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**Subject: Anti-Discrimination and Harassment Prevention Policy**

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## **1. Purpose**

Virginia Tech does not tolerate discrimination or harassment on the basis of age, color, disability, gender, national origin, political affiliation, race, religion, sexual orientation or veteran status. Such behavior is inconsistent with the University’s commitments to excellence and to a community in which mutual respect is a core value as articulated in the Virginia Tech Principles of Community. The prohibition against discrimination and harassment applies to all levels and areas of University operations and programs, to students, administrators, faculty, staff, volunteers, vendors and contractors.

Virginia Tech is also committed to the free and vigorous discussion of ideas and issues. This policy does not allow curtailment or censorship of constitutionally protected expression, nor does it attempt to address behaviors that do not constitute discrimination or harassment. Offensive behavior that does not violate this policy should be addressed by the appropriate supervisor or administrator.

## **2. Policy**

### **2.1 Prohibited Acts**

1. Discrimination/Harassment  
Discrimination/ Harassment includes the following behaviors:  
Conduct that conditions any element of a person's employment, enrollment as a student, receipt of student financial aid, or participation in university activities on that person's age, color, disability, gender (including pregnancy), national origin, political affiliation, race, religion, sexual orientation, or veteran status, unless otherwise permitted or required by applicable law;  
Conduct of any type (oral, written, graphic, electronic or physical) based upon a person’s age, color, disability, gender (including pregnancy), national origin, political affiliation, race, religion, sexual orientation, or veteran status and which unreasonably interferes with the person's work or academic performance or participation in University activities, or creates a working or learning environment that a reasonable person would find hostile, threatening or intimidating;

Conduct consisting of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or education; or submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual.

2. Retaliation

It is a violation of this policy to retaliate against any party for participating in a discrimination/harassment investigation ("protected activity"). Retaliation includes any adverse treatment which is reasonably likely to deter the complainant or others from filing a charge of discrimination/harassment or participating in a discrimination/harassment investigation. Retaliation can be verbal, written, graphic, electronic or physical.

3. Knowingly Filing False Complaints

Knowingly filing a false complaint of discrimination/harassment or of retaliation is a violation of this policy. Such conduct may be pursued using the steps followed for a complaint of discrimination/harassment, and if found to have occurred, will result in disciplinary action that may include termination or expulsion.

4. Intentional Breaches of Confidentiality

All participants in the discrimination/harassment complaint resolution process described below, including the complainant and respondent, witnesses and any other parties shall respect the confidentiality of the proceedings. Breaches of confidentiality jeopardize effective functioning of internal complaint resolution. Participants are authorized to discuss the case only with those persons whose university duties entail a clear and genuine need to know.

A complaint alleging an intentional breach of confidentiality may be pursued using the procedures set forth in Sections 5.3 and 5.4 below. Such a breach may also constitute an act of retaliation. Further, a breach of confidentiality may void the outcome of any previously agreed-upon resolution to a complaint.

## 2.2 Consensual Relationships

It should be understood by all members of the university community that consensual amorous or sexual relationships (hereinafter referred to as consensual relationships) that occur in the context of educational or employment supervision and evaluation present serious ethical concerns. Consensual relationships between faculty and students enrolled in their classes or students for whom they have professional responsibility as advisor or supervisor violate the policy on Professional Ethics and Responsibilities and may be a violation of this discrimination/harassment policy. Similarly, consensual relationships between supervisors and employees they directly supervise violate University policy. Faculty members or others performing instructional or academic advising duties and supervisors involved in consensual relationships must remove themselves from any activity or evaluation that may reward or penalize the affected student or employee.

Consensual relationships between faculty and students are particularly susceptible to exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and future employment, make voluntary consent by the student suspect, given the fundamentally asymmetric nature of the relationship.

Faculty and supervisors should be aware that conducting consensual relationships with students or employees they supervise makes them liable for formal action. Even when both parties have consented to the development of such a relationship, it is the faculty member or supervisor who, by virtue of his or her special responsibility, will be held accountable for unprofessional behavior. Complaints alleging discrimination/harassment, as defined above, may be filed by either party to the consensual relationship or by an aggrieved party outside the relationship.

### **3. Responsibilities of Those Experiencing Discrimination / Harassment**

Anyone who believes they have been subject to or have observed instances of discrimination/harassment should take one or more of the following steps:

1. create a detailed record of the offending behavior, and any response thereto.
2. ask the perpetrator to cease the offending behavior;
3. seek the assistance of a supervisor, faculty member or university administrator; and/or
4. contact the Office for Equal Opportunity. (See Sections 5.3 and 5.4 below.)

It bears emphasis that the complainant is not required to confront or complain to the discriminating/harassing party. He or she may instead pursue steps 3 and/or 4 above.

### **4. Responsibilities of Administrators, Supervisors and Faculty**

University administrators, supervisors, faculty members and others performing instructional or academic advising duties have an added responsibility to create and maintain a work and learning environment free of discrimination/harassment.

If an administrator, supervisor or faculty member becomes aware of an incident that might reasonably be construed as constituting discrimination/harassment, he/she must take immediate steps to address the matter. In such cases, the administrator, supervisor or faculty member should promptly contact the Office for Equal Opportunity in order to coordinate any further action which may be necessary.

Administrators, supervisors and faculty members have a legal obligation to act whenever they learn--either directly or indirectly--about discrimination/ harassment. This obligation exists even if the complainant requests that no action be taken. It is not the responsibility of the complainant to correct the situation.

Administrators, supervisors and faculty members have the legal responsibility to protect a complainant from continued discrimination, harassment or retaliation. They must also protect persons accused of discrimination/harassment from potential damage by false allegations. Administrators and supervisors will be held accountable for dealing with and taking necessary steps to prevent discrimination/harassment.

Administrators and supervisors are responsible for informing their employees and students of this policy.

## **5. Procedures**

### **5.1 Introduction**

This Policy reflects the University's commitment to maintain a community that is free from discrimination/harassment. Virginia Tech has designed procedures for prompt internal resolution of discrimination/harassment complaints that arise within the University community. The University expects that the use of these procedures will facilitate a prompt resolution of such complaints, but the assistance of faculty, staff and students is critical to helping the University learn of and address problem behavior. Every member of the university community has the right to a civil and productive work and learning environment; and has the responsibility to maintain the highest standards to accomplish this goal.

## 5.2 Scope

These procedures apply to prohibited acts (defined above) performed by any employee, volunteer, vendor, or contractor of Virginia Tech.

Discrimination/harassment allegedly perpetrated by an undergraduate or a graduate student who is **not** acting in the capacity of a university employee, volunteer, vendor or contractor falls within the jurisdiction of the Office of Judicial Affairs **regardless of the status of the complainant** (i.e. student, faculty, or staff). The Office of Judicial Affairs will address the complaint in accordance with procedures described in University Policies for Student Life.

## 5.3 Informal Resolution

Once the Office for Equal Opportunity receives information suggesting a reasonable possibility that discrimination/harassment has occurred, it will arrange a meeting with the complainant in order to further review the information, applicability of this policy and available options. For an individual who does not wish to file a formal complaint, but who nevertheless wishes to put an end to conduct they believe to violate this policy, the following options are available:

1. With the advice and assistance of the Office for Equal Opportunity as requested, the complainant may write to or meet with the accused, discuss the situation and make it clear that the behavior is unwelcome; or
2. A representative of the Office for Equal Opportunity may discuss the alleged conduct with the charged party, review this policy with him or her, and seek an explicit commitment to comply with the requirements stated therein. A complainant may request that, if practical, such a conversation be held without revealing his or her identity directly to the charged party. Action taken by the Office for Equal Opportunity under this provision shall not constitute a finding of discrimination/harassment.
3. The Office for Equal Opportunity can consult with appropriate supervisors to explore options for informal resolution including training and education.

All records relating to an informal investigation will be retained in the Office for Equal Opportunity for a period consistent with applicable federal and state law and in accordance with university records management policy, after which the records will be destroyed.

## 5.4 Formal Resolution

A formal complaint includes a written description of the facts and circumstances allegedly constituting discrimination/harassment signed by the complainant and filed with the Office for Equal Opportunity. A formal complaint must be made within 300 days of the alleged discrimination/harassment. Promptly after a written complaint is filed, the Office for Equal Opportunity will provide written notification to the accused (“respondent”) of the allegations and the identity of the complainant. The respondent also will be furnished with a copy of the written charge and will have an opportunity to respond to the allegations contained therein. The respondent’s immediate supervisor will receive a copy of the written notification. An accused student may wish to consult a faculty mentor in responding to the complaint. After the notification described above, the Office of Equal Opportunity will conduct any additional investigation which may be necessary.

The investigation is expected to lead to one of the following possible outcomes:

1. The Office for Equal Opportunity finds insufficient facts to support the charge;
2. The Office for Equal Opportunity finds facts to support the charge, reaches a negotiated resolution satisfactory to the parties, and does not recommend further action; or
3. The Office for Equal Opportunity finds facts to support the charge and recommends further action.

Upon completion of the investigation, the Office for Equal Opportunity will submit to the President a report including findings of fact and any recommended action. Disciplinary action shall reflect the status of the accused, the severity and pervasiveness of the conduct, the apparent intent of the accused, and other relevant factors in the case. Copies of the report will be provided to the complainant, the respondent, the respondent’s immediate

supervisor, the Dean, Director and /or Department Head as appropriate, and the Provost or Executive Vice President as appropriate.

## 5.5 Appeal

In the event that either the complainant or the respondent disagree with or object to the Office for Equal Opportunity's findings and recommendations rendered pursuant to section 5.4 above, the following options are available:

1. Complainants may pursue the appropriate remedy set forth in Paragraph 5.6 below.
2. Classified staff respondents, including those performing instructional or academic advising duties, may pursue their grievance rights as set forth in the State Employee Grievance Procedure.
3. Faculty respondents and others performing instructional or academic advising duties within fourteen days of receipt of the findings of fact and/or recommended action, may request review of the Office for Equal Opportunity's findings and recommendations by the Provost or Executive Vice President as appropriate. The Provost or Executive Vice President will appoint a three-member panel and designate one of the members as chair. Members of the panel will be selected from among the General Faculty in consultation with the President of the Faculty Senate or the Chair of the Commission on Administrative and Professional Faculty as appropriate. The Director of the Office for Equal Opportunity will participate in all meetings of the panel and serve as a non-voting advisor to the panel. If the appellant respondent is a student, the Provost will appoint a representative from the Graduate School or Student Affairs as a non-voting member. The panel will determine whether there existed in the available evidence of record a reasonable basis for Office for Equal Opportunity's findings and recommendations. The panel will report its determination to the Provost or Executive Vice President for further action as warranted.

Records of the investigation will be retained by the Office for Equal Opportunity for a period consistent with federal and state law and in accordance with university records management policy, after which the records will be destroyed.

A complainant found to have made intentionally false allegations of discrimination/harassment is subject to University discipline. (See Section 2.1(3) above.)

## 5.6 Supplemental/Alternative Avenues for Formal Complaints

In addition to, or in lieu of the procedures set forth above:

1. Students may file formal complaints with the Office for Civil Rights of the U.S. Department of Education.
2. Faculty may file a charge with the federal Equal Employment Opportunity Commission and/or the Virginia Council on Human Rights within 300 days of the incident.
3. The following options are available to staff:
  - A Non-probationary classified staff may file a grievance within 30 days of the offense as outlined in the Grievance Procedure for State Employees; or
  - B Salaried and wage staff may file a complaint using the Discrimination Complaint Procedure administered by the Office of Equal Employment Services in the state's Department of Human Resource Management.
  - C Salaried and wage staff may file a complaint with the federal Equal Employment Opportunity Commission or the Virginia Council on Human Rights within 300 days of the alleged discrimination/harassment.

Additional information regarding any of the procedures outlined above may be obtained from the Office for Equal Opportunity.

Additional assistance and support may be obtained from the Office of the Provost (faculty), the Office of Personnel Services (classified staff), The Women's Center, the Graduate School (graduate students), Cook Counseling Center (students), or the Office of Judicial Affairs (students).

## 6. References

[Virginia Department of Human Resources Management Policy 1.60 Standards of Conduct](#)

[Virginia Department of Human Resource Management Policy 2.05, Equal Employment Opportunity](#)  
[Virginia Department of Human Resource Management Policy 2.30 Workplace Harassment](#)  
Department of Employment Dispute Resolution Grievance Procedure Manual  
[Virginia Tech Policy 4075 Accommodation of Employees with Disabilities](#)  
[Virginia Tech Faculty Handbook](#)  
[Virginia Tech Research Faculty Handbook](#)  
[Virginia Tech Classified Employee Handbook](#)  
[Building Graduate Community: Expectations for Graduate Study \(Graduate School publication\)](#)  
[Virginia Tech Principles of Community](#)

## 7. Approval and Revisions

- Revision 1

Revised by Commission on Faculty Affairs, December 17, 1990, the Faculty Senate, January 8, 1991, and the EO/AA Committee on January 8, 1991, with further revisions, February 12, 1991.

Approved March 4, 1991 by University Council.

- Revision 2

Revised by the EO/AA Committee, March 29, 1994; approved by Commission on Faculty Affairs, May 13, 1994.

Approved October 3, 1994 by University Council.

- Revision 3

Revised by the Commission on Equal Opportunity and Diversity, March 28, 2005.

Approved by University Council, May 2, 2005.

Approved by the Board of Visitors, August 29, 2005