



University Guidelines on Prohibition of Sexual Harassment

Virginia Commonwealth University • Office of Equal Employment Opportunity/Affirmative Action Services
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Purpose

Virginia Commonwealth University strictly prohibits acts of sexual harassment against any member of the University community. Acts of either verbal or physical sexual harassment will not be tolerated and will subject the person who commits such acts to disciplinary action under these guidelines and, possibly, other University policies and procedures. In addition, such acts could subject the violator to sanctions under federal and state laws and policies, including Titles VII and IX of the federal civil rights laws.

Upon receipt of a complaint of sexual harassment, the University will take action appropriate to the charge presented by the complaint. Such action may take the form of investigation, counseling, informal meetings and/or resolution and/or formal discipline. Any administrator or supervisor who is made aware of a charge, or circumstance which may give rise to a charge of sexual harassment should refer the matter in accordance with the procedures set forth in these guidelines.

Definition of Sexual Harassment

Sexual harassment is defined as unwelcome acts of a sexual nature including sexual advances, requests for sexual favors and/or other verbal or physical conduct, including written communications, of an intimidating, hostile or offensive nature, or action taken in retaliation for the reporting of such behavior, when:

1. Submission to such conduct, either explicitly or implicitly, is made a term or condition of an individual's employment or academic status; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment, promotion, transfer, selection for training, performance or academic evaluation decisions; or
3. Such conduct has the purpose or effect of creating an intimidating, hostile or offensive working or educational environment or substantially interferes with an employee's work performance or a student's academic performance.

Verbal sexual harassment may include, but is not limited to: (1) sexual innuendo, comments and sexual remarks about clothing, body, or sexual activities; (2) humor and jokes about sex that denigrate women or men in general; (3) sexual propositions, invitations, or other pressure for sex; (4) implied or overt threats of a sexual nature; and, (5) making gestures of a sexual nature.

Physical sexual harassment may include, but is not limited to: (1) unwelcome touching, patting, pinching, brushing against the body, attempted or actual kissing or fondling, and any other inappropriate and/or unwelcome touching or feeling; (2) coerced sexual intercourse or other sexual acts or misconduct; and, (3) sexual assault.

Other types of sexual harassment may include displaying sexually suggestive photographs or literature in the workplace or academic environment and making degrading insults about men or women in general.

Application

These guidelines govern and apply to the conduct of all Virginia Commonwealth University faculty, staff, administrators (hereinafter collectively referred to as "University employees") and students. Complaints of sexual harassment by a student against a University employee or by a University employee against a student must be filed under these guidelines. Complaints by one student against another student must be filed under the VCU Student Sexual Misconduct Policy. (Copies are available from the Division of Student Affairs.) The Guidelines on Prohibition of Sexual Harassment apply to conduct on University premises, including the Monroe Park Campus and the Medical College of Virginia Campus and any and all other facilities owned, controlled or otherwise being used by the University. This document also governs and applies to all programs offered by the University and to the conduct of University employees and students in any location where the conduct and behavior significantly impacts the University or its personnel. Questions regarding the applicability of these guidelines should be referred to the Director of EEO/AA Services. All University employees will be responsible for complying with the terms of these guidelines. Administrators and supervisors are responsible for informing employees, including faculty, staff, and students of the existence of these guidelines.

Resolution Procedures

Any faculty, staff, administrator or student who feels that he or she has been the victim of sexual harassment is encouraged to report the incident(s) of sexual harassment and/or pursue recourse through established University procedures or under these guidelines.

Informal complaints of sexual harassment filed under these guidelines may be verbal or in writing. Formal complaints must be submitted in writing. All such complaints should be directed to the Director of the Office of Equal Employment Opportunity/Affirmative Action Services (EEO/AA Services), Room 114, Ginter House, 901 W. Franklin St., P.O. Box 843022, Richmond, VA 23284-3022. Individuals desiring additional information or requiring special accommodation should call (804) 828-1347, Fax: (804) 828-7201 or VOICE TDD: (804) 828-1420.

Complaints of sexual harassment should be filed as soon as possible following the event or occurrence giving rise to the complaint to ensure a complete investigation and prompt resolution of the problem. A complaint filed more than two years after an incident or event generally will not be considered to have been filed in a timely fashion.

Complaints generally will be handled expeditiously. However, the Director of the Office of EEO/AA Services may permit limited delays under certain circumstances (e.g., medical problems, holidays and the like). It should be noted that filing a complaint with the Director of EEO/AA Services does not affect the time frame in which one must file a complaint with any applicable federal or state agency to comply with the rules for timely filing with such federal or state agency.

Any administrator, supervisor, or other University official to whom a complaint of sexual harassment is made or who otherwise is made aware of incidents which might constitute sexual harassment, as defined in these guidelines, should refer such matters to the Office of EEO/AA Services.

Informal Resolution Procedures

1. **Problem-Solving:** The Office of EEO/AA Services and the Office of the Dean of Student Affairs have professional staff who are available to faculty, staff, and students for information, consultation and advice regarding problem behavior and potential complaints.
2. **Informal Complaint Process:** University employees, students, guests or visitors to the University community who feel that they may have been the victim of acts of sexual harassment may file a

verbal or written complaint with the Office of EEO/AA Services. Upon receipt of such a complaint, the Office of EEO/AA Services, within ten (10) working days of receiving the complaint, will undertake preliminary fact-finding efforts to determine the extent to which further investigative efforts may be warranted. Under appropriate circumstances, the charge or complaint may be referred to an investigator or an investigative team for further investigation. The investigator or investigative team will meet with the accuser, the accused and such other persons who may be deemed necessary. Additional consultation may be pursued with the appropriate dean, administrator or other University official. An attempt will be made to complete the investigation and/or consultative process within an additional thirty (30) working days.

The primary goal or objective of the informal complaint process is to resolve the conflict. Resolution at the informal level may include an agreement in which one or more of the parties involved agree(s) to accept disciplinary action in the form of a warning, censure, probation, or such other action as may be warranted by the circumstances of each case, administered by the appropriate supervisor or administrator.

To the extent the parties are able to achieve a satisfactory resolution of the problem or issue through the informal resolution process, the complaint will be considered resolved. If a mutually satisfactory resolution cannot be achieved, the complaint either will be advanced to the formal complaint process or concluded upon the request of the accusing party. The fact that a complaint of sexual harassment may be concluded at the request of the accusing party does not preclude the filing of a formal complaint by others, including appropriate university officials.

Formal Resolution Procedures

1. Preliminary Findings and Proceedings

In those cases in which a mutually satisfactory resolution of an informal charge or complaint of sexual harassment cannot be achieved, either the accused or the accuser may choose to advance the complaint to the formal complaint or resolution process. In addition, University employees who wish to pursue a formal charge of sexual harassment may do so without first filing an informal complaint.

Formal complaints of sexual harassment must be filed in writing with the Office of EEO/AA Services. Upon receipt of a formal complaint, the Office of EEO/AA Services within ten (10) working days of receiving the complaint will undertake a preliminary fact-finding investigation to determine whether further investigation or proceedings appear to be warranted. In those situations in which the Office of EEO/AA Services determines that the alleged conduct does not fall within the definition of sexual harassment or does not appear to be supported or substantiated, the accuser will be so informed. When the Office of EEO/AA Services determines that there is reasonable evidence to support the complaint, the office will consult with the appropriate dean, administrator, or other university official. Resolution at the formal complaint level may include a warning, censure, probation, public service and/or educational experience, restitution, suspension, or dismissal as may be warranted by the circumstances, administered by the appropriate supervisor or administrator. If the accuser and accused accept the findings of the Office of EEO/AA Services and the action taken to resolve the complaint, the complaint will be considered resolved. If either the accuser or accused rejects the findings of the Office of EEO/AA Services or the action taken to resolve the complaint, the complaint will proceed to the formal hearing process.

2. Formal Hearing Process

The Office of EEO/AA Services will forward the complaint to the appropriate administrator to receive the charges as provided in Section V.B of the Rules and Procedures. The administrator immediately will refer the charges to the University Hearing Board without additional investigation. The University Hearing Board, in addition to the usual procedures specified in Section V.F for Hearings and Procedural Due Process, will observe the following special procedures for charges of sexual harassment/misconduct:

1. Hearings involving charges of sexual harassment will be closed to the University community and the public, unless both the accused and the accuser agree that others may be present. The number of observers shall be determined by the Chair of the Hearing Board.
2. Hearings and deliberations will be considered confidential in accordance with Section V.F.11 of the University Rules and Procedures document. Any observers allowed to attend must agree to maintain the confidentiality of the proceedings.
3. Evidence of prior disciplinary action involving allegations of sexual misconduct or sexual harassment of the accused may be considered by the University Hearing Board but the prior sexual activities of either the accused or the accuser which are not relevant to the issue before the Hearing Board, as determined by the Chair, will not be admissible.

3. Penalties and Sanctions

Persons found by the University Hearing Board to have violated the provisions of the University Guidelines on Prohibition of Sexual Harassment will be subject to the sanctions and penalties set forth in the University Rules and Procedures document. These penalties include censure, probation, public service and/or educational experience, restitution, separation (suspension) and/or dismissal.

In addition, violations of the Guidelines on Prohibition of Sexual Harassment may subject violators to liabilities and sanctions available under federal and state laws.

4. Appeals

A member of the University community who is found by the University Hearing Board to have violated the University Guidelines on Prohibition of Sexual Harassment may appeal such findings and sanctions to the University Appeal Board in accordance with the procedures specified in the University Rules and Procedures document.

Retaliation Prohibited

The accused, the accuser, and all other parties to a complaint are reminded that it is a violation of the VCU Rules and Procedures for any member of the University community to harass or intimidate any person, or to lie in making statements in connection with a charge under the provisions of the guidelines. The Director of EEO/AA Services will investigate any reported acts of harassment or intimidation, including any act of reprisal, interference, restraint, or penalty - overt or covert - against any student or employee who is a party to a complaint under these guidelines.

Frivolous or False Charges

The accused, the accuser, and all other parties to a complaint are reminded that it is a violation of the VCU Rules and Procedures for any member of the University community to file "charges against a member of the University community that are spurious, or that are intended primarily to harass or maliciously defame,

or that are designed to intentionally overburden the adjudicatory system." (Rules and Procedures, Section III.A.10)

Records and Release of Information

The Director of EEO/AA Services shall be responsible for maintaining a complete set of all records and documents in accordance with state and federal requirements. The Director shall have the discretion to release information relative to a charge or subsequent penalties to individuals within the University on a need-to-know basis, and shall include a statement of confidentiality and a request for care in the security of the information.

Consensual Relationships

Employees, whether faculty or staff, shall **not** engage in consensual relations with students when the employee has a "position of authority" with respect to the student in such matters as teaching or otherwise evaluating, supervising, or advising a student as part of a school program or employment situation." For additional information, click the following link to the Provost's policy on Employee-Student Consensual Relationships.

<http://www.provost.vcu.edu/pdfs/consensual-relationships-policy.pdf>