department for crime statistics purposes.
  - *Peer Sexual Misconduct Advisors (PSMA).* These are UR students who serve as confidential peer advisors trained in Title IX policy, procedure, and emotional support resources.
    - Undergraduate PSMA – [psma@richmond.edu](mailto:psma@richmond.edu) or at 804-346-7674

The following off-campus options are also available to individuals who wish to discuss an incident of sexual misconduct on a confidential basis. These resources are available to students and employees.

- *The Greater Richmond Regional Hotline.* The Greater Richmond Region Hotline, (804) 612-6126, is a crisis response system for people across the region impacted or affected by domestic, intimate partner, and/or sexual violence. The hotline reaches a local specialist who can offer support and information about resources and experts in the Richmond area. The hotline is available 24 hours per day and open to survivors and supporters.
- *Safe Harbor.* Safe Harbor supports those who are experiencing or have experienced domestic and/or sexual violence. Safe Harbor offers comprehensive services for survivors of sexual and/or intimate partner violence including a 24-hour helpline at (804) 612-6126, children/youth services, community education and training, counseling, court advocacy,

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emergency shelter, and hospital accompaniment.

- *The Virginia Anti-Violence Project.* The [Virginia Anti-Violence Project](#) offers support for lesbian, gay, bisexual, transgender, queer, and questioning survivors of sexual assault and/or intimate partner violence as well as hate-motivated violence. The LGBTQ Partner Abuse and Sexual Assault 24/7 Helpline at 1-866-356-6998.

### 3. Confidentiality Requests to the Title IX Coordinator

When a report is made to the Title IX Coordinator, the Complainant may request confidentiality and may share as much or as little information with the Title IX Coordinator as they choose. Additionally, the Complainant has the right not to file a formal complaint requesting an investigation or to enter voluntary mediation.

In cases in which the Complainant wishes to keep the report or incident confidential, chooses to keep their name, the name of the Respondent, the names of witnesses, and other information confidential, or decides not to file a formal complaint of sexual misconduct, the Title IX Coordinator will inform the Complainant that:

- Under Virginia law, personally identifiable information, including the name of the Complainant and Respondent, must be disclosed to the Sexual Misconduct Review Subcommittee;
- The Title IX Coordinator has an obligation to notify the University Police of a report of a possible crime, but, upon request of the Complainant, will do so without sharing the Complainant's name;
- It may not be possible to ensure confidentiality and that, in some cases, the safety of others or the campus community requires the Title IX Coordinator to file a formal complaint and investigate despite the Complainant's request, and
- In those instances where the Title IX Coordinator files a formal complaint keeping the Complainant's name confidential or declining to identify the Respondent may limit the University's ability to investigate.
- The Complainant has the right not to file a formal complaint or participate in the investigation. In such case, the Title IX Coordinator's will continue to make available to the Complainant supportive measures.

In those instances where the Title IX Coordinator files a formal complaint and the Complainant's request for confidentiality limits the University's ability to investigate an incident, the Title IX Coordinator, in collaboration with other University officials, also will consider and, where appropriate, implement actions or other measures targeted at the broader campus community, such as increased monitoring or security at the location where the conduct occurred, creating additional education or training for students and/or employees, and revising and publicizing the University's Policy Prohibiting Sexual Misconduct and other resources.

#### *Title IX Coordinator Filing a Formal Complaint*

Under certain circumstances, the Title IX Coordinator will file a Formal Complaint even if the Complainant has elected not to do so. In those circumstances, the Title IX Coordinator will seek to balance a Complainant's request for confidentiality with the need to protect students and the campus community. Factors considered by the Title IX Coordinator will include the following:

- The seriousness of the alleged sexual misconduct;
- Circumstances indicating increased risk of additional acts by the Respondent;

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- Prior complaints against the Respondent;
- Any history of the Respondent's arrests;
- Threats from the Respondent;
- The involvement of multiple alleged perpetrators;
- Any pattern of perpetration via drugs or alcohol at a given location or by a given group;
- The age of Complainant; and
- The ability of the University to gather relevant evidence.

The Title IX Coordinator may consult with the Sexual Misconduct Review Subcommittee and other University officials when considering these factors.

If the Title IX Coordinator determines that there is a material risk to either the Complainant or the University community, the Title IX Coordinator will file a formal complaint and the University will move forward with an investigation, despite the request for confidentiality.

If the Title IX Coordinator determines that they must file a formal complaint and move forward with an investigation, the Title IX Coordinator will use reasonable measures to honor the Complainant's request for confidentiality to the extent possible. If it becomes necessary to inform the Respondent of the Complainant's identity, the Title IX Coordinator will:

- Prior to disclosing the Complainant's identity, inform the Complainant that the University will be disclosing their identity to the Respondent;
- Take whatever steps are necessary to protect the Complainant and the University community; and
- If the Complainant requests that the University not investigate or pursue disciplinary action against the Respondent and they request that the University inform the Respondent of this request (even when the University decides to move forward), then the University will inform the Respondent that the Complainant made this request.

### ***3102.7 – Responding to and Investigating Reports of Sexual Misconduct***

#### **A. Response by the University Police Department**

##### **1. Filing a Report with the University Police**

All members of the University community are encouraged to report sexual misconduct that may constitute a crime to the University Police Department.

A Complainant may speak with a University Police detective before deciding whether to file a police report. A detective will meet with a Complainant, along with an advisor of their choosing and/or a victim advocate, to explain the criminal justice process, discuss options to protect the safety of the Complainant, including the option of seeking a Protective Order, and provide information on the importance of preserving evidence, including clothing and electronic communications.

A Complainant may file a report with the University Police even if they have not decided whether to pursue a criminal investigation. Reporting an incident is a separate step from choosing to pursue a criminal investigation and prosecution. A Complainant who files a report with the University Police, or another local law enforcement agency, is not required to continue with criminal proceedings.

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If the Complainant wishes to pursue a criminal investigation, the University Police will investigate the incident reported to determine if a crime has been committed.

The criminal investigation is independent from any investigation undertaken by the Title IX Coordinators under this Policy. However, the University Police and the Title IX Coordinators will collaborate to the extent possible and will seek to avoid unnecessary burdens on the Complainant.

By reporting to the University Police, a Complainant:

- Preserves future options regarding criminal prosecution, University disciplinary action, and/or civil action against the accused individual; and
- Becomes eligible for the Virginia Victims Fund; and
- Accesses the investigative resources of the local law enforcement agency and the Commonwealth of Virginia

When a Complainant makes a report to the University Police, a University Police officer will meet with the Complainant about the report and may take notes during the conversation. The Complainant may be asked about the identity of the Respondent, including physical descriptions (e.g., clothing, hair color, etc.), the location(s) of the incident(s), whether there are any other witnesses, and what happened before, during, and after the incident.

Many people are afraid to report alcohol or drug use to the police; however, it is important that the detective know all the relevant facts. If a case involves underage drinking or use of illicit substances, the University will not pursue disciplinary charges against the Complainant, the witnesses, and other individuals reporting, in good faith, incidents of and/or assisting victims of sexual misconduct. The police officers and detectives are trained to act with sensitivity and respect and to protect privacy to the extent possible.

The police officer will create a written report, which is important should a Complainant wish to bring charges, immediately or later.

## 2. Criminal Investigation and Charges

If a Complainant chooses to pursue criminal charges, the assigned detective and the [Commonwealth's Attorney, and Victim/Witness Services](#) representative will be available to assist the Complainant in understanding and following through with the process. The case itself will usually come under the jurisdiction of the courts of either [Henrico County](#) or the [City of Richmond](#), depending on the location of the offense.

The Commonwealth Attorney from the appropriate jurisdiction will handle the criminal proceedings and will speak with the Complainant regarding the case. The Commonwealth Attorney makes the decision about whether to prosecute the Respondent. If the Commonwealth Attorney moves forward with a prosecution, the Complainant usually will be called as a witness in any criminal trial.

## **B. Response by the University's Title IX Coordinators**

The University's Title IX Coordinators will respond to all reports of sexual misconduct, regardless of whether the report is made directly by the Complainant, by another student, faculty member, staff member, or other third party. The Title IX Coordinator will respond to reports or information regarding sexual misconduct that occur on campus or off campus, as specified in this Policy. Regardless of the location of an incident, students, faculty, and staff are encouraged to report such incidents so that supportive measures can be provided to the individual or individuals involved.

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## 1. Preliminary Response and Outreach

Upon receipt of a report involving possible sexual misconduct, the Title IX Coordinator will promptly reach out to the Complainant. The Title IX Coordinator will respond to all reports of sexual misconduct, regardless of the source of the report or information. The nature and extent of the response will vary based on the specific circumstances of the incident.

When required under this Policy or applicable law, the Title IX Coordinator will also share the report with, and convene the University's Sexual Misconduct Review Subcommittee, described in Section 3102.7(B)(1)(e) of this Policy.

### a. *Outreach to the Complainant*

If the identity of the Complainant can be determined from the report or initial fact-finding, the Title IX Coordinator will contact the Complainant in writing and provide the Complainant with a summary of their rights under this Policy and related University policies such as The Policy on Preventing and Responding to Harassment and Sexual Misconduct Involving Faculty and Staff and the Standards of Student Conduct, offer supportive measures and state their availability with or without the filing of a formal complaint, an explanation of the process for filing a formal complaint and reporting to law enforcement. The Title IX Coordinator shall also offer to meet with the Complainant. The Complainant has the right to select an advisor of their choice and may have the advisor present during all meetings with the Title IX Coordinator.

When the Title IX Coordinator meets with the Complainant, the Coordinator provides the following information:

- The Complainant's Title IX rights and rights under this policy and related University policies, including the Policy Preventing and Responding to Harassment and Sexual Misconduct Involving Faculty and Staff and the Standards of Student Conduct;
- The University's obligation to treat both the Complainant and the Respondent equitably;
- The University's obligation to investigate promptly a formal complaint of sexual misconduct under Title IX and this policy.
- The Complainant's reporting rights, including the right to pursue or not to pursue criminal action.
- The importance of the collection and preservation of evidence;
- The importance of seeking appropriate medical attention;
- The available options for a protective order;
- The Complainant's right to participate or decline to participate in any investigation;
- That the Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process.
- That the [University's Policy Prohibiting Retaliation](#) protects students, faculty and staff from retaliation and provides that making a report "in good faith" means the individual making the report has a reasonable basis to believe that there has been or may have been a violation of

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applicable laws or regulations or University policies or that there is a reasonable possibility that such a violation may occur in the near future. Individuals who make frivolous or false reports shall not be deemed to be acting in good faith.

- The Complainant’s right to an advisor of their choosing;
- Resources on campus and within the Richmond community, including counseling services, sexual assault crisis centers, and domestic violence crisis centers;
- Information about the grievance and mediation processes and University procedures for pursuing a formal complaint against a student, faculty member, staff member, or third party, including the University's protections from retaliation;
- Examples of possible retaliation and procedures for reporting any acts of retaliation;
- Possible options for supportive measures (as defined in this policy) to avoid contact with the Respondent and to ensure the Complainant’s well-being.
- The Title IX Coordinator’s obligation to provide the Complainant with periodic update as the grievance process and progresses; and
- The process for handling requests for confidentiality or requests to not move forward with a formal complaint.

The Title IX Coordinator will provide the Complainant time to consider their rights and options and to determine whether the Complainant wishes to move forward with the filing of a formal complaint of the reported sexual harassment under Title IX or sexual misconduct.

### *b. Outreach to the Respondent*

If the Complainant wishes to move forward with filing a formal complaint, or if the Title IX Coordinator determines, pursuant to this Policy, that a formal complaint should be filed despite the Complainant’s request for confidentiality or decision not to participate, the Title IX Coordinator will notify the Respondent in writing of the formal complaint and provide the Respondent with a summary of their rights under this Policy and related University policies such as the Policy Prohibiting and Responding to Sexual Misconduct Involving Faculty and Staff and Standards of Student Conduct, information about available supportive measures and reporting to law enforcement.

The Title IX Coordinator will provide the following information in the notice to the Respondent:

- The Respondent’s Title IX rights and rights under this Policy and related University policies, including the Policy on Prohibiting Harassment and Sexual Misconduct Involving Faculty and Staff and the Standards of Student Conduct;
- The allegations of conduct potentially constituting sexual harassment under the University’s Policy Prohibiting Sexual Misconduct including information on the identities of the parties involved in the incident(s), if known, and the date and location of the incident(s), if known.
- The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process;
- Respondent’s right to participate or decline to participate in the grievance process;
- The University's obligation to treat both the Complainant and the Respondent equitably;

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- The University's obligation to investigate promptly a formal complaint of sexual misconduct under Title IX and this Policy;
- Information about the grievance or mediation processes and University procedures for pursuing a formal complaint;
- Resources on campus and within the Richmond community, including counseling services;
- Possible options for supportive measures to avoid contact with the Complainant and to ensure the Respondent's well-being;
- The Respondents right to have an advisor of their choosing;
- The Complainant's right to pursue criminal action in addition to the University's student conduct process;
- Notification of any subsequent allegations not included in the original notice;
- A dismissal by the University of the formal complaint (if applicable) including the reason for the dismissal;
- Examples of possible retaliation and procedures for reporting any acts of retaliation.
- That the [University's Policy Prohibiting Retaliation](#) protects students, faculty, and staff from retaliation and provides that making a report "in good faith" means the individual making the report has a reasonable basis to believe that there has been or may have been a violation of applicable laws or regulations or University policies or that there is a reasonable possibility that such a violation may occur in the near future. Individuals who make frivolous or false reports shall not be deemed to be acting in good faith.
- The Title IX Coordinator's obligation to provide the Respondent with periodic updates as the grievance process progresses.

The Title IX Coordinator will also meet with the Respondent to discuss their rights and any supportive measures they may need. The Respondent has the right to select an advisor of their choice and may have the advisor present during all meetings with the Title IX Coordinator.

### *c. Outreach to Potential Witnesses*

The Title IX Coordinator may also meet with individuals who may be witnesses to the reported sexual misconduct. The Title IX Coordinator will contact any potential witnesses in writing and will provide the following information:

- The University's obligation to treat the Complainant and Respondent equitably;
- The University's obligation to investigate promptly formal complaints of sexual misconduct;
- The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process;
- Options for supportive measures to avoid contact with the Complainant or Respondent and to ensure the witnesses well-being;
- Resources on campus and within the Richmond community including counseling services;

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- Information about the grievance process and University procedures for pursuing a formal complaint against a student, faculty member, staff member, or third party, including the University's protections from retaliation;
- Examples of possible retaliation and procedures for reporting any acts of retaliation.
- That the [University's Policy Prohibiting Retaliation](#) protects students, faculty and staff against retaliation and provides that making a report "in good faith" means the individual making the report has a reasonable basis to believe that there has been or may have been a violation of applicable laws or regulations or University policies or that there is a reasonable possibility that such a violation may occur in the near future. Individuals who make frivolous or false reports shall not be deemed to be acting in good faith.

### *d. Notification to the University Police*

If the Complainant wishes to file a police report, the Title IX Coordinator will assist the Complainant in contacting the University Police. Additionally, the Title IX Coordinator will notify the University Police of any report that may be required to be logged and disclosed under the Clery Act. Unless the Complainant wishes to make a police report, their name or other personally identifiable information will not be included in the report to the University Police, although law enforcement members of the Sexual Misconduct Review Subcommittee, described in Section 3102.7(B)(1)(e), below, may have access to identifying information. In addition, victim names are never published in the crime log, included in any Timely Warning message, or as part of the annual Campus Security Report required by the Clery Act.

Whether a report comes directly from a Complainant, the Title IX Coordinator or another source, the University Police may determine that a serious or continuing threat possibly exists and may release either an "emergency notification" or a "timely warning" to the campus community. Emergency notifications must be issued immediately upon confirmation of a significant emergency or dangerous situation, and timely warnings must be issued if the crime is considered by the institution to represent a serious or continuing threat. The Complainant's name or other personally identifiable information will never be included in emergency notifications or timely warnings. The Title IX Coordinator will notify the Complainant in advance if an emergency notification or a timely warning is going to be distributed.

### *e. The Sexual Misconduct Review Subcommittee of the Threat Assessment Team*

The Sexual Misconduct Review Subcommittee is a subset of the University's Threat Assessment Team. As required by Virginia law and University Policy, the Sexual Misconduct Review Subcommittee receives reports from the Title IX Coordinators regarding possible sexual violence, including sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, or domestic violence.

The membership of the Sexual Misconduct Review Subcommittee shall include:

- The Title IX Coordinator (and/or their designee);
- The Chief or Assistant Chief of the University Police Department (or a designee who shall be sworn police officer of the University Police Department);
- The Vice President for Student Affairs (or a designee who shall be a members of the Student Development Division); and

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- Such other members of the University’s Threat Assessment Team as the Title IX Coordinator deems appropriate.

The Sexual Misconduct Review Subcommittee will convene within 72 hours of receiving the report of an incident from the Title IX Coordinator. The responsibilities of the Sexual Misconduct Review Subcommittee include:

- Providing advice and guidance to the Title IX Coordinator regarding the grievance process, appropriate supportive measures, and available resources for the involved individuals; and
- Determining if the disclosure of information regarding the incident, including personally identifiable information, is necessary to protect the health or safety of the Complainant or other individuals, consistent with applicable FERPA regulations including 34 C.F.R. §99.36. If the committee, or the representative from the University Police Department, determines this disclosure is necessary, the representative from University Police Department will immediately disclose the information, including personally identifiable information about the individuals involved, to the appropriate law enforcement agency. The Title IX coordinator will notify the Complainant in advance of any disclosure that is made.

If the alleged incident would constitute a felony violation under Code of Virginia §18.2-61, the representative of the University Police Department will consult with the Commonwealth Attorney responsible for prosecuting the alleged act within 24 hours of the review committee meeting and shall provide the information received by the Subcommittee, without disclosing personally identifiable information about the individuals involved.

The Sexual Misconduct Review Subcommittee will have the access to law enforcement, criminal history, education, personnel, and health records relevant to the report of sexual misconduct to the extent necessary to assess any potential risk to members of the campus community and fulfill the Subcommittee’s legal responsibilities, and as permitted by applicable law.

The Sexual Misconduct Review Subcommittee when appropriate will conduct an individualized safety and risk analysis to determine if there is an immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual harassment and consequently, emergency removal is warranted.

After its initial meeting regarding a report, the Sexual Misconduct Review Subcommittee will reconvene upon the request of the Title IX Coordinator to provide guidance regarding a pending investigation or report or to assess and respond to potential risks or threats associated with the reported incident.

### 2. Supportive Measures

The Title IX Coordinator will offer appropriate supportive measures upon receipt of a report of sexual misconduct, during the grievance process and any conduct proceeding that may follow, and upon conclusion of the investigation and/or any conduct proceeding. Supportive measures may be put in place on behalf of the Complainant, the Respondent, and/or witnesses in the grievance process or to protect the campus community. Supportive measures may also be implemented to prevent retaliation. In determining and implementing certain supportive measures, the Title IX Coordinator may confer with or seek the assistance of other University officials, including but not

limited to the University Police or the college dean’s office.

If the Title IX Coordinator determines that supportive measures are reasonable and appropriate, the Title IX Coordinator will provide written notification of the supportive measure(s) to the individual on whose behalf the measure(s) is implemented, and, if affected by the measure(s), other individuals. The supportive measure(s) will be kept confidential on whose behalf it is implemented except to the extent disclosure to other individuals, including students and University employees, is necessary in order to implement effectively the supportive measure(s)

### ***C. Interim Suspension and Administrative Leave***

- The University may remove a Respondent from the education program or activity on an emergency basis if after an individualized safety and risk analysis, the Sexual Misconduct Review Sub-committee determines that there is an immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual harassment. The University will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal decision in a written appeal to the University Provost.
- The University may place a non-student employee respondent on administrative leave during the pendency of a grievance process.

### ***3102.8 – Options for Addressing Allegations of Sexual Misconduct***

The University recognizes the needs of individuals vary. As such, the University offers two options to address sexual misconduct under this Policy. After filing a Formal Complaint (Title IX or Sexual Misconduct) Complainants will have the option of pursue:

- the grievance process including both an investigation and hearing or
- a voluntary mediation with the Respondent.

#### **A. Responding to a Formal Complaint through the Grievance Process:**

##### *1. Assignment of an Investigator*

The Title IX Coordinator may delegate responsibility for the investigation to a trained Title IX investigator. In the case of a formal complaint involving possible dating violence, domestic violence, non-consensual sexual contact, non-consensual sexual intercourse, sexual assault, sexual exploitation, sexual harassment, and stalking, the Title IX Coordinator will engage an independent investigator or investigators to conduct the investigation on behalf of the University. In the case of reports of other types of sexual misconduct, the Title IX Coordinator may conduct the investigation or delegate that responsibility to a trained staff member who has been designated as a Title IX investigator. The individual(s) conducting the investigation is referred to as “the Investigator” for purposes of this Policy.

##### *2. Time Frame for Grievance Process*

The University shall complete the investigative and the grievance process in a prompt manner designed to provide all parties with a reasonably timely resolution. However, the timeframe for completion of a specific matter may vary depending upon a number of factors, including, but not limited to, the complexity of the case or investigation, the availability of witnesses, and the academic calendar.

##### *3. Process for Conducting the Investigation and Preparing an Investigative Report*

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The Investigator is tasked with the preparation of an investigative report that will include a summary of key interviews and other evidence, copies of relevant documentary evidence, and an analysis of the evidence and findings of fact in the investigation. To prepare that report, the Investigator will interview the Complainant, Respondent and other witnesses who may have information about the incident(s). The Investigator may also conduct one or more follow-up interviews with the Complainant, Respondent, or other witnesses. The interviews will be recorded by the Investigator for purposes of preparing the investigative report. The Investigator has the discretion to determine what witnesses will be interviewed as part of the investigation.

The Investigator is not required, but may in their discretion, speak with character witnesses.

The Complainant and the Respondent each have the right to services of an advisor of their choice. The advisor may be an attorney. The Complainant and the Respondent may have their advisor present for any interview with the Investigator. The Complainant and Respondent should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the interview(s), as delays will not normally be allowed due to the scheduling conflicts of an advisor.

The role of the advisor is to provide support, guidance, and advice to the Complainant or Respondent. However, the Complainant and Respondent are each responsible for presenting their own information during the interview. Advisors may ask questions regarding process but are not permitted to speak on behalf of the Complainant or Respondent or object to interview questions.

Choosing an advisor who is also a witness in the process creates a potential for bias and conflict of interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the University Hearing Board.

The Investigator will also gather relevant evidence, including, but not limited to documents, email messages, text messages, social media postings, video evidence, and other records and documents.

Both parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations in the formal complaint. This includes (1) evidence upon which the University does not intend to rely on in reaching a determination; (2) inculpatory or exculpatory evidence whether obtained from a party or other source.

Prior to completion of the investigative report, the investigator will send to each party and the party's advisor, the evidence subject to inspection and review (electronically or hard copy). The parties will have 10 days to submit a written response which the Investigator will consider prior to completion of report. The Title IX Coordinator, in their sole discretion, may extend this time period for good cause.

It is not the role of the Investigator to draw a conclusion as to whether a violation of this Policy took place. The Investigator will not make recommendations regarding the outcome of conduct or disciplinary process or the imposition of sanctions. The Investigator will transmit the final investigative report to the Title IX Coordinator.

### *Coordination with Pending Criminal Investigations*

Except in very unusual circumstances, the Title IX investigation will not be delayed because of a pending criminal investigation. When an incident is reported to both the University Police and the Title IX Coordinator, they will share information to the extent possible and as appropriate and will seek to avoid unnecessary burdens on the Complainant or Respondent.

In certain situations, law enforcement officials may request that the Title IX Coordinator temporarily suspend an investigation while law enforcement officials gather evidence in a criminal investigation. The Title IX Coordinator will comply with such requests, but will promptly resume the investigation as soon as they are notified that the law enforcement officials have completed gathering evidence. The suspension of an investigation under these circumstances will not limit the availability of supportive measures or other assistance and support to a Complainant, Respondent, witness, or other individuals.

#### 4. *Notice to the Complainant and Respondent*

Upon receipt of the investigative report, the Title IX Coordinator shall provide the Complainant and the Respondent with written notice of the completion of the final investigative report and make the report available to the parties (electronically or hard copy) at least 10 days prior to a hearing. The Complainant and Respondent, and their respective advisors, have the right to review, but not to copy, the investigative report. The Complainant and Respondent have the right to provide their respective objections to the investigative report prior to the hearing.

#### 5. *Grievance Procedures*

##### *For Students:*

The procedures, rights, and responsibilities set forth in [Appendix A of the Standards of Student Conduct](#), shall apply to all grievance procedures in which the Respondent is charged with a violation of the University's Policy Prohibiting Sexual Misconduct. These procedures, rights, and responsibilities shall apply to all hearings in which at least one charge involves an alleged violation of the University's Policy Prohibiting Sexual Misconduct.

At any point prior to a finding by the University Hearing Board, the Complainant or the Respondent may request that the parties pursue mediation in lieu of the grievance process. Both the Complainant and the Respondent must agree to participate in the mediation process. If either party declines to participate in mediation, the grievance process will continue, unless the Complainant permanently withdraws the Complaint. If the Complainant and Respondent participate in mediation and reach a mutually agreed upon resolution, the Complaint shall be deemed to have been withdrawn and the grievance process shall be terminated. If the Complainant and the Respondent participate in mediation, but do not reach a mutually agreed upon resolution, the grievance process will continue, unless the Complainant permanently withdraws the Complaint.

##### *For Faculty & Staff:*

The procedures, rights, and responsibilities set forth in [Policy Preventing and Responding to Discrimination and Sexual Misconduct](#) and the Faculty Handbook shall apply to all grievance procedures in which the Respondent is charged with a violation of the University's Policy Prohibiting Sexual Misconduct. These procedures, rights, and responsibilities shall apply to all hearings in which at least one charge involves an alleged violation of the University's Policy Prohibiting Sexual Misconduct.

At any point prior to a finding by a hearing board, the Complainant or the Respondent may request that the parties pursue mediation in lieu of the grievance process. Both the Complainant and the Respondent must agree to participate in the mediation process. If either party declines to participate in mediation, the grievance process will continue, unless the Complainant permanently withdraws the

Complaint. If the Complainant and Respondent participate in mediation and reach a mutually agreed upon resolution, the Complaint shall be deemed to have been withdrawn and the grievance process shall be terminated. If the Complainant and the Respondent participate in mediation, but do not reach a mutually agreed upon resolution, the grievance process will continue, unless the Complainant permanently withdraws the Complaint.

### 6. *Closing the Grievance Process*

Upon closure of the grievance process, the Title IX Coordinator will offer to meet with the Complainant and the Respondent individually to see feedback on the grievance or mediation process, assess the need for other types of supportive measures for the Complainant, the Respondent, other involved individuals; and provide information on available support resources.

The Title IX Coordinator also will consider and, where appropriate, implement, remedial actions targeted at the broader campus community, such as increased monitoring or security at the location where the conduct occurred, creating additional education or training for students and/or employees, and revising and publicizing the University's Policy Prohibiting Sexual Misconduct and resources.

### 7. *Confidentiality of Investigative Records*

The University considers the records of a Title IX sexual misconduct investigation to be confidential and the University uses reasonable methods to protect the confidentiality of those records. Records will be maintained for a period of not less than 7 years. Information gathered in the course of a sexual misconduct investigation will be disclosed to University officials only to the extent such officials require such information to perform their responsibilities to the University. Information gathered during an investigation may be shared with other involved individuals (for example the Complainant or Respondent) to the extent necessary to conduct a thorough and equitable investigation, in the course of a student conduct or other disciplinary proceeding, and as permitted or required by applicable law or court order. Information gathered in the course of a sexual misconduct investigation will not be disclosed to third parties except as required by law, court order or with appropriate written consent.

The records of an investigation involving University students are considered to be education records subject to the Federal Rights to Privacy Act ("FERPA") and the [University's FERPA Policy](#).

Virginia law requires that a prominent notation be added to the academic transcript of any student who is suspended for, permanently dismissed for, or withdraws from the University while under investigation for an offense involving sexual violence. This transcript notation will be removed if a student is subsequently found not to have committed an offense involving sexual violence or if the student completes their term of suspension and is determined to be in good standing according to applicable University Policy. Consistent with state law and federal regulations, the notation will be removed from a transcript after three years for a student that withdraws while under investigation or is permanently dismissed from the University.

Health care and counseling records are confidential and will only be disclosed with appropriate written consent or as required by applicable law or court order.

## **B. Responding to a Formal Complaint through Mediation**

Mediation is available under this Policy as an alternative method of addressing sexual misconduct. Mediation is a voluntary, remedies-based, structured interaction, facilitated by a trained mediator, that incorporates support and accountability for the parties, but does not involve a formal conduct charge against a Respondent. A mediation resolution is designed to eliminate reoccurrence of the prohibited conduct, and provide a remedy that meets the needs of both the Complainant and Respondent while

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maintaining the safety of the campus community. All mediation proceedings are confidential. Mediation proceedings cannot be recorded by the University or participating parties.

There are some circumstances under which mediation will not be appropriate including situations where the Respondent had been alleged to have previously committed sexual violence or harassment, a weapon was allegedly used or threats of future sexual violence or harassment were made. The Title IX Coordinator will make a determination on whether mediation is appropriate when there is sufficient information about the nature and scope of the conduct.

Mediation is never appropriate and will not be allowed in cases involving allegations that an employee has sexual harassed a student.

The Title IX Coordinator will inform the Complainant if they are unable to pursue a resolution through mediation.

### *Process for Mediation Resolution in Sexual Misconduct*

After the filing of a Title IX Formal Complaint or Sexual Misconduct Formal Complaint, the Title IX Coordinator will review the matter to confirm that the case is appropriate for mediation and that the parties want to participate in the mediation process without pressure from others. If mediation is pursued, the goal is to address the conduct, prevent its reoccurrence and develop a mediation resolution agreement between the parties.

For cases where parties have voluntarily agreed to mediation and the University has indicated that the case is appropriate for mediation, the parties will receive simultaneous written notification of the decision to initiate the mediation process. The Mediator would then meet with both parties individually in a pre-mediation session to explain the process of mediation, the benefits and limitations of mediation, and the potential outcomes of the process. Both parties may be accompanied by an advisor of their choosing during the mediation process and any related meetings. If a party does not have an advisor, the Title IX Coordinator will assist in identifying an advisor.

If the parties reach agreed upon resolution, the Title IX Coordinator will review the Mediation Resolution Agreement to ensure it is consistent with University policy. If the draft agreement is not consistent with University policy, the mediator will be notified and will work with the parties to try to conform the agreement. The Title IX Coordinator is not an active participant in the mediation and will not provide input into the outcomes of the mediation.

In addition to the Complainant and Respondent, the Title IX Coordinator will have a role in the mediation process to ensure that the proposed mediation resolution is feasible and will prevent future misconduct. The Title IX Coordinator will not pressure either party to accept a resolution. The resolutions achieved through mediation must be approved by all parties including the Title IX Coordinator.

In cases selected for mediation resolution:

1. Participation in mediation is voluntary and all participants must consent in writing to their voluntary participation in the mediation process;
2. The University will not pressure or compel a Complainant or Respondent to engage in mediation or to reach any particular resolution;
3. Either the Complainant or Respondent may request to end the mediation process at any time prior to a resolution and may choose to pursue either the Title IX Grievance Process or Sexual Misconduct Grievance Process;

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4. Information gathered in the mediation process cannot be used in any other University conduct process, including the Title IX Grievance Process or Sexual Misconduct Grievance Process, or any criminal proceedings. For more information on the Virginia Mediation Statute (Virginia Code Chapter 21.2) please visit: <https://law.lis.virginia.gov/vacode/title8.01/chapter21.2/section8.01-581.22/>
5. The mediator, together with both parties, will determine the most effective procedure for conducting the mediation;
6. All participants must agree to maintain confidentiality. The parties must agree to keep confidential the discussions that take place during the mediation;
7. Because the mediation proceedings are confidential, the proceedings are not part of a student's conduct record. If a mediation resolution is achieved, the Title IX Coordinator will obtain a copy of the mediation resolution agreement so that the University can verify adherence to the agreement. If a Complainant or Respondent fails to adhere to the mediation resolution agreement, they will be referred to the appropriate Dean's office for a possible violation of the Standards of Student Conduct and/or the Policy Prohibiting Sexual Misconduct; and
8. The University's Policy Prohibiting Retaliation applies at every stage of the mediation process. Coercion from either party to participate or not participate in mediation will be considered a violation of that policy.

The mediation process ends when a mediation resolution agreement has been reached or when a party decides to end the process. If a resolution is not reached, the Complainant has the option of moving forward with the Title IX Grievance Process, the Sexual Misconduct Grievance Process or not proceeding with any process.

### ***3102.8 – Retaliation is Prohibited***

All members of the University community, including faculty, staff, and students, who have a good faith concern regarding possible sexual misconduct are encouraged to report that concern to the Title IX Coordinators and/or the University Police Department. All Responsible Employees, other than confidential resources, are required to report possible sexual misconduct to the Title IX Coordinators. All Campus Security Authorities are required to report potential crimes to the University Police Department.

The University prohibits retaliation or retribution, in any form, against an individual who reports, in good faith, an actual, potential, or suspected violation of this Policy Prohibiting Sexual Misconduct. As used in this Policy, reporting "in good faith" means the individual making the report has a reasonable basis to believe that there has been or may have been a violation of this Policy.

Individuals who make frivolous or false reports shall not be deemed to be acting in good faith.

Anyone who engages in or attempts to engage in retaliation or retribution against an individual who reports, in good faith, a potential violation of this Policy or against an individual who participates in an investigation or hearing shall be subject to discipline in accordance with the policies and procedures of the University, including this Policy and the Standards of Student Conduct.

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## RELATED POLICIES:

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Policy Prohibiting Discrimination  
Policy Prohibiting Retaliation  
Policy on Preventing and Responding to Discrimination and Sexual Misconduct Involving Faculty & Staff  
Policy on Preventing and Responding to Discrimination and Harassment Against Students [Standards of Student Conduct](#)  
Alcohol, Tobacco & Other Drug Policy ACD-  
2004 FERPA Policy  
[Title IX Coordinators Policy](#)  
[Timely Warning Policy](#)  
[Transcript Notation Policy](#)  
Athletics Sexual Misconduct Prevention and Education Policy  
Faculty Handbook

## POLICY BACKGROUND:

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The August 2020 version this policy includes major revisions to be in compliance with the Final Rule for Non-Discrimination on the Basis of Sex in Education Programs or Activities receiving Federal Financial Assistance (Title IX) issued from the Department of Education on May 19, 2020.

The August 2021 version of this policy makes the August 2020 interim policy final.

Minor revisions made to the policy in September 2021; revised policy effective 10/1/21.

The revision for the 2022-23 school year including updating the Domestic Violence definition to reflect the reauthorization of the Violence Against Women’s Act (VAWA) and minor revisions to correct drafting errors.

## POLICY CONTACTS:

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Director of Compliance and Title IX Coordinator  
Deputy Title IX Coordinator for Students  
Senior Associate VP for Human Resources & Deputy Title IX Coordinator for Faculty & Staff