
Subject: Policy on Harassment, Discrimination, and Sexual Assault

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1. Purpose

The university is subject to Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended, the Age Discrimination in Employment Act, the Equal Pay Act, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, Federal Executive Order 11246, Genetic Information Nondiscrimination Act of 2008 (GINA), Virginia Executive Order(s), and all other rules and regulations that are applicable.

2. Policy

2.1 University Statement on Non-Discrimination

Virginia Tech does not discriminate against employees, students, or applicants on the basis of age, color, disability, sex (including pregnancy), gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, or veteran status, or otherwise discriminate against employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants, or on any other basis protected by law.

2.2 Applicability of Non-Discrimination Statement

The prohibition against discrimination and harassment applies to all levels and areas of university operations and programs, to undergraduate and graduate students, administrators, faculty, staff, volunteers, vendors and contractors. Such behavior is inconsistent with the university's commitment to excellence and to a community in which mutual respect is a core value as articulated in the Virginia Tech Principles of Community.

3. Scope

The university's jurisdiction includes on-campus incidents and off-campus incidents that cause continuing effects on campus and includes complaints filed by students or employees, or others on their behalf, alleging discrimination or discriminatory harassment (including sexual harassment and sexual violence) carried out by faculty, staff, other students, or third parties.

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.

3.1 Contact Information

Questions and complaints of discrimination or discriminatory harassment involving faculty, staff, or students should be filed with:

The Assistant Vice President for Equity and Accessibility
Office of Equity and Access
Virginia Tech
North End Center
300 Turner St.
Blacksburg, VA 24061
Phone: (540) 231-2010
equityandaccess@vt.edu

4. Procedures

The procedures referenced below provide for prompt and equitable response to reports of prohibited conduct. The procedures also provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a policy violation has occurred. The university applies the preponderance of the evidence standard when determining whether this policy has been violated. "Preponderance of the evidence" means that it is more likely than not that a policy violation occurred.

The appropriate university avenue for resolving a complaint covered under this policy is determined by the status of the person accused.

All **undergraduate, graduate, and professional students** at the university are subject to the university's student code of conduct as outlined in the Hokie Handbook, accessible at <http://www.hokiehandbook.vt.edu/index.html>. Procedures for addressing student violations of this policy are available at www.stopabuse.vt.edu.

Faculty members at the university are subject to the rules included in the Faculty Handbook, accessible at http://www.provost.vt.edu/faculty_handbook/faculty_handbook.html. **Staff members** are subject to the rules included in university policies (<https://www.hr.vt.edu/resources/current-employees/policies-handbooks.html>) and the Virginia Department of Human Resource Management Policies (<http://www.dhrm.virginia.gov/hrpolicy/policy.html#probper>), with minor exceptions for University Staff. Procedures for addressing staff and faculty violations of this policy are available from Human Resources.

We encourage victims of sexual violence, including rape, sexual assault, sexual battery, stalking, and dating and domestic violence, to exercise their right to file a complaint with the Virginia Tech Police Department if the crime occurs on Virginia Tech's property, regardless of the status of the complainant. For crimes occurring away from Virginia Tech's property, victims may contact the local law enforcement in the appropriate jurisdiction.

4.1 Responsibilities of Administrators and Supervisors

University administrators, supervisors, and those 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 individual with instructional responsibility becomes aware of an incident that might reasonably be construed as constituting discrimination/harassment, he or she must take immediate steps to address the matter. In such cases, the administrator, supervisor or individual with instructional responsibility should promptly contact the Office of Equity and Access in order to coordinate any further action that may be necessary.

Administrators, supervisors and those with instructional responsibility should act whenever they learn—either directly or indirectly—about discrimination/ harassment. This obligation exists even if the complainant requests that no action be taken

Administrators, supervisors and those with instructional responsibility (for their respective teaching obligation) have the legal responsibility to protect a complainant from continued discrimination, harassment or retaliation, including implementing interim measures necessary to protect the complainant. 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. It is not the responsibility of the complainant to correct the situation.

Employees are responsible for informing employees and students under their supervision of this policy and the name and contact information of the person responsible for addressing discrimination complaints covered under this policy.

4.2 Statement on Responsible Employees for Title IX Reports

For reports that are covered by Title IX (including sex discrimination, sexual harassment, sexual violence, dating and domestic violence, and stalking), responsible employees include all individuals that are employed by Virginia Tech who have the authority--or whom an employee or student could reasonably believe have the authority or duty--to redress sex discrimination and sexual harassment. This includes but is not limited to all faculty members; all classified and university staff; any wage employee in a supervisory role; graduate teaching assistants; graduate research assistants; residential advisors; law enforcement; and security officials. Responsible parties are obligated to report acts of sexual violence or any other sexual misconduct by employees or students to the Title IX coordinator. Once a responsible employee is on notice of the sexual misconduct, including sexual violence, the responsible employee must promptly report all information they have to the appropriate Title IX Coordinator. Notice may be received directly or indirectly and could include a grievance, information from a student, another employee, parent or friend, sources in the local community, social networking sites, the media or an anonymous report.

Confidential resources include the staff at the Schiffert Health Center, Cook Counseling Center, Virginia Tech Mental Health Centers, and the Virginia Tech Women's Center. Disclosures made to Athletic Doctors while acting within the scope of his or her license or certification are also confidential. The employees in this list are not considered responsible employees.

4.3 Supplemental/Alternative Avenues for Formal Complaints

In addition to, or in lieu of, the procedures set forth above, individuals may pursue those remedies that are available to them, as appropriate, through the following agencies:

Students and applicants for admission may file formal complaints with the Office for Civil Rights of the U.S. Department of Education.

Faculty members or applicants for employment 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.

The following options are available to **staff members or applicants for employment**:

- a. Non-probationary staff may file a grievance within 30 calendar 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 this policy may be obtained from the Department of Human Resources.

Additional assistance and support may be obtained from the Women's Center, the Office of the Provost (faculty), the Department of Human Resources (staff and AP faculty), the Graduate School (graduate students), the Dean of Students Office, Cook Counseling Center, or Student Conduct (students).

5. Definitions

Discrimination and/or Harassment - 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), gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, or veteran status, unless otherwise permitted or required by applicable law. Virginia Tech does not otherwise discriminate against employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants nor on any other basis protected by law. Discrimination on the basis of sex in education programs and activities receiving federal financial funding as set forth in Title IX of the Education Amendments of 1972, as amended, is included in this definition of prohibited discrimination;

Conduct of any type (oral, written, graphic, electronic or physical) that is based upon a person's age, color, disability, gender (including pregnancy), gender identity, gender expression, national origin, political affiliation, race, religion, sexual orientation, or veteran status and 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; **and/or**

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.

Sex Discrimination and Sexual Harassment - Conduct of any type (oral, written, graphic, electronic or physical) that is based upon a person's sex (including pregnancy), and unreasonably interferes with the person's work or academic performance or limits participation in university activities, or creates a working or learning environment that a

reasonable person would find hostile, threatening or intimidating.

Conduct of a sexual nature, including 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. This policy includes sexual violence, gender-based harassment, domestic violence, dating violence and stalking as forms of sexual harassment.

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 that 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.

Dating violence – acts of physical or sexual abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, but does not include acts covered under the definition of domestic violence.

Domestic violence – a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

Sexual Exploitation – an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Sexual Violence – physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol, or is unable to give consent due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

- **Sexual Assault** – actual or attempted sexual contact with another person without that person's consent.
- **Sexual Battery** – intentional touching of another person's intimate parts without the person's consent; or other intentional sexual contact with another person without that person's consent.
- **Sexual Coercion** – using physical or verbal aggression or pressure to force or attempt to force a person to touch another person's intimate parts without that person's consent.
- **Rape** – penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.

Stalking – repeatedly contacting another person when the contact is unwanted. Additionally, the contact may cause the other person reasonable apprehension of imminent physical harm or cause substantial impairment of the other person's ability to perform the activities of daily life. Contact includes but is not limited to communicating with (either in person, by phone, or by computer) or remaining in the physical presence of the other person.

Consent – knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. The existence of consent is based on the totality of circumstances, including the context in which the alleged consent occurred. Silence does not necessarily constitute consent and coercion, force, or threat of either party invalidates consent.

- Consent cannot be given where a person is incapacitated due to drugs or alcohol; or where a person has a disability; or is not of legal age to consent as defined by law.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Consent can be withdrawn at any time.
- Previous relationships or prior consent cannot imply consent to future sexual acts.

6. References

University Policy 4075, Policy for University Accommodation of Persons with Disabilities
<http://www.policies.vt.edu/4075.pdf>

Virginia Department of Human Resources Management, Policy 1.60 Standards of Conduct
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol1_60.pdf?sfvrsn=2

Virginia Department of Human Resource Management, Policy 2.05, Equal Employment Opportunity
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol2_05eeo.pdf?sfvrsn=2

Virginia Department of Human Resource Management, Policy 2.30 Workplace Harassment
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol2_30wkplaceharrass.pdf?sfvrsn=2

Virginia Department of Human Resource Management - Employment Dispute Resolution - Grievance Procedure Manual
<http://www.dhrm.virginia.gov/employmentdisputeresolution>, <http://www.dhrm.virginia.gov/docs/default-source/edrdocuments/GPM-2017.pdf?sfvrsn=8>

Virginia Tech, Classified and University Staff Policies and Handbook
<https://www.hr.vt.edu/resources/current-employees/policies-handbooks.html>

Virginia Tech, Expectations for Graduate Education
https://graduateschool.vt.edu/content/dam/graduateschool_vt_edu/expectations-pdfs/expectations-for-graduate-education-may-2017.pdf

Virginia Tech, Faculty Handbook
https://www.provost.vt.edu/faculty_affairs/faculty_handbook.html

Virginia Tech, Hokie Handbook and University Policies for Student Life
<http://www.hokiehandbook.vt.edu/>

Virginia Tech, Principles of Community
<http://inclusive.vt.edu/Initiatives/vtpoc0.html>

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.

- Revision 4

Revised by the Commission on Equal Opportunity and Diversity, March 29, 2010.

Approved by University Council, April 19, 2010.

Approved by the Board of Visitors, June 7, 2010.

- Revision 5

Section 4 – “faculty member” replaced with “individual with instructional responsibility.”

Approved March 16, 2011 by Charles W. Steger, University President.

- Revision 6

April 24, 2013: Technical updates to:

- reflect regulations, particularly those that add genetic information to the list of protected statuses;
- clarify oversight responsibilities for sexual harassment complaints involving any student who is **not** acting in the capacity of an employee, volunteer, or contractor;

- clarify that non-probationary employees have 30 “calendar” days to file a grievance; and
- update references and hyperlinks.

Approved June 3, 2013, by Charles W. Steger, University President, and the Board of Visitors.

- Revision 7

Revised to include the addition of terms “gender identity” and “gender expression” in sections 1. Purpose, first paragraph, and 2.1 Prohibited Acts, first and second paragraphs.

Approved September 15, 2014 by University President, Timothy D. Sands, and the Board of Visitors.

- Revision 8

Revised to include definitions approved by the Board of Visitors on June 1, 2015, and add contact information for the Title IX Coordinator, and language encouraging victims to file a complaint with the appropriate law enforcement agency.

Approved June 1, 2015 by University President, Timothy D. Sands, and the Board of Visitors.

- Revision 9

Revised section 2.1 to include the sentence, “Virginia Tech does not otherwise discriminate against employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants nor on any other basis protected by law.” This is added to comply with Federal Executive Order 13665, issued by President Obama.

Approved November 9, 2015 by University President, Timothy D. Sands, and the Board of Visitors.

- Revision 10

Significant reorganization of information and to update Procedures section to reflect status of the individual(s) involved in the complaint/potential complaint. Policy name was also changed.

Approved June 30, 2016 by University President, Timothy D. Sands.

- Revision 11

Revised section 2.1 to add “sex” to the non-discrimination statement, in accordance with Governor Northam’s Executive Order Number One.

Revised section 3.1 to have all questions and complaints filed with The Assistant Vice President for Equity and Accessibility, who can further redirect the filing, if appropriate.

Approved February 12, 2018, by University President, Timothy D. Sands