

August 10, 2020

MEMORANDUM

TO: Board of Trustees, Vermont State Colleges System

FROM: Sophie Zdatny, Chancellor



SUBJECT: Materials for Board of Trustees Meeting August 12, 2020

The materials are now available for the upcoming regular Board meeting, Wednesday August 12th. We look forward to a productive meeting.

Wednesday's meeting will take place via Zoom and will be livestreamed on YouTube. We will begin at 1:00 p.m. and will go directly into an executive Session. When we exit, we will have a presentation from Attorney Jeff Nolan on the new Title IX regulations, which go into effect on August 14th. Jeff re-drafted VSC Policy 311-A to conform to the new regulations. This has also required some minor changes to Policy 311, requiring your approval. In addition to receiving reports from the recent meetings of the Finance and Facilities Committee (which will require a brief executive session) and Long Range Planning Committee, we will hear from James Page, former Chancellor of University of Maine and author of a report on the VSCS commissioned by the Joint Fiscal Office of the Legislature. The VSCS *Forward* Task Force will then present their recommendations to the Board and seek further direction from the Board as to their next steps. We will conclude with a review of the colleges' Restart plans for the Fall, following a brief discussion about adding an additional meeting in the Fall. Materials for the Board meeting are available for viewing now.

Cc: VSC Board of Trustees
Council of Presidents
Academic Deans
Business Affairs Council
Student Affairs Council

BOARD OF TRUSTEES

J. Churchill Hindes, Chair
(2/28/21)

Janette Bombardier

(2/28/21)

Megan Cluver, Secretary

(3/1/23)

Ryan Cooney

(5/30/21)

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Rep. Bill Lippert, Jr.

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Jim Masland

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Linda Milne

(2/28/21)

Michael Pieciak

(2/28/21)

David Silverman, Treasurer

(2/23/22)

Governor Phil Scott

(ex officio)

Board Committees

Audit

Linda Milne, Chair

David Silverman, Vice-Chair

Megan Cluver

Lynn Dickinson

Karen Luneau

Education, Personnel & Student Life

Jim Masland, Chair

Karen Luneau, Vice Chair

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Executive

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Lynn Dickinson, VC

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Finance & Facilities

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Long Range Planning

Michael Pieciak, Chair

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Dylan Giambatista

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Nominating

Lynn Dickinson

Janette Bombardier

Bill Lippert

Adam Grinold

Board Meeting Dates

September 21-22, 2020

Zoom

December 7, 2020

Zoom

VSC Chancellor’s Office **Sophie Zdatny, Chancellor**

Chief Financial Officer and Operating Officer

General Counsel

Chief Academic Officer

Chief Information Officer

Administrative Director

Director of Facilities

Director of Human Resources

Sharron Scott

Patty Turley

Yasmine Ziesler

Kevin Conroy

Jen Porrier

Richard Ethier

Katrina Meigs

**Vermont State Colleges Board of Trustees Special Meeting
Zoom Meeting/YouTube Stream
Wednesday, August 12, 2020**

AGENDA

1:00 P.M. – Board of Trustees Special Meeting

1. Call to order
2. Executive Session to discuss a public official
3. Approval of Minutes
 - July 6, 2020
4. Review, Discuss and Approve revisions to Policy 311 and Policy 311-A, following presentation by Jeffrey Nolan, Esq. on the new Title IX regulations
5. Report of Finance and Facilities Committee
 - a. Approve revision to total anticipated funding for CCV's Early Childhood Professional Development System grant
 - b. Review, Discuss, and Approve revisions to Policy 403: System Annual Operating Budget and Policy 429: Policy on Contracting for Goods and Services
 - c. Executive Session (Land Transactions)
6. Report of Long Range Planning Committee
 - a. Presentation by James Page, Ph D.
 - b. Report on Initial Recommendations of the *VSCS Forward* Task Force
7. Discussion: adding Board of Trustees Meeting Dates for 2020-2021
8. Review and Approval of Restart Plans
9. Other Business
10. Public Comment

- Contact Jen Porrier at jen.porrier@vsc.edu for information on how to attend the Zoom meeting
- This will also be livestreamed on YouTube at www.vsc.edu/live

Item 1: July 6, 2020 Meeting Minutes

Minutes of the VSCS Board of Trustees Meeting held Monday, July 6, 2020, at 4:00pm via ZOOM – UNAPPROVED

Note: These are unapproved minutes, subject to amendment and/or approval at the subsequent meeting.

The Vermont State Colleges Board of Trustees met on Monday, July 6, 2020, via ZOOM.

Board members present: Churchill Hindes (Chair), Ryan Cooney, Lynn Dickinson, Dylan Giambatista, Adam Grinold (4:11 p.m.), Jim Masland, Linda Milne, Mike Pieciak, David Silverman

Absent: Janette Bombardier, Megan Cluver, Bill Lippert, Karen Luneau

Presidents: Joyce Judy, Pat Moulton, Jonathan Spiro (Interim)

Chancellor's Office Staff: Donny Bazluke, Network/Security Analyst
Shannon Billings, Business Services Assistant
Kevin Conroy, Chief Information Officer
Todd Daloz, Interim General Counsel
Brenda Flint, Associate Controller
Wayne Hamilton, Interim Controller
Richard Lee, Lead Systems Analyst
Tom Maguire, Director of Network Services
Jen Porrier, Administrative Director
Meg Walz, Director, Program Manager
Sophie Zdatny, Interim Chancellor
Juan Zhang, Institutional Research Analyst
Yasmine Ziesler, Chief Academic Officer

From the Colleges: Lori Arner, Director of Registrar Services, Castleton University
Sarah Chambers, Coordinator of Instructional Technology, Castleton University
Alison Lathrop, President, VSC Faculty Federation, Northern Vermont University
Linda Olson, VP Education AFT-VT, Castleton University
Maurice Ouimet, Dean of Enrollment, Castleton University
Andy Pallito, Dean of Administration, Community College of Vermont
Sharron Scott, Dean of Administration, Northern Vermont University
Beth Walsh, President, VSCUP, Northern Vermont University

From the Public: Lola Duffort, Reporter, VT Digger

Amy Nixon, Reporter, Caledonian Record

Chair Hinds called the meeting to order at 4:09 pm.

1. Approval of Minutes of June 29, 2020 Board Meeting

Trustee Dickinson moved and Trustee Masland seconded the approval of the minutes of June 29, 2020. The minutes were approved unanimously.

1. Public Comment

There was no public comment

2. Other Business

There was no other business.

Executive Session

At 4:13 p.m. Trustee Dickinson moved that the VSC Board of Trustees enter executive session pursuant to 1 V.S.A. § 313(a)(3) to discuss the employment of a public employee. The motion stated that the Board would make any final decision regarding any such public officer in an open meeting and would explain the reasons for this final decision during the open meeting. Along with the members of the Board present at the meeting, the Board invited the Interim Chancellor, to attend portions of the executive session. Trustee Pieciak seconded the motion and it passed unanimously.

The Board exited Executive session at 4:55 p.m.

After considering the recommendation of the Search Committee, with input from the broader VSC community, including feedback from the Presidents, the union partners, the Chancellor's Office senior staff, and based on her exemplary performance as Interim Chancellor over the past two months, Trustee Dickinson moved that the Vermont State Colleges System Board of Trustees appoint Sophie Elizabeth Zdatny, Esq. as the next Chancellor of the Vermont State Colleges System, under terms and conditions agreed upon between the Board Chair and Ms. Zdatny. Trustee Silverman seconded the motion. The motion was approved unanimously.

Trustees voiced their gratitude and appreciation for Chancellor Zdatny's hard work, thus far, and all wish her luck in the year to come.

Chair Hinds adjourned the meeting at 5:09 pm.

Item 2:
Policy 311 and Policy 311-A



NON-DISCRIMINATION AND PREVENTION OF HARASSMENT AND RELATED UNPROFESSIONAL CONDUCT	Number 311	Page 1 of 12
	Date 8/12/20	

I. NOTICE OF NONDISCRIMINATION

The Vermont State Colleges and its member Colleges prohibit discrimination and harassment on the basis of a person’s race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, positive HIV-related blood test results, or any other status protected by state or federal law, pursuant to Title IX of the Education Amendments, the Equal Pay Act, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, Section 504 of the Rehabilitation Act, the Vietnam Era Veterans Readjustment Assistance Act, the Uniformed Services Employment and Reemployment Rights Act, Title VI and Title VII of the Civil Rights Act, the Genetic Information Nondiscrimination Act, the Americans with Disabilities Act, Vermont’s State Employees Labor Relations Act, Vermont’s Public Accommodations Act, Vermont’s statutory provisions on harassment applicable to postsecondary schools, Vermont’s statutory provisions relating to HIV-discrimination and testing, Vermont’s Fair Employment Practices Act, and any other applicable state or federal non-discrimination and harassment prevention law, regulation, or policy.

As a recipient of federal funds, the Vermont State Colleges and each member College of the Vermont State Colleges is required to comply with Title IX of the Education Amendments of 1972 (“Title IX”). In accordance with Title IX, as well as other applicable state and federal law, the VSC and its member Colleges prohibit discrimination on the basis of sex in its education programs and activities, admission, and employment. Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. Title IX also prohibits gender-based harassment, which may include acts of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve acts of a sexual nature.

Inquiries concerning the application of Title IX may be referred to the VSC’s Title IX Coordinators or to the United States Department of Education for the Office of Civil Rights. Inquiries concerning discrimination on the basis of other protected categories may be referred to the VSC’s Policy 311 Coordinators, the Vermont Human Rights Commission, the Vermont Attorney General’s Office – Civil Rights Unit, or to the Equal Employment Opportunity

Commission. Contact information for the Coordinators is located in Appendix A and contact information for these state and federal agencies is located in Appendix C to the *Chancellor's Procedures for Implementation of Policy 311: Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.

II. POLICY STATEMENT

The Vermont State Colleges and its member Colleges (collectively the "VSC") are committed to maintaining an educational and working environment free from discrimination, harassment and related unprofessional conduct. The VSC prohibits discrimination on the basis of a person's race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, positive HIV-related blood test results, or any other status protected by state or federal law (collectively "protected categories"). Sexual harassment, racial harassment, and harassment based upon a person's status in a protected category are forms of discrimination and will not be tolerated. In addition, inappropriate sexual relationships between VSC employees and students, including those that may not otherwise rise to the level of sexual harassment, are prohibited.

III. POLICY COVERAGE

In accordance with Title IX, as well as applicable state and federal law, neither the VSC nor any member College shall discriminate on the basis of the above-listed protected categories in the application processes for admissions or employment, in academic and residential programs, in employment policies and practices, in scholarship and loan programs, in athletic programs, or in any other academic, extra-curricular or VSC-sponsored programs, activities, or facilities. The prohibitions set forth in this Policy also apply to all members of the VSC community, including students, employees, and third parties who come on to campus (such as parents, visitors, independent contractors, and vendors). This Policy covers conduct that occurs off-campus, or through the use of online, electronic or digital technologies, and that has a reasonable nexus to any VSC education program or activity, for example by creating a hostile environment on campus or representing a threat to the safety of members of the VSC community or to the continuance of normal VSC operations.¹

IV. POLICY INTENT AND OVERVIEW

This Policy is intended to be read consistently with, and unless otherwise expressly stated, no broader than, Vermont and federal non-discrimination and harassment prevention laws,

¹ Policy 311 and the Chancellor's Implementing Procedures apply to reports of sexual harassment that do not fall within the scope of Title IX Sexual Harassment or Non-Title IX Prohibited Conduct as defined in Policy 311-A and the accompanying Chancellor's Procedures for Implementation of Policy 311-A.

regulations and policies. Laws prohibiting discrimination and harassment are many and varied at both the state and federal level and apply with some differing standards and consequences to employees, students and visitors. Because harassment is a form of discrimination, it is the intent of the VSC to address all prohibitions related to non-discrimination and prevention of harassment under one comprehensive policy for ease of access and use, consistent with federal law. Certain acts of sexual harassment (including, but not limited to, sexual assault and sexual exploitation), domestic violence, dating violence, and stalking are addressed separately in VSC Policy 311-A, *Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault and Stalking*. Sexually harassing behavior that is deemed to meet the definitions of Title IX Sexual Harassment or Non-Title IX Prohibited Conduct under Policy 311-A and the accompanying Chancellor's Procedures for Implementation of Policy 311-A must be addressed under Policy 311-A.

V. DEFINITIONS

For the purposes of this Policy, unless the context clearly requires otherwise, the following definitions apply. The specific definitions contained in an employee benefit plan will control with respect to any claim arising out of that plan.

A. Discrimination

“Discrimination” means the unlawful refusal of, withholding from, exclusion from participation in, or denial of any accommodations, advantages, benefits, facilities, privileges, or services of the VSC or its member Colleges on the basis of a person’s race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, positive HIV-related blood test results, or any other status protected by state or federal law.

B. Harassment

Under Vermont law, “harassment” means an incident or incidents of verbal, written, visual, or physical conduct or communication, including any incident conducted by electronic means, based on or motivated by a person's or person’s family member’s, actual or perceived race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, HIV-positive blood test results, or any other status protected by state or federal law that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance or access to school resources or an employee’s performance, or creating an objectively intimidating, hostile, or offensive environment.

Harassment includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, and taunts on manner of speech and negative references to customs related to any of the protected categories.

C. Sexual Harassment

“Sexual harassment” is unwelcome conduct of a sexual nature and it includes *quid pro quo* sexual harassment and hostile environment sexual harassment. Sexual harassment includes physical conduct of a sexual nature, such as sexual assault or other acts of sexual violence. Sexual harassment under Title IX, including sexual assault, is addressed separately in VSC Policy 311-A, *Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault and Stalking*. Where conduct is not deemed to meet the definitions of Title IX Sexual Harassment or Non-Title IX Prohibited Conduct under Policy 311-A, the following definitions apply:

- “*Quid pro quo* sexual harassment” generally involves a person in a position of power (such as a supervisor over an employee or a faculty member over a student) pressuring a subordinate employee or a student for sexual favors in exchange for an advancement in the workplace or academically, or under the threat of an adverse employment or academic action being taken. *Quid pro quo* sexual harassment includes situations where, for example, a student or employee is rewarded with a higher grade, a stronger evaluation, or an opportunity for advancement for granting a request for sexual favors or is punished with a lower grade, a less favorable evaluation, or denial of an educational or workplace opportunity for refusing to grant a request for sexual favors. In either case, a person uses the position of power as leverage to pressure another person into complying with a request for sexual favors.
- “Hostile environment sexual harassment” is sexual harassment that creates a hostile employment or educational environment and it is a form of sex discrimination. Examples of sexually harassing behavior that could create a hostile environment under appropriate circumstances include the following where the particular behavior is unwelcome to the person to whom it is directed:
 - Sexual advances, including requests for sexual favors and repeated requests for dates;
 - Intentional unwanted or offensive touching, including fondling;
 - Indecent exposure;
 - Sexually-derogatory comments, including sexually explicit comments, sexually suggestive innuendoes, sexually offensive jokes, and sexual taunts;
 - Obscene or offensive gestures;
 - Images and depictions of a sexual nature, including sexually derogatory or sexually suggestive pin-ups, posters, cartoons, and calendars; and
 - Writings of a sexually derogatory or suggestive nature.

This list is not exhaustive and other unwelcome behavior of a sexual nature, if it is severe and pervasive enough, may constitute sexual harassment. *See* Section E, Hostile Environment, below for further elaboration.

Conduct is “**unwelcome**” if the person subjected to the alleged sexually harassing behavior did not request or invite it and regards the conduct as undesirable or offensive. The fact that a person willingly participated in conduct on one occasion does not prevent that person from indicating that the same or similar conduct has become unwelcome on a subsequent occasion. If a person actively participates in the conduct, such as sexual banter, without objection, the conduct would not be considered unwelcome.

Sexual harassment may be committed by a stranger, an acquaintance, a colleague, a co-worker, a student, or someone with whom the subject of the harassment has a social, romantic or intimate relationship. Sexual harassment may be committed by or against any individual, regardless of gender, sexual orientation, or gender identity.

1. Sexual Harassment of a Student

Under Vermont law, “sexual harassment of a student” means:

- (a) An incident or incidents of verbal, written, visual, or physical conduct or communication, including any incident conducted by electronic means, based on or motivated by the student’s sex, that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment; or
- (b) Unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature when one or both of the following occur:
 - (1) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.
 - (2) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

2. Sexual Harassment of an Employee

Under Vermont law, “sexual harassment of an employee” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (a) Submission to that conduct is made either explicitly or implicitly a term or condition of employment; or
- (b) Submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
- (c) The conduct has the purpose or effect of objectively and substantially interfering with an individual's work performance or creating an objectively intimidating, hostile or offensive work environment.

D. Related Unprofessional Conduct

“Related unprofessional conduct” on the part of a VSC employee means the initiation of or participation in an amorous or sexual relationship with a VSC student when the employee is, or may reasonably be perceived to be, in a position of power and authority over the student, even if the conduct does not otherwise constitute sexual harassment. Examples include, but are not limited to, situations where the VSC employee is an administrator, instructor, coach, advisor, work study supervisor or counselor for the student, or a member of a committee having responsibility for decisions that affect students.

E. Hostile Environment

A “hostile work or educational environment” is one in which the alleged conduct is sufficiently serious as to limit or deny the ability of the person subjected to the harassment to participate in or benefit from the employment or educational environment. The severity and pervasiveness of the alleged harassing conduct is evaluated using common sense and reasonable judgment to determine whether it created an intimidating, hostile or offensive environment. The determination is made from the perspective of a reasonable person, in the position of the person subjected to the alleged harassment, considering all of the relevant circumstances. Factors that may be considered include:

- The degree to which the conduct affected the student’s education or the employee’s employment;
- The type(s) of harassment (for example, whether it was verbal and/or physical);
- The frequency and duration of the harassing conduct;
- The identity of, and relationship between, the alleged harasser and the subject of the harassment;
- The number of individuals engaged in the harassing conduct (for example, a group of students targeting a single student); and
- The setting(s) and context(s) in which the harassing conduct occurred.

Generally, the more severe the conduct, the less need there is to show a repetitive series of incidents to establish a hostile environment, particularly if the harassment was physical. Harassing conduct may violate this Policy if, for multiple instances of conduct, it is so pervasive that when viewed from an objective standard of a similarly-situated reasonable person, it substantially and adversely affected the targeted student's or employee's educational or employment opportunities or benefits. A single incident of harassing conduct may violate this Policy if the conduct is so severe that, when viewed from an objective standard of a similarly-situated reasonable person, it substantially and adversely affected the targeted student's or employee's equal access to educational or employment opportunities or benefits.

F. Retaliation

“Retaliation” against any person for reporting a violation of this Policy, for filing a complaint pursuant to this Policy, or for cooperating in an investigation under this Policy includes, but is not limited to: (1) pressuring a person to drop or not support a complaint; (2) encouraging a person to provide false or misleading information; (3) engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living or work environment; (4) threatening, intimidating or coercing the person; or (5) otherwise discriminating against any person for exercising their rights and responsibilities under this Policy.

VI. FREEDOM OF SPEECH

The VSC recognizes that the protection of free and open speech and the open exchange of ideas are essential to any academic or artistic community, and crucial for the activity of scholars and artists. The VSC also recognizes its obligation under policy and collective bargaining agreements to respect the academic freedom of faculty members. This Policy is meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, including race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, or HIV-positive status, when in the judgment of a reasonable person such discussions arise appropriately and with respect for the dignity of others. The VSC is a community of learners and as such recognizes and affirms that free, honest intellectual inquiry, debate, and constructive dialogue are vital to the academic mission of the VSC and must be protected even when the views expressed are unpopular or controversial.

The VSC also recognizes, however, that verbal conduct can be used specifically to intimidate or coerce and to inhibit genuine discourse, free inquiry, and learning. Such abuses are unacceptable. If someone believes that another's speech or writing is offensive, wrong, or hurtful, he or she is encouraged to express that judgment in the exercise of his or her own freedom of speech or to seek redress when appropriate.

VII. PROHIBITIONS

A. Discrimination and Harassment

All members of the VSC community are expressly prohibited from:

- (1) Discriminating against a student or employee on the basis of a protected category;
- (2) Harassing a student or employee on the basis of a protected category; or
- (3) Sexually harassing a student or employee.

B. Related Unprofessional Conduct

Employees of the VSC are expressly prohibited from engaging in related unprofessional conduct with students.

C. HIV-related Blood Test

Under Vermont law, it is unlawful for the VSC or any member College to request or require any applicant, prospective student, or current student to have an HIV-related blood test or to discriminate against an applicant, prospective student, or current student on the basis of a person's having a positive test result from an HIV-related blood test.

Under Vermont law, it is unlawful for employers and labor organizations to discriminate against, indicate a preference or limitation, refuse properly to classify or refer, or to limit or segregate membership on the basis of a person's having a positive test result from an HIV-related blood test or to require an applicant, prospective employee, employee, prospective member, or member to have an HIV-related blood test as a condition of employment or membership, classification, placement, or referral.

D. Retaliation

Retaliation against any person for reporting a violation of this Policy, filing a complaint, or cooperating with an investigation into an alleged violation of this Policy is prohibited and will be considered a violation of this Policy. Retaliation under this Policy may be found whether or not the underlying complaint is ultimately found to have merit. A complaint of retaliation should be reported, and will be investigated and adjudicated, using the procedures implementing this Policy.

E. False Information

Providing false information in connection with a complaint under this Policy or intentionally misleading officials in the investigation or resolution of such a complaint is prohibited and may result in disciplinary action.

VIII. DUTY TO COOPERATE

All students and employees have a duty to cooperate in investigations undertaken pursuant to this Policy and are expected to provide complete, accurate, and truthful information. They may be asked to sign statements or other documents memorializing the information they provide, and may be asked to keep the substance of any interview confidential, to the extent permitted by law. Failure to cooperate fully with an investigation may subject the individual to the full range of disciplinary actions, up to and including expulsion or termination.

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

IX. SANCTIONS

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

The VSC may also impose certain non-disciplinary remedial actions where appropriate, such as required counseling or training for the respondent and/or a group of students or employees, to stop the misconduct, prevent its recurrence, and remedy its effects. Additional non-disciplinary outcomes, such as extending and modifying no contact orders, room changes, class changes, work

schedule changes, building restrictions, and extracurricular activity restrictions may also be imposed, regardless of the finding, to maintain an environment free from discrimination and harassment.

Conduct that violates this Policy may also be unlawful and expose a person engaging in such conduct to civil and/or criminal sanctions.

Misconduct that does not violate this Policy may violate other VSC policies, student handbooks, codes of conduct, or collective bargaining agreements and, if so, shall be handled as set forth in such other documents.

X. PROCEDURES

The Chancellor shall establish and periodically update the procedures for handling complaints alleging violations of this Policy and for developing educational programs designed to prevent such conduct. Such procedures shall be consistent with Vermont and federal legal requirements and any collective bargaining agreements governing the rights and responsibilities of the VSC, its member Colleges and employees. The procedures shall ensure that the VSC and any member College, upon receiving notice of conduct that allegedly violates this Policy, promptly and impartially investigates such complaints and, where complaints are substantiated, takes prompt and appropriate remedial action reasonably calculated to stop the misconduct, prevent its recurrence, and remedy its effects, if necessary.

The procedures established by the Chancellor may be modified as necessary to comply with federal and state law and to ensure that complaints of discrimination and harassment are promptly and impartially investigated and adjudicated.

Students who have concerns about perceived discrimination, harassment, related unprofessional conduct, or retaliation are encouraged to report their concerns as soon as possible. Employees who learn of an incident of discrimination, harassment, related unprofessional conduct, or retaliation are required to report this information as soon as possible, as set forth in the accompanying procedures.

The VSC's primary goals in responding to violations of this Policy are to promote the safety of the VSC community, to address discrimination and harassment, and to prevent discrimination and harassment from recurring. Individuals should not be deterred from reporting a violation of this Policy because alcohol, drugs, or violations of other VSC's policies were involved in the incident. VSC officials may, in their discretion and on a case-by-case basis, decide not to pursue relatively minor drug, alcohol, or other policy violations related to alleged violations of this Policy or, if they do pursue such violations, to handle them separately from complaints brought under this Policy.

A. Standard of Proof

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

B. Coordinators

The Chancellor (for the Office of the Chancellor) and the President of each member College (for each College) shall appoint individuals to coordinate efforts to carry out and comply with: (1) Title IX of the Education Amendments of 1972 and the other federal and state laws prohibiting discrimination and harassment on the basis of a protected category; and (2) Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Contact information for the coordinators shall be attached to the Chancellor’s Procedures.

XI. POLICY DISTRIBUTION AND EDUCATION

The Colleges and the Office of the Chancellor shall distribute or make available annually copies of the Policy and related procedures for all students and employees. The Colleges and the Office of the Chancellor will make available appropriate educational materials and programs to facilitate understanding and implementation of this Policy for all students and employees.

Date adopted by the Board of Trustees: August __, 2020

Signed by: _____ Sophie E. Zdatny, Chancellor

Date	Version	Revision	Approved By
[DATE]	1.0	Adopted	VSCS Board of Trustees
2/19/15	2.0	Updated	VSCS Board of Trustees
8/12/20	3.0	Updated per 2020 Title IX regulations	VSCS Board of Trustees

Relevant Legal Authorities

Federal

- 20 U.S.C. § 1681 *et seq.*, Title IX of the Education Amendments of 1972
- 34 C.F.R. Part 106 (Title IX regulations)
- 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act of 1974 (FERPA)
- 34 C.F.R. Part 99 (FERPA regulations)
- 29 U.S.C. § 602(d), Equal Pay Act of 1963
- 29 U.S.C. § 621 *et seq.*, Age Discrimination in Employment Act of 1967, as amended by the Older Workers Benefit Protection Act of 1990
- 29 U.S.C. § 701 *et seq.*, Section 504 of the Rehabilitation Act of 1973, as amended
- 38 U.S.C. § 4212, Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended
- 38 U.S.C. § 4301 *et seq.*, Uniformed Services Employment and Reemployment Rights Act of 1994
- 42 U.S.C. § 2000d, Title VI of the Civil Rights Act of 1964
- 42 U.S.C. § 2000e *et seq.*, Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act of 1978 and the Civil Rights Act of 1991
- 42 U.S.C. § 2000ff-1 *et seq.*, Genetic Information Nondiscrimination Act of 2008
- 42 U.S.C. § 12101 *et seq.*, Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Amendments Act of 2008

State

- 3 V.S.A. § 961(6)-(8), State Employees Labor Relations Act
- 9 V.S.A. §§ 4500 *et seq.*, Vermont Public Accommodations Act
- 16 V.S.A. § 11(a)(26), Classifications and Definitions, Harassment
- 16 V.S.A. § 178, Harassment and Hazing Prevention Policies; Postsecondary Schools
- 16 V.S.A. § 570f, Harassment; Notice and Response
- 18 V.S.A. § 1127, HIV Discrimination and Testing
- 21 V.S.A. § 495, Fair Employment Practices Act
- 21 V.S.A. § 495d(5)-(12), Definitions, Disability
- 21 V.S.A. § 495d(13), Definitions, Sexual Harassment
- 21 V.S.A. § 495h, Fair Employment Practices Act – Sexual Harassment

Cross References

- Chancellor's Procedures for Implementation of Policy 311
- VSC Policy 311-A, *Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault and Stalking*
- Chancellor's Procedures for Implementation of Policy 311-A
- VSC Policy 312, *Compliance with the Family Educational Rights and Privacy Act (FERPA)*



VERMONT STATE COLLEGES

Manual of Policy and Procedures

NON-DISCRIMINATION AND PREVENTION OF HARASSMENT AND RELATED UNPROFESSIONAL CONDUCT	Number 311	Page 1 of 12
	Date February 19, 2015 8/12/2020	

I. NOTICE OF NONDISCRIMINATION

The Vermont State Colleges and its member Colleges prohibit discrimination and harassment on the basis of a person’s race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, positive HIV-related blood test results, or any other status protected by state or federal law, pursuant to Title IX of the Education Amendments, the Equal Pay Act, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, Section 504 of the Rehabilitation Act, the Vietnam Era Veterans Readjustment Assistance Act, the Uniformed Services Employment and Reemployment Rights Act, Title VI and Title VII of the Civil Rights Act, the Genetic Information Nondiscrimination Act, the Americans with Disabilities Act, Vermont’s State Employees Labor Relations Act, Vermont’s Public Accommodations Act, Vermont’s statutory provisions on harassment applicable to postsecondary schools, Vermont’s statutory provisions relating to HIV-discrimination and testing, Vermont’s Fair Employment Practices Act, and any other applicable state or federal non-discrimination and harassment prevention law, regulation, or policy.

As a recipient of federal funds, the Vermont State Colleges and each member College of the Vermont State Colleges is required to comply with Title IX of the Education Amendments of 1972 (“Title IX”). In accordance with Title IX, as well as other applicable state and federal law, the VSC and its member Colleges prohibit discrimination on the basis of sex in its education programs and activities, admission, and employment. Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. Title IX also prohibits

gender-based harassment, which may include acts of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve acts of a sexual nature.

Inquiries concerning the application of Title IX may be referred to the VSC's Title IX Coordinators or to the United States Department of Education for the Office of Civil Rights. Inquiries concerning discrimination on the basis of other protected categories may be referred to the VSC's Policy 311 Coordinators, the Vermont Human Rights Commission, the Vermont Attorney General's Office – Civil Rights Unit, or to the Equal Employment Opportunity Commission. Contact information for the Coordinators is located in Appendix A and contact information for these state and federal agencies is located in Appendix C to the *Chancellor's Procedures for Implementation of Policy 311: Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.

II. POLICY STATEMENT

The Vermont State Colleges and its member Colleges (collectively the "VSC") are committed to maintaining an educational and working environment free from discrimination, harassment and related unprofessional conduct. The VSC prohibits discrimination on the basis of a person's race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, positive HIV-related blood test results, or any other status protected by state or federal law (collectively "protected categories"). Sexual harassment, racial harassment, and harassment based upon a person's status in a protected category are forms of discrimination and will not be tolerated. In addition, inappropriate sexual relationships between VSC employees and students, including those that may not otherwise rise to the level of sexual harassment, are prohibited.

III. POLICY COVERAGE

In accordance with Title IX, as well as applicable state and federal law, neither the VSC nor any member College shall discriminate on the basis of the above-listed protected categories in the application processes for admissions or employment, in academic and residential programs, in employment policies and practices, in scholarship and loan programs, in athletic programs, or in any other academic, extra-curricular or VSC-sponsored programs, activities, or facilities. The prohibitions set forth in this Policy also apply to all members of the VSC community, including students, employees, and third parties who come on to campus (such as parents, visitors, independent contractors, and vendors). This Policy covers conduct that occurs off-campus, or through the use of online, electronic or digital technologies, and that has a reasonable nexus to any VSC education program or activity, for example by creating a hostile environment on

campus or representing a threat to the safety of members of the VSC community or to the continuance of normal VSC operations.¹

IV. POLICY INTENT AND OVERVIEW

This Policy is intended to be read consistently with, and unless otherwise expressly stated, no broader than, Vermont and federal non-discrimination and harassment prevention laws, regulations and policies. Laws prohibiting discrimination and harassment are many and varied at both the state and federal level and apply with some differing standards and consequences to employees, students and visitors. Because harassment is a form of discrimination, it is the intent of the VSC to address all prohibitions related to non-discrimination and prevention of harassment under one comprehensive policy for ease of access and use, consistent with federal law. ~~A~~Certain acts of sexual ~~harassment~~misconduct (including, but not limited to, sexual assault and sexual exploitation), domestic violence, dating violence, and stalking are addressed separately in VSC Policy 311-A, *Sexual ~~Misconduct~~Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault and Stalking*. Sexually harassing behavior that is deemed to meet the definitions of Title IX Sexual Harassment or Non-Title IX Prohibited Conduct under Policy 311-A and the accompanying Chancellor's Procedures for Implementation of Policy 311-A ~~violates both this Policy and~~ must be addressed under Policy 311-A ~~may be addressed under either policy.~~

V. DEFINITIONS

For the purposes of this Policy, unless the context clearly requires otherwise, the following definitions apply. The specific definitions contained in an employee benefit plan will control with respect to any claim arising out of that plan.

A. **Discrimination**

“Discrimination” means the unlawful refusal of, withholding from, exclusion from participation in, or denial of any accommodations, advantages, benefits, facilities, privileges, or services of the VSC or its member Colleges on the basis of a person’s race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, positive HIV-related blood test results, or any other status protected by state or federal law.

¹ Policy 311 and the Chancellor’s Implementing Procedures apply to reports of sexual harassment that do not fall within the scope of Title IX Sexual Harassment or Non-Title IX Prohibited Conduct as defined in Policy 311-A and the accompanying Chancellor's Procedures for Implementation of Policy 311-A.

B. Harassment

Under Vermont law, “harassment” means an incident or incidents of verbal, written, visual, or physical conduct or communication, including any incident conducted by electronic means, based on or motivated by a person's or person’s family member’s, actual or perceived race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, HIV-positive blood test results, or any other status protected by state or federal law that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance or access to school resources or an employee’s performance, or creating an objectively intimidating, hostile, or offensive environment.

Harassment includes the use of epithets, stereotypes, slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, display, or circulation of written or visual material, and taunts on manner of speech and negative references to customs related to any of the protected categories.

C. Sexual Harassment

“Sexual harassment” is unwelcome conduct of a sexual nature and it includes *quid pro quo* sexual harassment and hostile environment sexual harassment. Sexual harassment includes physical conduct of a sexual nature, such as sexual assault or other acts of sexual violence. Sexual ~~misconduct~~ [harassment under Title IX](#), including sexual assault, is addressed separately in VSC Policy 311-A, *Sexual ~~Misconduct~~Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault and Stalking.² Where conduct is not deemed to meet the definitions of Title IX Sexual Harassment or Non-Title IX Prohibited Conduct under Policy 311-A, the following definitions apply:*

- “*Quid pro quo* sexual harassment” generally involves a person in a position of power (such as a supervisor over an employee or a faculty member over a student) pressuring a subordinate employee or a student for sexual favors in exchange for an advancement in the workplace or academically, or under the threat of an adverse employment or academic action being taken. *Quid pro quo* sexual harassment includes situations where, for example, a student or employee is rewarded with a higher grade, a stronger evaluation, or an opportunity for advancement for granting a request for sexual favors or is punished with a lower grade, a less favorable evaluation, or denial of an educational or workplace opportunity for refusing to

² ~~Conduct that violates this Policy and Policy 311-A may be addressed under either policy.~~

grant a request for sexual favors. In either case, a person uses the position of power as leverage to pressure another person into complying with a request for sexual favors.

- “Hostile environment sexual harassment” is sexual harassment that creates a hostile employment or educational environment and it is a form of sex discrimination. Examples of sexually harassing behavior that could create a hostile environment under appropriate circumstances include the following where the particular behavior is unwelcome to the person to whom it is directed:

- Sexual advances, including requests for sexual favors and repeated requests for dates;
- Intentional unwanted or offensive touching, including fondling;
- Indecent exposure;
- Sexually-derogatory comments, including sexually explicit comments, sexually suggestive innuendoes, sexually offensive jokes, and sexual taunts;
- Obscene or offensive gestures;
- Images and depictions of a sexual nature, including sexually derogatory or sexually suggestive pin-ups, posters, cartoons, and calendars; and
- Writings of a sexually derogatory or suggestive nature.

This list is not exhaustive and other unwelcome behavior of a sexual nature, if it is severe and pervasive enough, may constitute sexual harassment. *See* Section E, Hostile Environment, below for further elaboration.

Conduct is “**unwelcome**” if the person subjected to the alleged sexually harassing behavior did not request or invite it and regards the conduct as undesirable or offensive. The fact that a person willingly participated in conduct on one occasion does not prevent that person from indicating that the same or similar conduct has become unwelcome on a subsequent occasion. If a person actively participates in the conduct, such as sexual banter, without objection, the conduct would not be considered unwelcome.

Sexual harassment may be committed by a stranger, an acquaintance, a colleague, a co-worker, a student, or someone with whom the subject of the harassment has a social, romantic or intimate relationship. Sexual harassment may be committed by or against any individual, regardless of gender, sexual orientation, or gender identity.

1. Sexual Harassment of a Student

Under Vermont law, “sexual harassment of a student” means:

- (a) An incident or incidents of verbal, written, visual, or physical conduct or communication, including any incident conducted by electronic means, based on or motivated by the student’s sex, that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's

educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment; or

- (b) Unwelcome sexual advances, requests for sexual favors and other verbal, written, visual, or physical conduct of a sexual nature when one or both of the following occur:
 - (1) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.
 - (2) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

2. Sexual Harassment of an Employee

Under Vermont law, “sexual harassment of an employee” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (a) Submission to that conduct is made either explicitly or implicitly a term or condition of employment; or
- (b) Submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
- (c) The conduct has the purpose or effect of objectively and substantially interfering with an individual's work performance or creating an objectively intimidating, hostile or offensive work environment.

D. Related Unprofessional Conduct

“Related unprofessional conduct” on the part of a VSC employee means the initiation of or participation in an amorous or sexual relationship with a VSC student when the employee is, or may reasonably be perceived to be, in a position of power and authority over the student, even if the conduct does not otherwise constitute sexual harassment. Examples include, but are not limited to, situations where the VSC employee is an administrator, instructor, coach, advisor, work study supervisor or counselor for the student, or a member of a committee having responsibility for decisions that affect students.

E. Hostile Environment

A “hostile work or educational environment” is one in which the alleged conduct is sufficiently serious as to limit or deny the ability of the person subjected to the harassment to participate in or

benefit from the employment or educational environment. The severity and pervasiveness of the alleged harassing conduct is evaluated using common sense and reasonable judgment to determine whether it created an intimidating, hostile or offensive environment. The determination is made from the perspective of a reasonable person, in the position of the person subjected to the alleged harassment, considering all of the relevant circumstances. Factors that may be considered include:

- The degree to which the conduct affected the student’s education or the employee’s employment;
- The type(s) of harassment (for example, whether it was verbal and/or physical);
- The frequency and duration of the harassing conduct;
- The identity of, and relationship between, the alleged harasser and the subject of the harassment;
- The number of individuals engaged in the harassing conduct (for example, a group of students targeting a single student); and
- The setting(s) and context(s) in which the harassing conduct occurred.

Generally, the more severe the conduct, the less need there is to show a repetitive series of incidents to establish a hostile environment, particularly if the harassment was physical. Harassing conduct may violate this Policy if, for multiple instances of conduct, it is so pervasive that when viewed from an objective standard of a similarly-situated reasonable person, it substantially and adversely affected the targeted student’s or employee’s educational or employment opportunities or benefits. A single incident of harassing conduct may violate this Policy if the conduct is so severe that, when viewed from an objective standard of a similarly-situated reasonable person, it substantially and adversely affected the targeted student’s or employee’s equal access to educational or employment opportunities or benefits.

F. Retaliation

“Retaliation” against any person for reporting a violation of this Policy, for filing a complaint pursuant to this Policy, or for cooperating in an investigation under this Policy includes, but is not limited to: (1) pressuring a person to drop or not support a complaint; (2) encouraging a person to provide false or misleading information; (3) engaging in conduct that may reasonably be perceived to affect adversely that person’s educational, living or work environment; (4) threatening, intimidating or coercing the person; or (5) otherwise discriminating against any person for exercising their rights and responsibilities under this Policy.

VI. FREEDOM OF SPEECH

The VSC recognizes that the protection of free and open speech and the open exchange of ideas are essential to any academic or artistic community, and crucial for the activity of scholars and artists. The VSC also recognizes its obligation under policy and collective bargaining

agreements to respect the academic freedom of faculty members. This Policy is meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, including race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, or HIV-positive status, when in the judgment of a reasonable person such discussions arise appropriately and with respect for the dignity of others. The VSC is a community of learners and as such recognizes and affirms that free, honest intellectual inquiry, debate, and constructive dialogue are vital to the academic mission of the VSC and must be protected even when the views expressed are unpopular or controversial.

The VSC also recognizes, however, that verbal conduct can be used specifically to intimidate or coerce and to inhibit genuine discourse, free inquiry, and learning. Such abuses are unacceptable. If someone believes that another's speech or writing is offensive, wrong, or hurtful, he or she is encouraged to express that judgment in the exercise of his or her own freedom of speech or to seek redress when appropriate.

VII. PROHIBITIONS

A. Discrimination and Harassment

All members of the VSC community are expressly prohibited from:

- (1) Discriminating against a student or employee on the basis of a protected category;
- (2) Harassing a student or employee on the basis of a protected category; or
- (3) Sexually harassing a student or employee.

B. Related Unprofessional Conduct

Employees of the VSC are expressly prohibited from engaging in related unprofessional conduct with students.

C. HIV-related Blood Test

Under Vermont law, it is unlawful for the VSC or any member College to request or require any applicant, prospective student, or current student to have an HIV-related blood test or to discriminate against an applicant, prospective student, or current student on the basis of a person's having a positive test result from an HIV-related blood test.

Under Vermont law, it is unlawful for employers and labor organizations to discriminate against, indicate a preference or limitation, refuse properly to classify or refer, or to limit or segregate

membership on the basis of a person's having a positive test result from an HIV-related blood test or to require an applicant, prospective employee, employee, prospective member, or member to have an HIV-related blood test as a condition of employment or membership, classification, placement, or referral.

D. Retaliation

Retaliation against any person for reporting a violation of this Policy, filing a complaint, or cooperating with an investigation into an alleged violation of this Policy is prohibited and will be considered a violation of this Policy. Retaliation under this Policy may be found whether or not the underlying complaint is ultimately found to have merit. A complaint of retaliation should be reported, and will be investigated and adjudicated, using the procedures implementing this Policy.

E. False Information

Providing false information in connection with a complaint under this Policy or intentionally misleading officials in the investigation or resolution of such a complaint is prohibited and may result in disciplinary action.

VIII. DUTY TO COOPERATE

All students and employees have a duty to cooperate in investigations undertaken pursuant to this Policy and are expected to provide complete, accurate, and truthful information. They may be asked to sign statements or other documents memorializing the information they provide, and may be asked to keep the substance of any interview confidential, to the extent permitted by law. Failure to cooperate fully with an investigation may subject the individual to the full range of disciplinary actions, up to and including expulsion or termination.

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

IX. SANCTIONS³

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

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

Conduct that violates this Policy may also be unlawful and expose a person engaging in such conduct to civil and/or criminal sanctions.

Misconduct that does not violate this Policy may violate other VSC policies, student handbooks, codes of conduct, or collective bargaining agreements and, if so, shall be handled as set forth in such other documents.

X. PROCEDURES

The Chancellor shall establish and periodically update the procedures for handling complaints alleging violations of this Policy and for developing educational programs designed to prevent such conduct. Such procedures shall be consistent with Vermont and federal legal requirements and any collective bargaining agreements governing the rights and responsibilities of the VSC, its member Colleges and employees. The procedures shall ensure that the VSC and any member College, upon receiving notice of conduct that allegedly violates this Policy, promptly and impartially investigates such complaints and, where complaints are substantiated, takes prompt and appropriate remedial action reasonably calculated to stop the misconduct, prevent its recurrence, and remedy its effects, if necessary.

³~~Specific sanctions for violations of VSC Policy 311-A, *Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking*, are listed separately in that policy.~~

The procedures established by the Chancellor may be modified as necessary to comply with federal and state law and to ensure that complaints of discrimination and harassment are promptly and impartially investigated and adjudicated.

Students who have concerns about perceived discrimination, harassment, related unprofessional conduct, or retaliation are encouraged to report their concerns as soon as possible. Employees who learn of an incident of discrimination, harassment, related unprofessional conduct, or retaliation are required to report this information as soon as possible, as set forth in the accompanying procedures.

The VSC's primary goals in responding to violations of this Policy are to promote the safety of the VSC community, to address discrimination and harassment, and to prevent discrimination and harassment from recurring. Individuals should not be deterred from reporting a violation of this Policy because alcohol, drugs, or violations of other VSC's policies were involved in the incident. VSC officials may, in their discretion and on a case-by-case basis, decide not to pursue relatively minor drug, alcohol, or other policy violations related to alleged violations of this Policy or, if they do pursue such violations, to handle them separately from complaints brought under this Policy.

A. Standard of Proof

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

B. Coordinators

The Chancellor (for the Office of the Chancellor) and the President of each member College (for each College) shall appoint individuals to coordinate efforts to carry out and comply with: (1) Title IX of the Education Amendments of 1972 and the other federal and state laws prohibiting discrimination and harassment on the basis of a protected category; and (2) Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Contact information for the coordinators shall be attached to the Chancellor's Procedures.

XI. POLICY DISTRIBUTION AND EDUCATION

The Colleges and the Office of the Chancellor shall distribute or make available annually copies of the Policy and related procedures for all students and employees. The Colleges and the Office of the Chancellor will make available appropriate educational materials and programs to facilitate understanding and implementation of this Policy for all students and employees.

Date adopted by the Board of Trustees: ~~February~~ August ____, 20~~15~~

Signed by:

~~Jeb Spaulding~~ Sophie E. Zdatny, Chancellor

<u>Date</u>	<u>Version</u>	<u>Revision</u>	<u>Approved By</u>
<u>[DATE]</u>	<u>1.0</u>	<u>Adopted</u>	<u>VSCS Board of Trustees</u>
<u>2/19/15</u>	<u>2.0</u>	<u>Updated</u>	<u>VSCS Board of Trustees</u>
<u>8/12/20</u>	<u>3.0</u>	<u>Updated per 2020 Title IX regulations</u>	<u>VSCS Board of Trustees</u>

Relevant Legal Authorities

Federal

- 20 U.S.C. § 1681 *et seq.*, Title IX of the Education Amendments of 1972
- 34 C.F.R. Part 106 (Title IX regulations)
- 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act of 1974 (FERPA)
- 34 C.F.R. Part 99 (FERPA regulations)
- 29 U.S.C. § 602(d), Equal Pay Act of 1963
- 29 U.S.C. § 621 *et seq.*, Age Discrimination in Employment Act of 1967, as amended by the Older Workers Benefit Protection Act of 1990
- 29 U.S.C. § 701 *et seq.*, Section 504 of the Rehabilitation Act of 1973, as amended
- 38 U.S.C. § 4212, Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended
- 38 U.S.C. § 4301 *et seq.*, Uniformed Services Employment and Reemployment Rights Act of 1994
- 42 U.S.C. § 2000d, Title VI of the Civil Rights Act of 1964
- 42 U.S.C. § 2000e *et seq.*, Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act of 1978 and the Civil Rights Act of 1991
- 42 U.S.C. § 2000ff-1 *et seq.*, Genetic Information Nondiscrimination Act of 2008
- 42 U.S.C. § 12101 *et seq.*, Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Amendments Act of 2008

State

- 3 V.S.A. § 961(6)-(8), State Employees Labor Relations Act
- 9 V.S.A. §§ 4500 *et seq.*, Vermont Public Accommodations Act
- 16 V.S.A. § 11(a)(26), Classifications and Definitions, Harassment
- 16 V.S.A. § 178, Harassment and Hazing Prevention Policies; Postsecondary Schools
- 16 V.S.A. § 570f, Harassment; Notice and Response
- 18 V.S.A. § 1127, HIV Discrimination and Testing
- 21 V.S.A. § 495, Fair Employment Practices Act
- 21 V.S.A. § 495d(5)-(12), Definitions, Disability
- 21 V.S.A. § 495d(13), Definitions, Sexual Harassment
- 21 V.S.A. § 495h, Fair Employment Practices Act – Sexual Harassment

Cross References

- Chancellor's Procedures for Implementation of Policy 311
- VSC Policy 311-A, *Sexual ~~Misconduct~~Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault and Stalking*
- Chancellor's Procedures for Implementation of Policy 311-A

- [VSC Policy 312, *Compliance with the Family Educational Rights and Privacy Act \(FERPA\)*](#)



SEXUAL HARASSMENT, SEXUAL EXPLOITATION, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING	Number 311-A	Page 1 of 17
	Date 8/12/2020	

I. NOTICE OF NONDISCRIMINATION

As a recipient of federal funds, each member College of the Vermont State Colleges (collectively “the VSC”) is required to comply with Title IX of the Higher Education Amendments Act of 1972, and implementing regulations issued by the Department of Education in May 2020 (“Title IX”). In accordance with Title IX, as well as applicable state and federal law, the VSC prohibits discrimination on the basis of sex in its education programs and activities, admission, and employment. Prohibited sex discrimination includes sexual harassment, as defined in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*. Prohibited sex discrimination also includes sexual harassment as defined in this policy.

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

II. POLICY STATEMENT

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

III. POLICY SUMMARY

It is the policy of the VSC that, upon determining that an act of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking has occurred, prompt

and appropriate remedial action reasonably calculated to address the misconduct and restore or preserve equal access to VSC education programs or activities will be taken. Disciplinary sanctions for any member of the VSC community engaging in conduct prohibited under this policy may include the suspension or dismissal/expulsion of students, the suspension or termination of employment or other appropriate disciplinary action such as warnings, reprimands and educational sanctions, as well as possible referral for criminal investigation and prosecution under Vermont law.

Reporting: The VSC encourages, and in the case of its employees requires, the prompt and accurate reporting of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking (“Prohibited Conduct” defined further, below). This allows the VSC to respond quickly to allegations and offer supportive measures to individuals who may have been subjected to such misconduct. The VSC is committed to protecting the confidentiality of complainants,¹ wherever possible, and will work closely with individuals seeking confidential assistance regarding misconduct under this policy. Certain professionals are permitted by law to offer confidentiality. Those who do not have the privilege of offering confidentiality are expected to handle reports discreetly to the extent permitted or required under the law and VSC policy. All allegations will be investigated promptly and thoroughly as provided in the Chancellor’s Procedures, and all parties will be afforded equal rights during the investigatory and adjudicatory process.

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

Retaliation: Retaliation related to matters addressed by this policy, as defined below, is prohibited and may result in disciplinary action, up to and including suspension, expulsion/dismissal or termination of employment. Retaliation may be found whether or not the underlying complaint is ultimately found to have merit. A complaint of retaliation should be reported, and will be investigated and adjudicated, as provided in the Chancellor’s Procedures.

False Information: Knowingly providing false information in connection with a complaint of misconduct covered by this policy or intentionally misleading officials in the investigation or resolution of such a complaint is prohibited and may result in disciplinary action, up to and including suspension, expulsion/dismissal or termination of employment.

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

¹ As noted in the definitions below, for ease of reference, individuals who report that they have been subjected to misconduct prohibited by this policy, or who are reported by others to have been subjected to such misconduct, will be referred to throughout this policy as “complainants”, regardless of whether or not they choose to request supportive measures and/or participate in an adaptive or formal resolution process.

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

IV. SCOPE OF COVERAGE

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

What: This policy prohibits Prohibited Conduct as defined herein, in the VSC's educational, extracurricular, athletic, and other programs and activities, as well as in the employment setting. These terms are further defined in the Definitions section below. Other forms of sexual harassment that do not meet the Title IX Sexual Harassment or Non-Title IX Sexual Misconduct definitions provided in this policy are also prohibited by the VSC, and are addressed separately in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*, or other applicable policy or code of conduct.

Where: This policy covers conduct that takes place on VSC campuses and in any building or property owned or controlled by the VSC and used in direct support of, or in a manner related to, the VSC's mission. This includes public property within or immediately adjacent to and accessible from VSC property, as well as any building or property not within the same reasonably contiguous geographic area of VSC that supports or relates to VSC's educational purposes and is used frequently by students. This policy also covers conduct that takes place off-campus, or through the use of online, electronic or digital technologies, that may have a nexus to any VSC education program or activity, for example by creating a hostile environment on campus or representing a threat to the safety of a member or members of the VSC community or to the efficient continuance of normal VSC operations.

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

V. RESOURCES FOR COMPLAINANTS

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

Further information about supportive measures available to both parties is provided in the Chancellor's Procedures. Requests for supportive measures and accommodations should be made to the Title IX Coordinator.

VI. CLERY ACT

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") requires all colleges and universities that participate in federal financial aid programs to keep and report information about crime on or near their campuses. Employees who are designated as Campus Security Authorities under the Clery Act are required to report certain crimes to their campus Office of Public Safety for the purpose of compliance with the Clery Act. The Offices of Public Safety for the member Colleges will include any reported incidents of dating violence, domestic violence, sexual assault, and stalking, along with other crimes, in the campus daily crime log and annual security report, as required by the Clery Act. Public Safety will issue a timely warning when a Clery Act crime which is considered to pose a serious or continuing threat to the VSC community is reported to Public Safety or to local law enforcement (if local law enforcement makes Public Safety aware of such reports). No personally identifying information will be included in the public reports required by the Clery Act.

VII. CONFIDENTIALITY AND PRIVACY

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

A. Confidential Off-Campus Resources

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

B. Counselors and Health Services Professionals

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

In accordance with May 2020 Title IX regulations, the University will not access, consider, disclose, or otherwise use a party's privileged records or require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

C. Employees

Employees of the VSC, other than those employed by the VSC in their capacity as licensed professional counselors and health services staff, are not able to guarantee confidentiality. General inquiries or questions about policies and procedures do not have to be reported. Employees who learn of an incident of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking are required to report this information to the Title IX Coordinator, the Dean of Students, or the President. Employees who are Campus Security Authorities are also required to report certain sex offenses and other crimes to the campus Office of Public Safety for the purpose of the VSC's compliance with the Clery Act. All information will be kept securely and, even if an individual does not request confidentiality, the information will be shared on a "need to know" basis only with those assisting in any review, investigation or adjudication of the report, or who otherwise need to know the information to perform the duties of their position. Although not bound by confidentiality, these individuals should be discreet and respect the privacy interests of all individuals involved in the process.

The May 2020 Title IX regulations contemplate that certain information will generally be treated confidentially, except as qualified by statements in those regulations. For example, the regulations provide that colleges and universities must maintain as confidential any supportive measures provided to a complainant or respondent,² to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The regulations also provide that institutions must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and

² As noted in the definitions below, a "respondent" is an individual who has been reported to have engaged in conduct in violation of this policy and whose alleged conduct is being investigated to determine if it is in violation of VSC's policies.

any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under those regulations.

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

If an individual filing a report insists that his or her name or other identifiable information not be revealed and the VSC is able to respect that request, the VSC’s ability to respond fully to the report may be limited. For example, if a grievance process is commenced against a member of the campus community, that person will be informed as provided in the Chancellor’s Procedures of the name of the complainant and information regarding the nature of the allegations in order to defend against the allegations in that process. Thus, the VSC may not be able to maintain a request for confidentiality and also adjudicate a complaint. If an individual insists on confidentiality, the VSC may be able to take action to limit the effects of the alleged Prohibited Conduct and prevent its recurrence to the extent warranted and practicable.

D. Law Enforcement

If a crime of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking appears to have occurred, the VSC encourages accurate and prompt reporting of these crimes to the Office of Public Safety and/or to state or local law enforcement. Individuals subjected to such misconduct have the option to notify law enforcement, to be assisted by VSC officials in notifying law enforcement, or to decline to notify law enforcement. Individuals may inform law enforcement of an incident of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking without making a formal criminal complaint. Individuals may choose to pursue a criminal complaint, a complaint through the VSC’s disciplinary process, or both simultaneously. Individuals who choose not to notify law enforcement immediately have the option to notify law enforcement at a later time. Completing a forensic exam is important to preserve evidence and does not require the examinee to file a police report. Reports to law enforcement are not confidential.

VIII. DEFINITIONS

A. Prohibited Conduct³

This Policy 311-A prohibits the following forms of misconduct, collectively referred to throughout the policy as “Prohibited Conduct”:

Title IX Sexual Harassment (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and sex-based Stalking within the scope of Title IX); and

Non-Title IX Sexual Misconduct (i.e., Sexual Assault, Domestic Violence, Dating Violence, and Stalking outside the scope of Title IX, Sexual Exploitation as defined below, and Retaliation).

Specifically, Title IX Sexual Harassment and Non-Title IX Sexual Misconduct are defined as follows for purposes of this Policy 311-A:

1. *Title IX Sexual Harassment*

“Title IX Sexual Harassment” is a subset of Prohibited Conduct. Under Department of Education regulations (see 34 C.F.R., Part 106) issued in May 2020 to implement Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., VSC is required to prohibit certain forms of sexual harassment as defined in those regulations. Title IX Sexual Harassment is Prohibited Conduct of the following types committed by or against students and/or employees in an education program or activity of VSC, in the United States. Further, in order for VSC to consider a Formal Complaint of such misconduct as falling within its Title IX Sexual Harassment policy and procedures, the complainant must be participating in or attempting to participate in a VSC program or activity at the time the complaint is filed.

Conduct takes place within VSC’s “programs and activities” when that conduct occurs: (1) in a location, at an event, or in a circumstance where VSC exercises substantial control over both the respondent and the context in which the conduct occurs; or (2) in any building owned or controlled by a student organization recognized by VSC. Conduct that occurs off campus in locations or at events with no connection to VSC is unlikely to have occurred in a program or activity of VSC.

³ The definitions of dating violence, domestic violence, sexual assault, and stalking used in this policy are consistent with the Clery Act, as amended effective 2014, and Title IX and its May 2020 regulations. In its primary prevention and awareness programs for incoming students and new employees, as well as in its primary prevention and awareness programs for students and employees, the VSC will include the definitions of dating violence, domestic violence, sexual assault, and stalking under the criminal law of Vermont. However, the VSC utilizes its own definitions of these prohibited behaviors, which are consistent with the Clery Act and Title IX and its May 2020 regulations as set forth below, for purposes of this policy, and determines responsibility for violations of this policy through its own procedures and standards of proof (i.e., by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

A complaint about conduct that does not meet this strict definition for Title IX Sexual Harassment is still prohibited by this policy if it otherwise constitutes Prohibited Conduct within the definition of Non-Title IX Sexual Misconduct as defined below.

The following Prohibited Conduct definitions apply for purposes of the definition of Title IX Sexual Harassment:

a. *Title IX Quid Pro Quo Sexual Harassment*

Quid pro quo sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States by which an employee of VSC conditions the provision of an educational or employment aid, benefit, or service of VSC on a student's or employee's participation in unwelcome sexual conduct.

b. *Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment*

Severe, pervasive and objectively offensive sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student or employee equal access to a VSC education program or activity, whether in the employment or educational context.

c. *Title IX Sexual Assault*

As required by the May 2020 Title IX regulations, Title IX Sexual Assault incorporates the definitions of the FBI's Uniform Crime Reporting (NIBRS) program, and is defined as follows:

- **Rape:**⁴
 - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be complainants under this definition);
 - Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another

⁴ Both completed rape and attempted rape is prohibited by this policy.

person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition, “private body parts” includes breasts, buttocks, or genitals, whether clothed or unclothed);
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

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

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

d. *Title IX Dating Violence*

Title IX dating violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes “[v]iolence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

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

(ii) For the purposes of this definition— (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence.”⁵

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

⁵ 34 C.F.R. § 106.30(a); 34 C.F.R. § 668.46(a).

e. *Title IX Domestic Violence*

Title IX domestic violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes a “felony or misdemeanor crime of violence committed—

- (A) By a current or former spouse or intimate partner of the victim;
- (B) By a person with whom the victim shares a child in common;
- (C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
- (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (E) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.”⁶

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

f. *Title IX Stalking*

Title IX stalking for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes “[e]ngaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) Fear for the person’s safety or the safety of others; or
 - (B) Suffer substantial emotional distress.
- (ii) For purposes of this definition—
- (A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
 - (B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

⁶ 34 C.F.R. § 106.30(a); 34 C.F.R. § 668.46(a).

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

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

Examples of stalking behaviors or activities include, but are not limited to the following, if they occur in the context of stalking as defined above (i.e., the behaviors or activities that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress): (1) non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or any other communications that are unwelcome; (2) use of online, electronic or digital technologies, such as posting pictures or text in chat rooms or on websites, sending unwanted or unsolicited e-mail or talk requests, posting private or public messages on Internet sites, social networks, and/or school bulletin boards, installing spyware on a person’s computer, or using Global Positioning Systems (GPS) or similar technology to monitor a person; (3) pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person; (4) surveillance or other types of observation, including staring and voyeurism; (5) trespassing; (6) vandalism; (7) non-consensual touching; (8) direct verbal or physical threats against a person or a person’s family member, pet or personal property; (9) gathering information about a person from friends, family, or co-workers; (10) accessing private information through unauthorized means; (11) threats to harm self or others; (12) defamation and/or lying to others about the person; and (13) using a third party or parties to accomplish any of the above.

Engaging in such stalking behaviors or activities is a violation of VSC policy and is prohibited.

2. *Non-Title IX Sexual Misconduct*

Non-Title IX Sexual Misconduct is Prohibited Conduct that falls within the scope of this policy and the definitions below but that does not fall within the definition of Title IX Sexual Harassment, either due to the nature of the conduct or because it did not reportedly occur within a program or activity of VSC in the United States.⁸ Such conduct is defined for purposes of this policy as:

⁷ 34 C.F.R. § 668.46(a).

⁸ Misconduct that does not fall within either the definitions below or the definition of Title IX Sexual Harassment, but that does fall within the scope of Policy 311: *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*, which prohibits among other things certain types of discrimination and harassment on the basis of sex, gender identity, and sexual orientation, will be addressed through the *Chancellor’s Procedures for the Implementation of Policy 311: Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.

a. *Non-Title IX Sexual Assault*

Sexual Assault (i.e., rape, fondling, incest or statutory rape) as defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of VSC in the United States, and attempts to commit such misconduct.

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

b. *Non-Title IX Domestic Violence*

Domestic violence as defined in the Title IX Domestic Violence definition above that did not reportedly occur in a program or activity of VSC in the United States.

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

c. *Non-Title IX Dating Violence*

Dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of VSC in the United States.

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

d. *Non-Title IX Stalking*

Stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of VSC in the United States, or that otherwise fits within the definition of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the complainant on the basis of sex.

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

e. *Non-Title IX Sexual Exploitation*

Non-Title IX Sexual Exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that other person without that other person's consent, and attempted sexual exploitation. Examples of sexually exploitative behavior include, but are not limited to: (1) prostituting another person; (2) recording or capturing (through any means) images, video or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent, and/or sharing or distributing this material without the other person's consent; (3) viewing or allowing or aiding others to view another person's sexual activity, intimate body parts, or nudity without the person's consent; and (4) sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.

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

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

B. Additional Definitions Applicable to This Policy

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

Complainant: A complainant is an individual who is reported to have experienced conduct that could constitute Prohibited Conduct, regardless of whether the individual makes a report or seeks disciplinary action. In some cases (such as, e.g., cases in which a person involved in an incident of alleged Prohibited Conduct does not wish to participate in the process but VSC decides that the alleged misconduct needs to be investigated), VSC may pursue an investigation and adjudication under this policy without a designated complainant, in accordance with the Chancellor's Procedures. In these cases, VSC may extend some or all of the rights of a complainant as defined in this policy to affected parties as deemed appropriate by VSC and/or as required by law.

For ease of reference, the term "complainant" is also used throughout this policy to refer generally to an individual who was reported by another to have been subjected to Prohibited Conduct, even if they do not participate in any related process.

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

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

Alcohol-related incapacity results from a level of alcohol ingestion that is more severe than mere impairment, being under the influence, drunkenness or intoxication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards and includes by way of example but not limitation an analysis of the objective behaviors of the person alleging Prohibited Conduct, whether the accused person knew or reasonably should have known that the person was incapacitated, and whether the accused person played a role in creating the circumstances of incapacity. Whether the respondent knew or reasonably should have known the complainant was incapacitated will be assessed in light of all relevant circumstances. Objective physical indications of incapacity include slurred speech, difficulty walking or standing, vomiting, and losing consciousness.

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

Officials With Authority: Officials with authority to institute corrective measures regarding matters involving Prohibited Conduct include the Title IX Coordinator at each VSC campus, any Deputy Title IX Coordinators on campus, the Dean of Students, the Academic Dean or Provost, and the President or their designee. As outlined in more detail in the Chancellor's Procedures, an Official With Authority will, upon receipt of a Formal Complaint of Title IX Sexual Harassment, take action on such a complaint in accordance with the Chancellor's Procedures.

Respondent: A respondent is an individual who has been reported to have engaged in conduct that could constitute Prohibited Conduct and whose alleged conduct is being investigated to determine if it is in violation of VSC's policies.

Retaliation: Retaliation (that is, intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX Sexual Misconduct)) is strictly prohibited. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, may constitute retaliation, as does any adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute prohibited retaliation, provided, however,

that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement.

VSC will not engage in, and will investigate and address, reports of retaliatory conduct. Retaliation under this policy may be found whether or not the underlying complaint is ultimately found to have merit. Complaints of retaliation should be reported, and will be addressed, through the procedures for Non-Title IX Sexual Misconduct outlined in the Chancellor's Procedures.

Depending on the particular circumstances, retaliation may also be unlawful. Retaliation as defined here violates VSC policy and is prohibited.

IX. PROCEDURES

The Chancellor shall establish and periodically update the procedures for handling complaints of Prohibited Conduct to ensure that the process is prompt, fair and impartial.

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

The procedures established by the Chancellor may be modified as necessary to comply with federal and state law so that the VSC may respond promptly and effectively to incidents of Prohibited Conduct.

X. COOPERATION WITH INVESTIGATIONS AND PROCEEDINGS

All students and employees are strongly encouraged to cooperate in investigations undertaken pursuant to this policy and are expected to provide complete, accurate, and truthful information when they do so. They may be asked to sign statements or other documents memorializing the information they provide, and non-party witnesses may be asked to keep the substance of any interview confidential.

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

XI. SANCTIONS

Violation of the prohibitions set forth in this policy is grounds for discipline up to and including the dismissal/expulsion of students or the termination of employees. Generally, the range of sanctions for **students** includes verbal and written warnings, written reprimands, counseling, loss of privileges, probationary status, removal from College housing, suspension,

dismissal/expulsion, revocation of degree, and/or withholding of transcript or other action determined to be appropriate under the circumstances. Generally, the range of sanctions for **employees** includes verbal warnings, written warnings, written reprimands, probation, suspension, termination of employment, non-renewal of a contract, or other action determined to be appropriate under the circumstances.

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

XII. OTHER POLICY VIOLATIONS

The VSC’s primary goals in responding to complaints of Prohibited Conduct are to promote the safety of the VSC community, to address the misconduct, to prevent it from recurring, and/or to restore or preserve the complainant’s access to VSC’s educational programs or activities. A person (whether a complainant or another reporting person) should not be deterred from reporting a violation of this policy because alcohol, drugs, or other violations of VSC’s policies were involved in the incident. VSC officials may, in their discretion and on a case-by-case basis, decide not to pursue relatively minor drug, alcohol or other policy violations related to incidents of misconduct under this policy or, if they do pursue such violations, to handle them separately from complaints brought under this policy. No such violations will be handled by the VSC in a manner that violates the anti-retaliation policy stated above.

Misconduct that does not meet the definition of Prohibited Conduct may violate other VSC policies, student handbooks, codes of conduct, or collective bargaining agreements and, if so, may be handled as set forth in such other documents or, at the discretion of the VSC, where related misconduct involves reported Prohibited Conduct and misconduct prohibited by such other policies, it may be handled under the procedures for Non-Title IX Sexual Misconduct that are outlined in the Chancellor’s Procedures.

Signed by: _____ Sophie E. Zdatny, Chancellor

Date	Version	Revision	Approved By
9/24/14	1.0	Adopted	VSCS Board of Trustees
7/23/15	2.0	Updated	VSCS Board of Trustees
8/12/20	3.0	Updated per 2020 Title IX regulations	VSCS Board of Trustees

Relevant Legal Authorities

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

Cross Reference

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



SEXUAL HARASSMENT, SEXUAL EXPLOITATION, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING	Number 311-A	Page 1 of [X]
	Date 8/12/2020	

I. NOTICE OF NONDISCRIMINATION

As a recipient of federal funds, each member College of the Vermont State Colleges (collectively “the VSC”) is required to comply with Title IX of the Higher Education Amendments Act of 1972, and implementing regulations issued by the Department of Education in May 2020 (“Title IX”). In accordance with Title IX, as well as applicable state and federal law, the VSC prohibits discrimination on the basis of sex in its education programs and activities, admission, and employment. Prohibited sex discrimination includes sexual harassment, as defined in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*. Prohibited sex discrimination also includes sexual ~~misconduct~~ harassment as defined in this policy.

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

II. POLICY STATEMENT

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

III. POLICY SUMMARY

It is the policy of the VSC that, upon ~~learning~~ determining that an act of sexual ~~misconduct~~ harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking has occurred, prompt and appropriate remedial action reasonably calculated to ~~stop~~

address the misconduct and restore or preserve equal access to VSC education programs or activities will~~shall~~ be taken. Disciplinary sanctions for any member of the VSC community engaging in conduct prohibited under this policy may ~~includes~~ the suspension or dismissal/expulsion of students, the suspension or termination of employment or other appropriate disciplinary action such as warnings, reprimands and educational sanctions, as well as possible referral for criminal investigation and prosecution under Vermont law.

Reporting: The VSC encourages, and in the case of its employees requires, the prompt and accurate reporting of sexual ~~misconduct~~harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking (“Prohibited Conduct” defined further, below). This allows the VSC to respond quickly to allegations and offer supportive measures to individuals who may have been subjected to ~~such these forms of~~ misconduct. The VSC is committed to protecting the confidentiality of ~~victims~~ complainants¹, wherever possible, and will work closely with individuals seeking confidential assistance regarding misconduct under this policy. Certain professionals are permitted by law to offer confidentiality. Those who do not have the privilege of offering confidentiality are expected to handle reports discreetly to the extent permitted or required under the law and VSC policy. All allegations will be investigated promptly and thoroughly as provided in the Chancellor’s Procedures, and all parties~~both the accuser and the accused~~ will be afforded equal rights during the investigatory and adjudicatory process.

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

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

False Information: Knowingly providing false information in connection with a complaint of misconduct under covered by this policy or intentionally misleading officials in the investigation or resolution of such a complaint is prohibited and may result in disciplinary action, up to and including suspension, expulsion/-dismissal or termination of employment.

¹ As noted in the definitions below, for ease of reference, individuals who report that they have been subjected to misconduct prohibited by this policy, or who are reported by others to have been subjected to such misconduct, will be referred to throughout this policy as “complainants”, regardless of whether or not they choose to request supportive measures and/or participate in an adaptive or formal resolution process.

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

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

IV. SCOPE OF COVERAGE

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

What: This policy prohibits ~~Prohibited Conductsexual misconduct, domestic violence, dating violence, sexual assault, and stalking~~ as defined herein, in the VSC's educational, extracurricular, athletic, and other programs and activities, as well as in the employment setting. These terms are further defined in the Definitions section below. ~~Other forms of sSexual harassment that do not meet the Title IX Sexual Harassment and Sexual Exploitation or Non-Title IX Sexual Misconduct definitions provided in this policy are~~ is also prohibited by the VSC, and ~~is~~ are addressed separately in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*, or other applicable policy or code of conduct.

Where: This policy covers conduct that takes place on VSC campuses and in any building or property owned or controlled by the VSC and used in direct support of, or in a manner related to, the VSC's mission. This includes public property within or immediately adjacent to and accessible from VSC property, as well as any building or property not within the same reasonably contiguous geographic area of VSC that supports or relates to VSC's educational purposes and is used frequently by students. This policy also covers conduct that takes place off-campus, or through the use of online, electronic or digital technologies, that may have a nexus to any VSC education program or activity, for example by creating a hostile environment on campus or representing a threat to the safety of a member or members of the VSC community or to the efficient continuance of normal VSC operations.

When: The length of time between an incident and making a report of misconduct under this policy will not affect the willingness of the VSC to investigate the allegations or provide support

and other services to the individual reporting the conduct. However, a prompt report will enhance the VSC's ability to conduct an investigation, and will enhance the effectiveness of any criminal or VSC adjudicatory process. Therefore, the VSC strongly encourages individuals to report incidents of misconduct immediately following their occurrence.

V. RESOURCES FOR VICTIMS/COMPLAINANTS

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

Further information about supportive measures available to both parties is provided in the Chancellor's Procedures. Requests for supportive measures and accommodations should be made to the Title IX Coordinator.

VI. CLERY ACT

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") requires all colleges and universities that participate in federal financial aid programs to keep and report information about crime on or near their campuses. ~~The VSC is committed to complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").~~² Employees who are designated as Campus Security Authorities under the Clery Act are required to report certain crimes ~~certain sex offenses and other crimes~~ to their campus Department Office of Public Safety for the purpose of compliance with the Clery Act. The Offices of Public Safety for the member Colleges ~~shall~~ will include any reported incidents of dating violence, domestic violence, sexual assault, and stalking, along with other crimes, in the campus daily crime log, and ~~the~~ annual security report, as required by the Clery Act. Public Safety will issue a timely warning when a Clery Act crime, which is considered to pose a serious or continuing threat to the VSC community, is reported to Public Safety or to local law enforcement (if local law enforcement makes Public Safety aware of such reports). No personally identifying information will be included in the public reports required by the Clery Act.

VII. CONFIDENTIALITY AND PRIVACY

The VSC is committed to maintaining the privacy of all individuals involved in a report of sexual ~~misconduct~~ harassment, sexual exploitation, domestic violence, dating violence, sexual assault, and or stalking to the extent it reasonably can do so. While the VSC encourages individuals to

² ~~The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and report information about crime on or near their campuses.~~

report incidents of misconduct in violation of this policy, the VSC understands that it can be difficult for individuals to come forward to report such misconduct. The following resources have differing obligations to maintain confidentiality and to report incidents.

A. Confidential Off-Campus Resources

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

B. Counselors and Health Services Professionals

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

In accordance with May 2020 Title IX regulations, the University will not access, consider, disclose, or otherwise use a party's privileged records or require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

C. Employees

Employees of the VSC, other than those employed by the VSC in their capacity as licensed professional counselors and health services staff, are not able to guarantee confidentiality. General inquiries or questions about policies and procedures do not have to be reported. Employees who learn of an incident of sexual ~~misconduct~~ harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking are required to report this information to the Title IX Coordinator, the Dean of Students, or the President. Employees who are Campus Security Authorities are also required to report certain sex offenses and other crimes to the Department campus Office of Public Safety for the purpose of the VSC's compliance with the Clery Act. All information will be kept securely and, even if an individual does not request confidentiality, the information will be shared on a "need to know" basis only with those assisting in any review, investigation or adjudication of the report, or who otherwise need to know the information to perform the duties of their position. Although not bound by confidentiality, these individuals should be discreet and respect the privacy interests of all individuals involved in the process.

May 2020 Title IX regulations contemplate that certain information will generally be treated confidentially, except as qualified by statements in those regulations. For example, the regulations provide that colleges and universities must maintain as confidential any supportive

measures provided to a complainant or respondent,³ to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The regulations also provide that institutions must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under those regulations.

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

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

D. Law Enforcement

If a crime of sexual ~~misconduct~~harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking appears to have occurred, the VSC encourages accurate and prompt reporting of these crimes to the Office of Public Safety and/or to state or local law

³ As noted in the definitions below, a “respondent” is an individual who has been reported to have engaged in conduct in violation of this policy and whose alleged conduct is being investigated to determine if it is in violation of VSC’s policies.

enforcement. ~~Victims-Individuals~~ subjected to such misconduct have the option to notify law enforcement, to be assisted by VSC officials in notifying law enforcement, or to decline to notify law enforcement. ~~IndividualsA-victim~~ may inform law enforcement of an incident of sexual ~~misconduct~~harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking without making a formal criminal complaint. ~~IndividualsA-victim~~ may choose to pursue a criminal complaint, a complaint through the VSC’s disciplinary process, or both simultaneously. ~~IndividualsA-victim~~ who chooses not to notify law enforcement immediately ~~has~~ have the option to notify law enforcement at a later time. Completing a forensic exam is important to preserve evidence and does not require the examinee to file a police report. Reports to law enforcement are not confidential.

VIII. DEFINITIONS

A. Prohibited Conduct~~Clery Act Crimes~~

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

This Policy 311-A prohibits the following forms of misconduct, collectively referred to throughout the policy as “Prohibited Conduct”:

~~Title IX Sexual Harassment~~ (i.e., Quid Pro Quo Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, ~~and~~ Domestic Violence, Dating Violence and sex-based Stalking within the scope of Title IX); and

~~Non-Title IX Prohibited~~ ~~C~~Sexual Misconduct (i.e., Sexual Assault, Domestic Violence, Dating Violence, and Stalking outside the scope of Title IX, Sexual Exploitation as defined below, and Retaliation).

⁴ The definitions of dating violence, domestic violence, sexual assault, and stalking used in this policy are consistent with the Clery Act, as amended effective 2014, and Title IX and its May 2020 regulations. In its primary prevention and awareness programs for incoming students and new employees, as well as in its primary prevention and awareness programs for students and employees, the VSC will include the definitions of dating violence, domestic violence, sexual assault, and stalking under the criminal law of Vermont. However, the VSC utilizes its own definitions of these prohibited behaviors, which are consistent with the Clery Act and Title IX and its May 2020 regulations as set forth below, for purposes of this policy, and determines responsibility for violations of this policy through its own procedures and standards of proof (i.e., by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

Specifically, Title IX Sexual Harassment and Non-Title IX Sexual Prohibited Conduct are defined as follows for purposes of this Policy 311-A:

1. Title IX Sexual Harassment

“Title IX Sexual Harassment” is a subset of Prohibited Conduct. Under Department of Education regulations (see 34 C.F.R., Part 106) issued in May 2020 to implement Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., VSC is required to prohibit certain forms of sexual harassment as defined in those regulations. Title IX Sexual Harassment is Prohibited Conduct of the following types committed by or against students and/or employees in an education program or activity of VSC, in the United States. Further, in order for VSC to consider a Formal Complaint of such misconduct as falling within its Title IX Sexual Harassment policy and procedures, the complainant must be participating in or attempting to participate in a VSC program or activity at the time the complaint is filed.

Conduct takes place within VSC’s “programs and activities” when that conduct occurs: (1) in a location, at an event, or in a circumstance where VSC exercises substantial control over both the respondent and the context in which the conduct occurs; or (2) in any building owned or controlled by a student organization recognized by VSC. Conduct that occurs off campus in locations or at events with no connection to VSC is unlikely to have occurred in a program or activity of VSC.

A complaint about conduct that does not meet this strict definition for Title IX Sexual Harassment is still prohibited by this policy if it otherwise constitutes Prohibited Conduct within the definition of Non-Title IX Sexual Misconduct as defined below.

The following Prohibited Conduct definitions apply for purposes of the definition of Title IX Sexual Harassment:

a. Title IX Quid Pro Quo Sexual Harassment

Quid pro quo sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States by which an employee of VSC conditions the provision of an educational or employment aid, benefit, or service of VSC on a student’s or employee’s participation in unwelcome sexual conduct.

b. Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment

Severe, pervasive and objectively offensive sexual harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student or employee equal access to a VSC education program or activity, whether in the employment or educational context.

c. Title IX Sexual Assault

As required by the May 2020 Title IX regulations, Title IX Sexual Assault incorporates the definitions of the FBI’s Uniform Crime Reporting (NIBRS) program, and is defined as follows:

- **Rape:**⁵
 - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be complainants under this definition);
 - Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
 - To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition, “private body parts” includes breasts, buttocks, or genitals, whether clothed or unclothed);
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

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

⁵ Both completed rape and attempted rape is prohibited by this policy.

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

d. Title IX Dating Violence

Title IX dating violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes “[v]iolence**Dating Violence: “Violence** committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- (i) The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (ii) For the purposes of this definition— (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence.”⁶

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

e. Title IX Domestic Violence

Title IX domestic violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes a **Domestic Violence: “A** “felony or misdemeanor crime of violence committed—

- (A) By a current or former spouse or intimate partner of the victim;
- (B) By a person with whom the victim shares a child in common;
- (C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
- (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (E) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.”⁷

⁶ 34 C.F.R. § 106.30(a); 34 C.F.R. § 668.46(a).

⁷ 34 C.F.R. § 106.30(a); 34 C.F.R. § 668.46(a).

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

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

~~**Sexual Assault:** “An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program[.]”⁸ The Federal Bureau of Investigation’s Uniform Crime Reporting Program defines these offenses as follows:~~

~~Rape: “The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”⁹~~

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

~~A. *Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.~~

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

~~C. *Statutory Rape*—Sexual intercourse with a person who is under the statutory age of consent.”¹⁰~~

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

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

⁸ 34 C.F.R. § 668.46(a).

⁹ Appendix A to Subpart D of 34 C.F.R. Part 668.

¹⁰ Appendix A to Subpart D of 34 C.F.R. Part 668.

f. Title IX Stalking

Title IX stalking for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an education program or activity of VSC in the United States that constitutes **Stalking**:

~~“(i) E~~“[e]ngaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) Fear for the person’s safety or the safety of others; or
- (B) Suffer substantial emotional distress.

(ii) For purposes of this definition—

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

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

(C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.”¹¹

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

Examples of stalking behaviors or activities, ~~when conducted in connection with the above definition,~~ include, but are not limited to the following, if they occur in the context of stalking as defined above (i.e., the behaviors or activities that would cause a reasonable person to fear for their -safety or the safety of others, or to suffer substantial emotional distress): (1) non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or any other communications that are unwelcome; (2) use of online, electronic or digital technologies, such as posting pictures or text in chat rooms or on websites, sending unwanted or unsolicited e-mail or talk requests, posting private or public messages on Internet sites, social networks, and/or school bulletin boards, installing spyware on a person’s computer, or using Global Positioning Systems (GPS) or similar technology to monitor a person; (3) pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person; (4) surveillance or other types of observation, including staring and voyeurism; (5) trespassing; (6) vandalism; (7) non-consensual touching; (8) direct verbal or physical threats against a person or a person’s family member, pet or personal property; (9) gathering information about a person from friends, family, or co-workers; (10) accessing private information through unauthorized

¹¹ 34 C.F.R. § 668.46(a).

means; (11) threats to harm self or others; (12) defamation and/or lying to others about the person; and (13) using a third party or parties to accomplish any of the above.

Engaging in such stalking behaviors or activities is a violation of VSC policy and is prohibited.

2. *Non-Title IX Sexual Misconduct*

Non-Title IX Sexual Misconduct is Prohibited Conduct that falls within the scope of this policy and the definitions below but that does not fall within the definition of Title IX Sexual Harassment, either due to the nature of the conduct or because it did not reportedly occur within a program or activity of VSC in the United States.¹² Such conduct is defined for purposes of this policy as:

a. *Non-Title IX Sexual Assault*

Sexual Assault (i.e., rape, fondling, incest or statutory rape) as defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of VSC in the United States, and attempts to commit such misconduct.

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

b. *Non-Title IX Domestic Violence*

Domestic violence as defined in the Title IX Domestic Violence definition above that did not reportedly occur in a program or activity of VSC in the United States.

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

c. *Non-Title IX Dating Violence*

Dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of VSC in the United States.

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

d. *Non-Title IX Stalking*

¹² Misconduct that does not fall within either the definitions below or the definition of Title IX Sexual Harassment, but that does fall within the scope of Policy 311: *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*, which prohibits among other things certain types of discrimination and harassment on the basis of sex, gender identity, and sexual orientation, will be addressed through the *Chancellor's Procedures for the Implementation of Policy 311: Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.

Stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of VSC in the United States, or that otherwise fits within the definition of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the complainant on the basis of sex.

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

e. *Non-Title IX Sexual Exploitation*

Any non-consensual act of a sexual nature, which may or may not involve physical contact. Sexual misconduct may vary in severity and includes a range of behaviors and attempted behaviors, including, but not limited to sexual harassment as defined in Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.¹³ Sexual misconduct includes sexual assault (as defined above) and also includes unwelcome sexual conduct that does not constitute sexual assault but is sexually violating in nature, such as nonconsensual physical contact of a sexual nature including, but not limited to, intentional contact of a sexual nature with the breasts, buttocks, groin, or mouth or contact of a sexual nature with any other body parts.

Non-Title IX Sexual Exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that other person without that other person's consent, and Sexual misconduct also includes sexually exploitative behavior and attempted sexual exploitation by exploitative behavior. Examples of sexually exploitative behavior include, but are not limited to: (1) prostituting another person; (2) recording or capturing (through any means) images, video or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent, and/or sharing or distributing this material without the other person's consent; (3) viewing or allowing or aiding others to view another person's sexual activity, intimate body parts, or nudity without the person's consent; and (4) sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.

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

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

B. Additional Definitions Applicable to This Policy

¹³ Conduct that violates both Policy 311 and this Policy may be addressed under either policy.

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

Complainant: A complainant is an individual who is reported to have experienced conduct that could constitute Prohibited Conduct, regardless of whether the individual makes a report or seeks disciplinary action. In some cases (such as, e.g., cases in which a person involved in an incident of alleged Prohibited Conduct does not wish to participate in the process but VSC decides that the alleged misconduct needs to be investigated), VSC may pursue an investigation and adjudication under this policy without a designated complainant, in accordance with the Chancellor's Procedures. In these cases VSC may extend some or all of the rights of a complainant as defined in this policy to affected parties as deemed appropriate by VSC and/or as required by law.

For ease of reference, the term "complainant" is also used throughout this policy to refer generally to an individual who was reported by another to have been subjected to Prohibited Conduct, even if they do not participate in any related process.

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

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

Alcohol-related incapacity results from a level of alcohol ingestion that is more severe than mere impairment, being under the influence, drunkenness or intoxication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards and includes by way of example but not limitation an analysis of the objective behaviors of the person alleging Prohibited Conduct, ~~sexual misconduct~~ ~~and~~ whether the accused person knew or reasonably should have known that the person was incapacitated, ~~or~~ ~~and~~ ~~whether~~ ~~if~~ the accused person played a role in creating the circumstances of incapacity. Whether the ~~accused~~ ~~respondent~~ ~~person~~ knew or reasonably should have known the complainant ~~other person~~ was incapacitated will be

assessed in light of all relevant circumstances. Objective physical indications of incapacity include slurred speech, difficulty walking or standing, vomiting, and losing consciousness.

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

Officials With Authority: Officials with authority to institute corrective measures regarding matters involving Prohibited Conduct include the Title IX Coordinator at each VSC campus, any Deputy Title IX Coordinators on campus, the Dean of Students, the Academic Dean or Provost, and the President or their designee. As outlined in more detail in the Chancellor's Procedures, an Official With Authority will, upon receipt of a Formal Complaint of Title IX Sexual Harassment, take action on such a complaint in accordance with the Chancellor's Procedures.

Respondent: A respondent is an individual who has been reported to have engaged in conduct that could constitute Prohibited Conduct and whose alleged conduct is being investigated to determine if it is in violation of VSC's policies.

Retaliation: Retaliation (that is, intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX ~~Sexual Prohibited~~ Misconduct)), is strictly prohibited. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, may constitute retaliation, as does any adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement ~~in bad faith~~.

VSC will not engage in, and will investigate and address, reports of retaliatory conduct. Retaliation under this policy may be found whether or not the underlying complaint is ultimately found to have merit. Complaints of retaliation should be reported, and will be addressed, through the procedures for Non-Title IX Sexual Misconduct outlined in the Chancellor's Procedures.

~~Retaliation against any person for reporting, supporting a victim, or providing information in connection with a complaint of sexual misconduct, domestic violence, dating violence, and~~

stalking includes, but is not limited to: (1) pressuring a person to drop or not support a complaint; (2) encouraging a person to provide false and misleading information; (3) engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living or work environment; (4) threatening, intimidating or coercing the person; or (5) otherwise discriminating against any person for exercising their rights and responsibilities under this policy. Depending on the particular circumstances, retaliation may also be unlawful. Retaliation as defined here violates VSC policy and is prohibited.

~~**Sexual Misconduct:** Any non-consensual act of a sexual nature, which may or may not involve physical contact. Sexual misconduct may vary in severity and includes a range of behaviors and attempted behaviors, including, but not limited to sexual harassment as defined in Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.¹⁴ Sexual misconduct includes sexual assault (as defined above) and also includes unwelcome sexual conduct that does not constitute sexual assault but is sexually violating in nature, such as nonconsensual physical contact of a sexual nature including, but not limited to, intentional contact of a sexual nature with the breasts, buttocks, groin, or mouth or contact of a sexual nature with any other body parts.~~

~~Sexual misconduct also includes sexually exploitative behavior and attempted sexually exploitative behavior. Examples of sexually exploitative behavior include, but are not limited to: (1) prostituting another person; (2) recording or capturing (through any means) images or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent, and/or sharing this material without the other person's consent; (3) viewing or allowing or aiding others to view another person's sexual activity, intimate body parts, or nudity without the person's consent; and (4) sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.~~

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

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

IX. PROCEDURES

The Chancellor shall establish and periodically update the procedures for handling complaints of ~~Prohibited Conduct~~sexual misconduct, domestic violence, dating violence, sexual assault, and stalking to ensure that the process is prompt, fair and impartial. ~~Officials who are responsible for investigating and adjudicating complaints under this policy shall receive annual training relevant to their specific duties and responsibilities on how to conduct investigations involving sexual misconduct, domestic violence, dating violence, sexual assault, and stalking, and the adjudication process so as to protect the safety of victims and promote accountability. The procedures shall identify the persons responsible for overseeing the development of prevention and awareness~~

¹⁴ ~~Conduct that violates both Policy 311 and this Policy may be addressed under either policy.~~

~~programs at each of the member Colleges and the Office of the Chancellor. The procedures shall outline the steps available to victims of misconduct prohibited by this policy and describe the procedures for reporting, investigating and adjudicating incidents of such misconduct. The procedures shall contain the definitions of dating violence, domestic violence, sexual assault, stalking, and consent under the criminal laws of Vermont.~~

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

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

X. DUTY TO COOPERATE WITH INVESTIGATIONS AND PROCEEDINGS

All students and employees ~~are strongly encouraged~~ have a duty to cooperate in investigations undertaken pursuant to this policy and are expected to provide complete, accurate, and truthful information ~~when they do so~~. They may be ~~Page 13 of 15~~ asked to sign statements or other documents memorializing the information they provide, and ~~non-party witnesses~~ may be asked to keep the substance of any interview confidential. ~~Failure to cooperate fully with the investigation may subject the individual to the full range of disciplinary actions, up to and including expulsion or termination.~~

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

XI. SANCTIONS

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

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

XII. OTHER POLICY VIOLATIONS

The VSC’s primary goals in responding to complaints of Prohibited Conduct~~sexual misconduct, domestic violence, dating violence, sexual assault, and stalking~~ are to promote the safety of the VSC community, to address the misconduct,~~and~~ to prevent it from recurring, and/or to restore or preserve the complainant’s access to VSC’s educational programs or activities. A person (whether a complainant or another reporting person~~victim of misconduct under this policy or someone with knowledge of such an incident~~) should not be ~~Page 14 of 15~~ deterred from reporting a violation of this policy because alcohol, drugs, or other violations of VSC’s policies were involved in the incident. VSC officials may, in their discretion and on a case-by-case basis, decide not to pursue relatively minor drug, alcohol or other policy violations related to incidents of misconduct under this policy or, if they do pursue such violations, to handle them separately from complaints brought under this policy. No such violations will be handled by the VSC in a manner that violates the anti-retaliation policy stated above.

Misconduct that does not meet the definition of Prohibited Conduct~~sexual misconduct, domestic violence, dating violence, sexual assault, or stalking~~ may violate other VSC policies, student handbooks, codes of conduct, or collective bargaining agreements and, if so, ~~shall~~ may be handled as set forth in such other documents or, at the discretion of the VSC, w-~~Where~~ related misconduct involves reported Prohibited Conduct ~~a combination of elements of alleged sexual assault, domestic violence, dating violence, sexual assault, or stalking~~ and misconduct prohibited by such other policies, it may be handled under the procedures for Non-Title IX Sexual Misconduct ~~that are outlined in the Chancellor’s Procedures~~ other types of sexual misconduct, it ~~will be handled under the procedures adopted in connection with this policy.~~

Signed by:

Sophie E. Zdatny~~Jeb Spaulding~~, Chancellor

<u>Date</u>	<u>Version</u>	<u>Revision</u>	<u>Approved By</u>
<u>9/24/14</u>	<u>1.0</u>	<u>Adopted</u>	<u>VSCS Board of Trustees</u>
<u>7/23/15</u>	<u>2.0</u>	<u>Updated</u>	<u>VSCS Board of Trustees</u>
<u>8/12/20</u>	<u>3.0</u>	<u>Updated per 2020 Title IX regulations</u>	<u>VSCS Board of Trustees</u>

Relevant Legal Authorities

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

Additional Resources

- ~~United States Department of Education Office for Civil Rights, Questions and Answers on Title IX and Sexual Violence, issued April 29, 2014 (<http://www2.ed.gov/about/offices/list/ocr/docs/qa201404-title-ix.pdf>)~~
- ~~United States Department of Education Office for Civil Rights, Dear Colleague Letter, issued April 4, 2011 (<http://www.title9.us/wp-content/uploads/2014/03/colleague-201104.pdf>)~~
- ~~United States Department of Education Office for Civil Rights, Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, issued January 19, 2001 (<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>)~~
- ~~United States Department of Education's Handbook for Campus Safety and Security Reporting (2011) (<http://www2.ed.gov/admins/lead/safety/handbook.pdf>) • White House Task Force to~~

~~Protect Students from Sexual Assault, Not Alone, issued April 29, 2014
(http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf)~~

Cross References

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

Item 3: Title IX Regulations Presentation



Board of Trustees Special Meeting

August 12, 2020

Updates to Policy 311-A and Policy 311

Jeffrey J. Nolan, Holland & Knight LLP, Boston

Patty Turley, VSC General Counsel

August 12, 2020

Overview

- Title IX and regulatory changes
 - August 14, 2020 implementation deadline
 - Potential for injunction from courts
- Update to Policy 311-A (sexual harassment/assault policy)
 - Reaction to due process concerns
 - Increased procedures for investigating and adjudicating
- Update to Policy 311 (discrimination & harassment policy)

CHANGES TO TITLE IX REGULATIONS

Title IX

- Prohibits discrimination on the basis of sex in any federally-funded education program or activity
- Protects ALL students
- Protects ALL employees
- Enforced by Dept. of Education's Office for Civil Rights

Title IX and New Regulations

- First Title IX regulations addressing sexual harassment
- Growing due process concerns after 2011 Dear Colleague Letter increased need for improved response to sexual assault and harassment on campus
- New regulations **narrow** scope of sexual harassment under Title IX
- New regulations **increase** procedural requirements

Title IX and New Regulations

- New definition of Title IX sexual harassment covers:
 - A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called **quid pro quo harassment**)
 - Unwelcome conduct on the basis of sex that is so **severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the school's education program or activity
 - **Sexual assault**, as defined under the Clery Act

Title IX and New Regulations

- Schools obligated to respond to complaints when:
 1. The school has actual knowledge of sexual harassment;
 2. that occurred within the school's own "education program or activity";

This means conduct occurs in a location, at an event, or in a circumstance where VSC exercises substantial control over both the respondent and the context in which the conduct occurs

3. against a "person in the United States."

UPDATES TO POLICY 311-A

Update to Policy 311-A

- VSC Policy 311-A: *Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault, and Stalking*
 - Defined **scope of coverage**
 - Expanded definition of “retaliation”
 - Updated terms throughout
 - “victim” → “complainant”
 - “offender” or “perpetrator” → “respondent”

Update to Policy 311-A: Scope of Coverage

- Controlling definition: **Prohibited Conduct**
 - **Title IX Sexual Harassment**
 - Similar to existing policy definitions BUT conduct must be:
 - Within VSC “program or activity”
 - Within the United States
 - **Non-Title IX Sexual Misconduct**
 - Nearly identical definitions BUT can include off-campus conduct (outside “program or activity”)

Update to Policy 311-A: Scope of Coverage

- **Title IX Sexual Harassment** includes:
 - Quid Pro Quo Sexual Harassment
 - Severe, Pervasive and Objectively Offensive Sexual Harassment
 - Sexual Assault
 - Domestic Violence
 - Dating Violence
 - Sex-based Stalking

Update to Policy 311-A: Scope of Coverage

- **Title IX Sexual Harassment** is conduct that occurs in a “program or activity of VSC”
 - “Conduct takes place within VSC’s ‘programs and activities’ when that conduct occurs: (1) in a location, at an event, or in a circumstance where **VSC exercises substantial control over both the respondent and the context in which the conduct occurs**; or (2) in any building owned or controlled by a student organization recognized by VSC. **Conduct that occurs off campus in locations or at events with no connection to VSC is unlikely to have occurred in a program or activity of VSC.**”

Update to Policy 311-A: Scope of Coverage

- **Non-Title IX Sexual Misconduct**
 - Same conduct as Title IX Sexual Harassment, but broader application, outside “programs or activities”
 - “Stalking” includes non-sex-based stalking

Update to Policy 311-A: Scope of Coverage

- Goal of split definitions is to provide similar process and procedure if misconduct happens on- or off-campus
- Title IX Sexual Harassment has more procedural requirements
 - Increased notice
 - Adversarial cross-examination
 - Right to access all evidence

Update to Policy 311-A: Scope of Coverage

- Expanded definition of “Retaliation”
 - Intimidation, threats, coercion, or discrimination
 - For the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this policy, or
 - Because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing

Update to Policy 311-A: Scope of Coverage

- Change to “Duty to Cooperate”
- Now “strongly encourage” cooperation
 - Broader definition of retaliation includes “refus[al] to participate”
 - Need to foster culture of compliance and engagement
- Increased confidentiality requirements for all parties and materials

UPDATES TO POLICY 311-A IMPLEMENTING PROCEDURES

Update to Policy 311-A: Implementing Procedures

- Provides supportive measures
- Spells out the process for
 - Receiving reports and initial review of allegations
 - Sending out notice to parties
 - Investigation (interviews, gathering evidence)
 - Drafting and reviewing investigation report
 - Live hearing and adjudication of responsibility
 - Sanctions and appeals
- Board approval not required (Policy grants Chancellor authority to craft procedures)

Update to Policy 311-A: Implementing Procedures

- Determination of applicable procedure or dismissal
 - Title IX Coordinator determines facts alleged constitute:
 1. Title IX Sexual Harassment (conduct, in program or activity, in US);
OR
 2. Non-Title IX Sexual Misconduct
 - If Prohibited Conduct and other misconduct, can use same procedure for all misconduct – for efficiency
 - Or, if doesn't meet definition, dismiss under Policy 311-A and respond under other policy or code of conduct, as appropriate

Update to Policy 311-A: Implementing Procedures

- Investigation
 - Title IX Coordinator appoints investigators (can be just one)
 - Prompt and thorough investigation – 45 days (not including breaks)
 - Parties can have advisors present during investigation interview
 - For Title IX Sexual Harassment, additional requirements
 - Ability to present witnesses, written notice of interview
- Reports
 - Parties can review and respond to written investigation report
 - For Title IX Sexual Harassment, must receive and can review all evidence

Update to Policy 311-A: Implementing Procedures

- Hearing
 - Hearing Officer has broad control over proceedings
 - Parties can have advisors who conduct cross-examination in Title IX Sexual Harassment hearings, otherwise no speaking role
 - In Non-Title IX Sexual Misconduct, parties can submit questions to hearing officer
- Sanctions
 - Responsible College Administrator determines sanctions
 - Students: Dean of Students
 - Employees: President or Chancellor, follows CBA

Update to Policy 311-A: Implementing Procedures

- Appeals
 - Can appeal initial determination of Title IX Sexual Harassment or Non-Title IX Sexual Misconduct or dismissal
 - Employee appeals generally follow collective bargaining process
- Informal Resolution
 - Formerly not available under Policy 311-A
 - Only if all parties and Title IX Coordinator agree it would be appropriate
 - Could be mediation or restorative justice model

MINOR UPDATES TO POLICY 311

Minor Update to Policy 311

- Clarifying that allegations of sexual harassment that meet definition of Prohibited Conduct under Policy 311-A **must** follow procedures of 311-A
- Conduct that doesn't meet Prohibited Conduct definition can be adjudicated under Policy 311

VSC Proposal

Questions?

Item 4: Finance & Facilities Committee

Finance and Facilities

Provide an update from the July 23, 2020 Finance and Facilities meeting at which a consent agenda was approved, a preliminary FY21 budget forecast was discussed, and several adjustments to business and financial policies were recommended and approved.

Action Items

1. **Review and approval of a revision to the anticipated funding** for the Northern Lights Early Childhood Professional Develop System Grant for the Community College of Vermont.
2. **Review, discussion, and approval of several policy adjustments** that support and strengthen the VSCS' ability to respond rapidly to current fiscal conditions. As noted in the materials presented to the Finance and Facilities Committee meeting on July 23, management recommends several policy adjustments that allow the System to exercise its authority to work collaboratively with the institutions to develop a budget that balances the needs of the institutions with the responsibilities of the system to meet the needs of Vermonters now and into the future.
3. **Executive Session to discuss Land Transactions.**

Item 5: CCV's Early Childhood Professional Development System Grant

Vermont State Colleges Grant Proposal Budget Analysis

Form A & B

AMENDED Instead of a new grant, the state amended the FY20 contract and increased the amount from the expected \$1,365,000 to \$1,430,359

College: Community College of Vermont

Grant Title: Early Childhood Professional Development System

Grant Agency: AHS/DCF/CDD

Project Director: Becky Millard

Purpose of Grant: Renewal of grant to support staffing and operational costs for Northern Lights at CCV. Northern Lights at CCV supports the development and growth of individuals in early childhood and afterschool professions in Vermont, including career advising, professional development trainings, state registry support, outreach, and early childhood system oversight.

Grant Period: Beginning on of after 7/1/2020 to Ending one year later: 6/30/2021 or after

Review Period: 1 Multi-Yr** / Cumulative Grant Amt: Not to exceed \$1,365,000
 (please enter number of years covered) **REVISED: \$1,430,359

Proposed Funding	1st Yr		2nd Yr		3rd Yr	
	Grant	College	Grant	College	Grant	College
<u>Direct Costs</u>	\$ 1,087,096.18	-----	-----	-----	-----	-----
Salaries & Wages	\$ 659,581.96					
Employee Benefits	\$ 323,439.22					
Operations	\$ 63,350.00					
Travel	\$ 33,725.00					
Equipment & Supplies	\$ 7,000.00					
Library Acquisitions						
Other: Books						
Total Direct	\$ 1,087,096.18	\$ -	\$ -	\$ -	\$ -	\$ -
<u>Indirect Costs*</u>	\$ 277,261.44					
<u>Total Budget</u>	\$ 1,364,357.62	\$ -	\$ -	\$ -	\$ -	\$ -

*(In-Kind & Other costs for space, utilities, maintenance, administrative support, etc.)

What is(are) the sources of College Funding?

What continuing cost obligations does Granting Agency require/expect?

What Continuing cost obligations does the College intend/see likely?

Business Officer Review by: Andy Pallito Date: _____

Programmatic Review by: Deborah Stewart Date: _____

Presidential Review by: Joyce Judy Date: _____

Item 6: Policy 403



Manual of Policy and Procedures

Title SYSTEM ANNUAL OPERATING BUDGET	Number 403	Page 1 of 4
	Date 9/26/2018	

PURPOSE

The Board of Trustees considers the Vermont State Colleges System Annual Operating Budget as an essential oversight vehicle as well as the primary financial plan for operations of the System and its components for a given fiscal year (July 1 through the following June 30). This policy prescribes the development, adoption, and subsequent administration of the Annual Operating Budget for the System as a whole, and for the individual Institutions and Chancellor's Office.

STATEMENT OF POLICY

1) Development of the System Annual Operating Budget

The Chancellor is responsible for developing the System Annual Operating Budget for recommendation to the Board of Trustees. The System Annual Operating Budget development will be conducted in a collaborative manner with the Council of Presidents to assure application of revenues, expenditures, one-time funds and any other factors in a consistent fashion and appropriate to functioning as an integrated System. The System Annual Operating Budget will be presented for individual Institutions, the Chancellor's Office, and as a consolidated budget for the entire System.

The Annual Operating Budget will include:

State Operating Appropriations and Chancellor's Office Expense Allocation

After deductions as required by State law, and of additional amounts up to 3% for strategic initiatives at the discretion of the Chancellor, [and all extraordinary funding such as transitional, "bridge", or Coronavirus Relief Funding \(CRF\)](#), all State operating appropriations shall be divided among the Institutions based upon an Allocation Formula as follows:

(1) 25% based upon the Status Quo Allocation of 40% for Northern Vermont University, and 20% each for Castleton University, the Community College of Vermont, and Vermont Technical College;

(2) 50% based upon the average of the previous three fiscal years' Net Student Revenues, defined as tuition, fees, room and board minus scholarships, fellowships and waivers; and

(3) 25% based upon the average of the previous three academic years' numbers of awarded Degrees and Credentials, with certificates multiplied by 0.6, associates degrees multiplied by 0.75, bachelor's degrees multiplied by 1, and master's degrees multiplied by 0.75.

The Allocation Formula will be phased in over four fiscal years as follows:

FY2020: 25% Allocation Formula, 75% Status Quo Allocation

FY2021: 50% Allocation Formula, 50% Status Quo Allocation

FY2022: 75% Allocation Formula, 25% Status Quo Allocation

FY2023: 100% Allocation Formula

The budgeted expenses for the Chancellor's Office will be funded by the Institutions according to the phased-in Allocation Formula.

Student Tuitions & Fees

Each Institution will retain all student tuitions & fees the Institution generates, and in consultation with the Chancellor can determine the use of these funds.

During each year student tuition and fees available to each Institution will be as actually generated, whether below or above budgeted levels. Each Institution will assume responsibility for addressing the financial impacts from under-realized budgeted student enrollments, and for reporting additional revenues from over-realized student enrollments.

The Board is responsible for approving not-to-exceed maximum tuition rates, room and board program charges, and selected fees. [Further, after consultation, review, and approval by the Chancellor,](#) Each Institution is responsible for setting individual tuition rates, room and board program charges, and selected fees at or below the approved

maximum rates. Further, each Institution may set such waivers, merit aid programs, and need-based financial aid as the individual Presidents believe are best designed to maximize net tuition revenue and support overall enrollment. Additionally, the System as a whole may enter into a waiver program (e.g., NEBHE) with the approval of the Chancellor in consultation with the Council of Presidents. The proposed impact of the rate setting and waivers must be shown in the materials included with the Annual Operating Budget presented for Board approval. Actual tuition rates approved and implemented by each Institution will be included in the budget materials provided to the Board. Each Institution will be responsible for the impact of the Institution's setting of rates, charges and fees, tuition waiver programs, and discounting practices.

Further Provisions

Incentive for sound cash management will be provided by allocation to the Institutions of all System investment income, returning this revenue to those whose funds produce it and doing so according to each Institution's monthly invested cash balances averaged over the fiscal year.

Each Institution will retain all other revenues the Institution generates and, in consultation with the Chancellor, can determine the use of these funds.

Periodic Review of the System Annual Operating Budget Model

Because the public higher education environment will continue to evolve, the Annual Operating Budget model and its key components should be reviewed periodically and, if necessary, recommendations made to the Board for recalibration or changes.

2) Review and Adoption of the System Annual Operating Budget

The Board is responsible for reviewing the System Annual Operating Budget recommendations by the Chancellor, and for adopting an official System Annual Operating Budget. This is consistent with the Board's ultimate fiduciary responsibility for the System. Timing of the Chancellor's recommendations will allow the Board to conduct its review and take action no later than the final Board meeting of each fiscal year. The Chancellor's System Annual Operating Budget recommendations are to include individual Institutions plus the Chancellor's Office and are to reflect combined System totals, within each current operating fund or group of System activities.

3) Administration of the System Annual Operating Budget

On behalf of the Chancellor and Council of Presidents, the Chief Financial Officer and Business Affairs Council are expected to collaborate and work with other appropriate

Institution and System officials to assure the proper and effective administration of the System Annual Operating Budget as adopted by the Board.

Reporting

Actual operating results compared to budgeted results for activities will be provided by each Institution through the Chancellor to the Board, by means of quarterly financial statements which reflect budgeted, projected actual, and variance to quarterly budget numbers for key enrollment, revenue, and expenditure areas, and variance to prior year quarterly actuals.

Contingency, Strategic and Construction, Renovation and Maintenance Reserves

To hedge unanticipated shortfalls in Institutional Annual Operating Budgets, each Institution will maintain Contingency Reserves in the amount of 2.5% of budgeted expenses for the current fiscal year. Use of Contingency Reserves is subject to approval by the Chancellor, and depletion of an Institution's Contingency Reserves must be replenished in a timeframe determined in consultation with the Chancellor. Institutions may reserve up to 10% of budgeted expenses as a Strategic Reserve, and an additional 15% of budgeted expenses as a Construction, Renovation, and Maintenance (CRM) Reserve. Such reserves may be budgeted and expended by the President with concurrence from the Chancellor.

Carried Over Funds

Upon the audited close of each fiscal year's books, any Carried Over Funds available (net of encumbrances forward, commitments forward, maintained Contingency, Strategic and CRM Reserves) may be proposed by the President for one-time uses subject to concurrence of the Chancellor and approval by the Board.

As circumstances confronting the System Annual Operating Budget change over the course of a year, the Chancellor may propose budget modifications for consideration by the Board for the purpose of more realistically reflecting increases, decreases, or shifts among budgeted revenue and expenditure categories.

Signed by: _____
Jeb Spaulding Sophie Zdatny,
 Chancellor

Item 7: Policy 407



Manual of Policy and Procedures

Title RESPONSIBILITY FOR DEFICITS INCURRED AFTER JUNE 30, 1979	Number 407	Page 1
	Date 8/7/81	

PURPOSE

The Chief Executive Officers are the individuals primarily responsible to the Chancellor for the operations of their respective colleges within approved budgets. The responsibility of these officers and their colleges for budget deficits should be clearly understood.

STATEMENT OF POLICY

Chief Executive Officers are expected to operate each year within in approved budget. A college contingency reserve is required to exist for unanticipated needs. The contingency reserve may be used to sustain a balanced budget if authorized under guidelines issued by the Chancellor.

Chief Executive Officers will be held accountable for budget performance. Failure to maintain at least an approved budget is deemed a serious breach of responsibility requiring specific evaluation by the Chancellor and a report to the Personnel and Finance Committees of the Board of Trustees.

Colleges incurring deficits not inherent in budgets approved by the Board will be responsible to refund the deficit from college resources unless otherwise provided through Board action. The plan for refunding the deficit (or equivalently, rebuilding the contingency reserve) approved by the Chancellor will be identified in subsequent budget submissions.

Signed by: Charles I. Bunting Chancellor

Item 8: Policy 429 Contracting



Manual of Policy and Procedures

<p>Title</p> <p style="text-align: center;">POLICY ON CONTRACTING FOR GOODS AND SERVICES</p>	<p>Number</p> <p style="text-align: center;">429</p>	<p>Page</p> <p style="text-align: center;">1 of 2</p>
	<p>Date</p> <p style="text-align: center;">5/23/2013</p>	

PURPOSE

The VSC Policy on Contracting for Goods and Services is designed to allow colleges and other constituent units of the VSC to purchase or lease goods, services and equipment on an open and competitive basis, without preference to any vendor, in order to further the VSC mission of efficient use of financial resources. Contracting decisions will consider not only price but also, among other factors, quality, timing and delivery. The VSC will utilize consolidated purchasing when it would benefit the colleges or the system. In addition, the VSC will endeavor to uphold environmentally responsible and socially conscious purchasing practices.

STATEMENT OF POLICY

This policy includes all contracts for purchases and leases of goods, services and equipment except for real estate transactions already covered in Policy 426, broad-band services spectrum covered in Policy 427 capital construction covered in Policy 428, and retention of legal counsel under Policy 409.

Before a College may enter into a lease or purchase between \$25,000 and \$100,000 per total transaction it must first solicit, and document 3 or more bids from responsible suppliers. For the purposes of this policy, “solicit” means to request bids through public advertisement or vendor-specific invitation. The Colleges and the Chancellor’s Office shall maintain records of any such solicitation for the period specified in the VSC Records Retention Policy. The Chancellor or President may approve in writing a waiver of this requirement where three or more suppliers are not reasonably available or emergency circumstances are present and documented.

[All potential obligations or leases anticipated to exceed \\$100,000 in total cost, or twelve months, must be reviewed and approved by the Chancellor or designee at any of the following times: 1\) before RFP creation, 2\) at the time of a sole-source request, and 3\) at the time of contract renewal.](#)

Purchases or leases exceeding \$100,000 per total transaction require competitive bidding in the form of a Request for Proposals process. Where system-wide contracts for purchase of goods, services or equipment are entered into, the colleges and other constituent units of the VSC shall use that vendor only for items covered under the contract unless an exception is specifically approved by the President or Chancellor or their designees.

Upon approval of the President or designee, or the Chancellor, use of a sole source contract for purchases or leases otherwise subject to solicitation or bid under this policy may be acceptable under very limited circumstances such as where the item to be purchased is available from a single provider, where significant value is added by virtue of a long-term relationship with the provider, or other factors as may be approved by the President. Each sole source contract must be supported by a Non-Competitive Bid Statement completed on a form developed by the Chancellor.

At each institution, subject to presidential oversight, the Dean of Administration, or designee, is responsible for contracts for purchases and leases under this Policy. Subject to the Chancellor's oversight, the VSC VP of Finance and Administration, or designee, is responsible for purchasing insurances, leases, real estate and system-wide contracts, banking, and financing. Subject to the Chancellor's oversight, the Chief Information Officer, or designee, is responsible for system-wide information technology purchases.

RENEWAL OF CONTRACTS

Contracts may be renewed beyond the original term, including any renewals contained therein, once without resorting to a new solicitation or Request for Proposals process provided however the renewed term does not exceed the original term and in no event may the renewal period exceed three years.

CONFLICT OF INTEREST

In accordance with the applicable VSC Board of Trustees policies on conflict of interest, kickbacks, gifts and other favors from vendors are strictly prohibited.

PROCEDURES

The Chancellor shall adopt standards and procedures governing contracts for purchase and lease of goods, services and equipment and from time to time modify them as necessary.

AUTHORITY

The Chancellor's Office and each College shall, in writing, specify which officials are authorized to enter into contracts for the purchase or lease of goods, services or equipment. All those with such authority on behalf of a College or the VSC shall exercise their authority in full compliance with Policies 428 and 429 and these standards and procedures.

Signed by: _____ Chancellor

Item 9: Policy 429 Purchasing Standards

STANDARDS AND PROCEDURES:
CONTRACTING FOR PURCHASES OR LEASES OF GOODS,
SERVICES AND EQUIPMENT

I. PURPOSE

The following standards and procedures have been approved by the Chancellor pursuant to VSCS Purchasing Policy - 429. It is the responsibility of the Business Affairs Council to review and propose to the Chancellor revisions to these standards and procedures periodically. The terms and provisions of these standards and procedures shall be read to be consistent with the terms and provisions of VSCS Policy 429. Where there is reference herein to particular job titles, the standards and procedures are not to be construed as being limited to those individuals serving in those specifically-titled positions but rather to those serving in the general capacity of those titled positions, however named.

II. CONTRACTING STANDARDS AND PROCEDURES

The Chancellor's Office and each Institution shall, in writing, specify which officials are authorized to enter into contracts for the purchase or lease of goods, services or equipment. All those with such authority on behalf of the Institution or the VSCS will do so in full compliance with state and federal law, the VSCS Purchasing Policy – 429 and these standards and procedures.

Purchases made and obligations entered into on behalf of the VSCS will be made in a manner that supports the mission of the VSCS and its Institutions, and the efficient use of VSCS and Institution resources.

All potential obligations or leases anticipated to exceed \$100,000 in total cost, or twelve months, must be reviewed and approved by the Chancellor or designee at any of the following times: 1) before RFP creation, 2) at the time of a sole-source request, and 3) at the time of contract renewal.

Potential obligations under this Policy between \$25,000 and \$100,000 in total cost, other than those purchases made with federal grant funds (as discussed, below), require solicitations of at least three quotations from responsible suppliers. The VSCS requires competitive bidding for purchases exceeding \$100,000 per total transaction in the form of a Request for Proposal (RFP) process. The RFP will be issued to a minimum of three potential vendors who have been identified as having the ability to provide the goods, services or equipment at a quality level acceptable to the VSCS. In order to create a standardized process for purchases in excess of \$25,000, the VSCS shall create a quick reference guide and a purchase summary sheet for use in all such transactions.

Except where federal grant funds are involved, regardless of the amount of the potential obligation, the Chancellor or a President, upon written application with a detailed justification, may waive in writing the above solicitation or RFP procedures in the interests of a College or the VSCS as a whole.

Selection of the vendor must take into account price, quality, terms, operating budget of the college or unit, delivery schedule, product availability, and environmental or social impact.

Before a sole-source contract may be issued, the requesting department shall complete a Non-Competitive Bid form (Attachment A) justifying the need for a sole-source contract. Use of a sole source contract may be infrequently acceptable, for example, for proprietary items that are only available from a single source or where there is significant added value from a long-term relationship. A sole-source purchase for which competitive bidding would otherwise be required shall be approved in writing by the Dean of Administration or the President of a college or, in the case of a VSCS system-purchase, the System CFO or the Chancellor.

All payments made by the Institutions for goods and services must be supported by appropriate documentation including, where appropriate, an invoice, a properly authorized Purchase Order and accompanying Receiving/Verification Form, or itemized receipts.

All purchases are exempt from Vermont Sales Tax by use of the Sales Tax Exemption Certificate. (available at: <https://forms.vsc.edu/Documents/Tax%20Exempt%20Form.pdf>)

The preferred method of purchase is the Purchasing Card (p-card). When a p-card cannot be used to make purchases in excess of \$2,000, purchases should be made using the Purchase Order Requisition process.

The following are acceptable purchasing methods, in order of preference:

- 1) P-Card - credit or declining balance
- 2) Purchase Order when required by vendor or supervisor
- 3) Purchase with vendor on account - vendor bills VSCS directly
- 4) Cash Advance – Receipts must be submitted within 10 days of receipt of funds
- 5) Petty Cash – \$75 maximum, managed by the institutions' business offices

Use of personal funds, including personal credit cards is prohibited. Exceptions to this prohibition are available in very rare instances but must be clearly documented and approved by the Institution's Dean of Administration or designee. Failure to receive approval or sufficiently document such expenditures may result in a denial of reimbursement.

Any personal gain (including without limitation: reward points, loyalty programs, cash-back bonuses, personal discounts, or other benefit to the employee personally) from the use of personal funds for business-related expenses is a violation of Policy 210 Employee Conflict of Interest Policy, which may result in disciplinary measures and/or a requirement to return or refund the benefit received.

Purchase Approval Limits, subject to available funds, are as follows:

1. Department Chairs, Office Directors, and CCV Site Managers or their authorized designees approve purchases up to \$2,000. Lower limits may be established by the colleges;

2. Deans, CCV Regional Directors, Facility Directors, and Agency Heads (e.g., VMEC, SBDC, etc.) or their authorized designees may approve purchases up to \$5,000. Lower limits may be established by the colleges;
3. At the VSCS Chancellor's-office all purchases in excess of \$5,000 must be approved by the Chancellor or authorized designee. At the colleges all purchases in excess of \$5,000 must be approved by the President or by the Dean of Administration or their authorized designees.
4. OTHER SPECIAL APPROVAL REQUIREMENTS:

Purchase of Chemicals: All purchases of Chemicals for academic departments must be approved in advance by the designated College Chemical Hygiene Officer (CHO) or designee;

Purchase of Information Technology items: All Information Technology hardware and software must be approved in advance by the Chief Technology Officer for the college or VSCS or their authorized designee.

III. PURCHASES FUNDED BY FEDERAL GRANTS

All Goods and Services purchased from federal grants and/or other federal sources, including federal contracts, must adhere to 2 C.F.R. § 200 subpart d. All VSCS institutions and personnel must comply with the following standards and procedures when making purchases using federal funds.

A. Ethical Conduct

Along with the requirements and prohibitions of VSCS Policy 207: *Trustee And Executive Conflict Of Interest Policy* and VSCS Policy 210: *Employee Conflict of Interest Policy*, no employee, officer or agent may participate in the selection, award or administration of a contract expending federal funds if the employee, officer or agent, or her/his immediate family, partner or any organization which employs (or is about to employ) the employee or their family member or partner, has a financial or other interest in, or may otherwise tangibly benefit from, a firm considered for the contract.

B. Process Prior to Procurement:

1. Before initiating the procurement process when expending federal funds, purchasers should seek to:
 - Avoid unnecessary or duplicative purchasing of equipment, supplies or services;
 - Consolidate purchases where possible, or break-out purchases into more economical units – this should include consideration of leasing versus purchasing; and

- Award contracts only to responsible contractors possessing the ability to perform successful under the terms and conditions of the proposed contract.
2. Any solicitation for goods or services must include a clear and accurate description of the technical requirements for the good(s) or service(s) to be procured, and must identify the requirements which bidders must fulfill, together with the factors used in evaluating bids or proposals.

C. Procurement Thresholds and Methods:

Pursuant to 2 C.F.R. 200.320, the following thresholds apply to VSCS purchases:

3. **Micro Purchase** - the aggregate dollar amount does not exceed \$10,000. This includes incremental payments that total less than \$10,000. Micro-purchases should be equitably distributed among qualified suppliers and may be awarded without soliciting competitive quotations so long as the price is reasonable.
4. **Small Purchase** - the aggregate dollar amount ranges from \$10,001 to \$100,000. Price or rate quotations must be obtained from a minimum of three qualified sources prior to making a purchase, and these quotes should be documented and retained by the purchaser.
5. **Larger Purchase** - where the aggregate dollar amount is greater than \$100,000, bids are publicly solicited using one of two methods:
 - a) **Sealed Bids** – after formal advertising (e.g., RFP) a firm fixed price contract is awarded to the responsible bidder whose bid is the lowest price. This is the preferred method for procuring construction or certain types of equipment or services.
 - b) **Competitive Proposals** – conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program with price and other factors considered.
6. **Noncompetitive proposals** - procurement through solicitation of a proposal from only one source. A waiver must be granted by submitting the Non-Competitive Bid form (Attachment A), documenting the rationale for making the request. The President, Chancellor or designee will approve such sole-source contract requests only when:
 - a) The product or service is available only from a single source, for example: a work of art, a specialized piece of equipment or specialized service, existing infrastructure has specific compatibility requirements;
 - b) There is an Emergency (defined below); or

- c) The federal agency awarding the funds in question authorizes a non-competitive bid based on a written request from the VSCS.

D. Recordkeeping:

The purchasing entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. For Small Purchases, the purchasing entity should retain the price or rate quotations from the non-successful providers.

IV. Emergency Purchase Authorization

On rare occasion an emergency purchase may be necessary. “Emergency” is defined as any situation involving public health, public safety, or where an immediate purchase is required for repair to College property to prevent or minimize serious disruption in College operations. Although competitive bidding is not required under emergency circumstances, officials making emergency purchases shall adhere to as many established standards and procedures as the circumstances may allow and the purchase shall be approved by the appropriate authority in advance of the emergency purchase where feasible.



Chancellor

Date	Version	Revision	Approved By
	1.0	Initiated	Chancellor
6/26/15	2.0	Uniform Guidance Waiver	Chancellor
8/1 /18	3.0	Conform to updated Uniform Guidance	Chancellor
7/3/19	4.0	Conform with Policy 423	Chancellor

Attachment A

Non-Competitive Bid Request Form
[VSCS Institution]

Name: _____

Department: _____

Funding Source: _____
(Grant, VSCS Operating Funds, State Capital Funds, VSCS Capital Funds, Other)

Project/Grant Name: _____

Purchase Description: _____

Vendor Name: _____

*VSCS policy requires that competitive bids or quotes be obtained from at least three sources for all orders \$25,000 or more (\$10,001 for federally-funded expenditures). Any deviation from this policy requires written justification and evidence **prior to commitment of an order**. This completed form should be submitted to the Dean of Administration.*

Please indicate the reason for requesting a waiver from the competitive bidding process.

- Only known product of its kind
- Only known supplier of the product
- Subaward Requirement (please provide section of award document stating this vendor is to be used)
- Compatibility with existing software or equipment. (Please provide existing software or equipment details)
- There has been an unexpected emergency (as defined in Policy 429 Procedures)
- Other (inapplicable for federally-funded expenditures)

Please describe in as much detail as possible the justification for the reason listed above and attach all relevant documents to help support the justification.

I certify that the above statements are true and correct and that neither I nor a member of my family have any direct or indirect financial or other beneficial interest in the Vendor.

Signature: _____ Approval Signature: _____

Date: _____ Date: _____

Item 10: Resolution 2020-014 System Wide Budget

VERMONT STATE COLLEGES SYSTEMBOARD OF TRUSTEESRESOLUTION No. 2020-014Establishing a System-Wide Budget

- WHEREAS, The Vermont State College System is facing deficits in excess of \$30,000,000 for FY2021; and
- WHEREAS, The State of Vermont, the United States, and the World are facing an unprecedented pandemic; and
- WHEREAS, The current budget model and approach emphasizes autonomy of institutional budgetary performance over the performance of the Vermont State Colleges System as a whole; and
- WHEREAS, The current budget model includes few opportunities for oversight by the Chancellor; and
- WHEREAS, The Joint Fiscal Office engaged Jim Page, former Chancellor of the University of Maine System, as an external consultant, to conduct an external review of the Vermont State Colleges; and
- WHEREAS, Mr. Page's final report to JFO recommended creation of a System-wide budget model for the Vermont State Colleges System; and
- WHEREAS, A System-wide budgeting model offers the following key benefits 1) Allows VSCS institutions struggling to achieve a critical mass of human and capital resources to address the short-term and long-term issues related to the budget; and, 2) Enables multi-year comprehensive strategic planning and resource allocation; and 3) Allows the Board to exercise its full set of fiscal and audit responsibilities; and, 4) enables the System to meet the state-wide needs of Vermont.
- WHEREAS, The following policies govern the creation, management, and administration of the System-wide budget: Policy 403: *System Annual Operating Budget*, Policy 407: *Responsibility for Deficits Incurred after June 30, 1979*, and Policy 429: *Policy on Contracting for Goods and Services*; and
- WHEREAS, The Board of Trustees believes that a System-wide budget model is vital the short and long term success of the VSCS; and
- WHEREAS, Policy adjustments are necessary to support the creation, management, and administration of a System-wide budget; therefore be it

RESOLVED, That the VSC Board of Trustees directs the Chancellor to develop a System-wide budget model in cooperation and collaboration with the Council of Presidents; and be it further

RESOLVED, That each President is responsible for executing the budget as approved by the Board as required by Policy 407: *Responsibility for Deficits Incurred after June 30, 1979*; and be it further

RESOLVED, That Policy 403: *System Annual Operating Budget* shall be amended as follows:

- 1) State Appropriation Formula shall be waived for all extraordinary funding such as transitional, bridge or CRF funding; and,
- 2) The Chancellor shall review and approve all changes to tuition programs for an institution; and be it further

RESOLVED, That Policy 429: *Policy on Contracting for Goods and Services* shall be amended to require review and approval by the Chancellor for all purchases anticipated to be greater than or equal to \$100,000 per total transaction; or, with a term greater than twelve months; and be it further

RESOLVED, That Policy 403: *System Annual Operating Budget* and Policy 407: *Responsibility for Deficits Incurred after June 30, 1979* shall be suspended for the creation of the FY2022 budget; and be it further

RESOLVED, That the Chancellor is directed to redraft Policy 403: *System Annual Operating Budget* and Policy 407: *Responsibility for Deficits Incurred after June 30, 1979*, with a draft supplied to the Board of Trustees on or before the final FY2022 budget is submitted for approval.

Approved: _____, 2020

Chair of the Board of Trustees

Item 11: Jim Page Report to JFO June 9, 2020

**REPORT TO THE VERMONT LEGISLATIVE JOINT FISCAL OFFICE
CONCERNING VERMONT STATE COLLEGES SYSTEM FUNDING
FOR FY2020 AND FY2021**

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Submitted in partial fulfillment of Vermont Contract #40026

James H. Page, Ph.D.
8 June 2020

1. Scope of Work

The work to be carried out under this assignment from the Vermont Joint Fiscal Office is:¹

- i) Working with the Vermont State Colleges System and the Joint Fiscal Office, undertake a financial assessment of the Vermont State Colleges System in academic years 2019-2020 and 2020-2021 in an advisory capacity. [...] The assessment will include the following:
 1. Identify the financing gap in the current academic year,
 2. Identify the expected financing gap and the timing of needed funds in the 2020-2021 academic year if the system maintains operations at a level to be specified, and
 3. Provide a sense of the risks to the financial assessment given uncertainties in available data, enrollment in the coming academic year, and other factors.
- ii) Conduct a review of the Vermont State Treasurer's internal assessment of the financing gaps described above.
- iii) Present the findings of this work through both written and oral legislative briefings as well as reports and assessments as requested by the Joint Fiscal Office.

This document addresses (i). By agreement with the Joint Fiscal Office, my review of the Treasurer's report was undertaken as part of (i) with relevant notes incorporated here.

This assessment is a good faith, professional opinion offered from an educational administrator's perspective based entirely on a review of documents and representations provided by the Vermont State Colleges System and its member institutions (VSCS), the Joint Fiscal Office (JFO), and the Office of the Treasurer.² This assessment is not an audit, nor is it a budget rebuild; neither is it a plan for how VSCS should position itself post-FY2021 to meet the challenges outlined here. That work is outside the scope of this assignment and will be undertaken by others in the coming weeks and months. I will, however, make some observations that may be relevant to their efforts.

All meetings were by phone or teleconference due to Covid-19 restrictions. A list of reviewed documents and individuals consulted is provided in Section 8. Other documents used are referenced in the footnotes.

My thanks to everyone for their constructive engagement throughout the process.

¹ Contract #40026, Attachment A.

² This limitation accords with the expectations of the JFO which, in the Scope of Work, wrote in the above elision: "The financial assessment will represent an independent opinion that is wholly dependent on the accuracy of the information provided by the Vermont State Colleges System and the Treasurer's Office. It is the understanding of the Joint Fiscal Office that any assessments provided in this work will be based on estimates based on data and information provided by Vermont including by the Vermont State Colleges System and the Treasurer's Office. The Contractor bears no responsibility for the differences between estimates used in the work and actual amounts of expenditures/revenues/financial aid that might occur."

2. Executive Summary

The Vermont State Colleges System mission reads:

“For the benefit of Vermont, the Vermont State Colleges System provides affordable, high quality, student-centered, and accessible education, fully integrating professional, liberal, and career study, consistent with student aspirations and regional and state needs.”

VSCS exists for the benefit of Vermont. It educates its citizens and supports its businesses and communities. In return, Vermonters support VSCS through enrollment and tax support. In theory, this relationship creates a healthy cycle of opportunity, growth and advancement. In practice, success depends on resources, both human and financial. VSCS’s long-term challenges threaten to break this cycle over just this question of resources. The planning undertaken and decisions made now and in FY2021 will determine how VSCS can best continue its mission of service to all Vermont families, businesses and communities. The financial decisions made in the next few weeks will determine whether VSCS will have the resources to carry out that work, hence the importance of the issues presented in the Scope of Work.

To summarize this document’s main findings:

- VSCS’s situation can only be understood in the context of a set of very powerful challenges. These include longer-term issues such as demography and levels of State support, as well as those brought on by the Covid-19 emergency and increasing public uncertainty about VSCS’s viability, an uncertainty exacerbated by the System’s spring 2020 plan, since withdrawn, to close certain campuses.
- The FY2020 financial results are likely to be as projected by VSCS, with a range of outcomes varying from a small surplus to a \$500,000 deficit. VSCS has the capacity to cover a deficit within this range.
- The Legislature’s commitment of \$12.2MM for reimbursing accrued Covid-19 costs and its consideration of funding an additional \$15.25MM for specific Covid-19-related expenditures from the Coronavirus Relief Fund (CRF) present a unique and strategic investment in the future of Vermont public higher education while sending a much needed message of support for VSCS and its students.
- Because of the unprecedented uncertainty around fall semester operating conditions, planning for FY2021 has led campuses to create a range of scenarios to reflect possible circumstances. These scenarios are presented as best-to-worst cases with associated deficits of up to \$36MM due primarily to enrollment declines and Covid-19 restrictions. A reasonable Legislative set aside to address these deficits would be \$30MM in addition to its regular appropriation and the CRF funds noted in the previous bullet. There is an additional \$10.3MM deficit should campuses have to suspend in-person instruction and residential services. Under Federal guidelines, this latter expenditure would qualify for relief as well.
- Because of VSCS’s long-term challenges, FY2021 should be thought of as a bridge year used for strategic change planning, and any supplemental FY2021 funds as bridge funding to help position VSCS to make those changes. Any bridge year funding should be directed to the Chancellor’s Office and tied to aligned, measurable Board of Trustees’ priorities and guided outcomes.

3. Context and Challenges

This is not the place to introduce or review the Vermont State Colleges System.³ Nevertheless, assessing VSCS's financial situation requires an understanding of the larger context in which the System is situated. Budgets, after all, reflect longer-term context as well as short-term circumstances.

VSCS faces an extremely serious set of challenges which I have organized under three headings. There are the longer-term challenges presented in VSCS's 2019 "Whitepaper" that set out the demographic, economic, and related trends that threaten the System's viability. There is the singular but ongoing impact of the Covid-19 emergency. Finally, there is the impact of public uncertainty regarding VSCS's future, an uncertainty rooted in the Whitepaper challenges but magnified by the System's Spring 2020 plan to close campuses, an uncertainty that has survived the plan's withdrawal.

- The Whitepaper Challenges

VSCS published "Serving Vermont's Students by Securing the Future of the Vermont State Colleges System" (the Whitepaper) in which VSCS's main systemic challenges were presented in support of a call for major changes.⁴ The Whitepaper listed six challenges.⁵

- Demographics
- Levels of State support
- Increasing pricing pressures
- Barriers to adaptability
- Changing student preferences and attitudes
- Disruptive technologies and delivery

I'll not review these as the Whitepaper is readily available. But to assess VSCS's financial situation, it is important to be clear about the demographic facts and their impact on enrollment, as well as the level of State support and the related issue of affordability and student debt.

Vermont's demographic challenges are well known and daunting. The State's overall population has held roughly steady since 2012, registering a less than 1% decline from 626,090 in 2012 to 623,989 in 2019. But a closer look by age group highlights the issue. Between 2012 and 2018, the number of Vermonters graduating high school declined almost 15% from 6,932 to 5,900.⁶ As the following JFO chart shows, the next 10 years is even more concerning, with a continuing

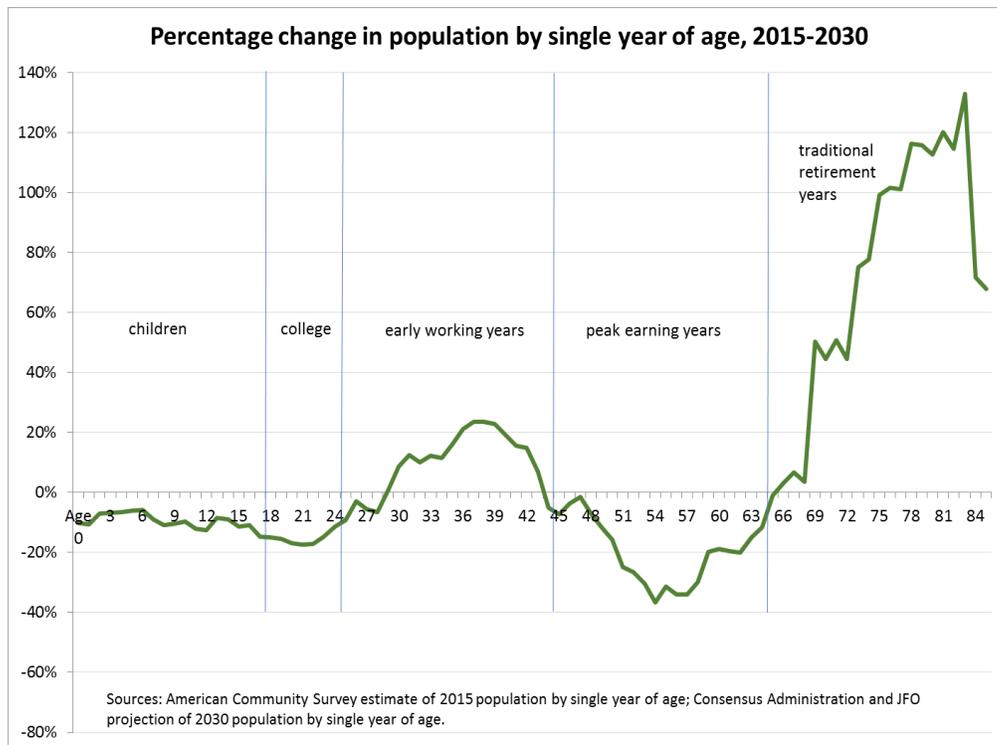
³ For a general overview see the VSCS website www.vsc.edu and the February 2020 VSCS Data Sourcebook at the same site.

⁴ Office of the Chancellor, v1.2, 26 August 2019. See www.vsc.edu/wp-content/uploads/2019/08/Securing-the-Future-Whitepaper-08.26.19.pdf.

⁵ Whitepaper pp.5-22. There is also the extremely serious matter of the System's forecasted 5-year cumulative budget deficit of \$85MM which accrues if these fundamental challenges are not addressed. (See the System's April 20, 2020 "Transformation for the Future" presentation to the Board of Trustees.) Even as an approximation, no system of VSCS's size and resource base can survive that outcome. The way to address it is to meet the challenges reviewed here.

⁶ JFO. A simple comparison provides a sense of scale. In 2018, almost three times as many students attending school in the Manhattan district of NYC graduated high school as in all of Vermont.

decrease in the school- and college-age population and a marked decrease in the number of Vermonters in peak earning years.⁷



This demographic profile is economically challenging for the state and for VSCS. The decrease in the numbers of working age adults inevitably inhibits economic growth and makes the state less economically competitive. One way to measure this is to look at statewide educational attainment.

A nationally accepted benchmark for a state to be competitive in the national economy requires 60% of its adult working population having a 2- or 4-year degree, or a market-recognized credential of value; Advance Vermont has set the number at 70%. There has been progress. The numbers of working age Vermonters 25-64 who meet this target has increased from 43.6% in 2008 to 51.2% in 2018 against a national average of 32.9% in 2008 and 48.4% in 2018.⁸ Yet it is arithmetically impossible to reach the 70% goal in the next 10 years using the K12 pipeline alone; there are simply not enough Vermont children. Instead, as VSCS has recognized, the core student profile must be expanded to include a greater number of adult and other non-traditional learners who are often placebound. To meet students where they are, there will need to be significant investment and retooling. Ironically, the Covid-19 emergency may provide the needed opportunity, as I’ll discuss in Section 4.

⁷ From the JFO Issue Paper “Vermont’s Population: Single-Year-of-Age Numbers for 1996 Through 2030”. August 2019. Joyce Manchester and Sean Sheehan. The growth in retirement-age Vermonters during this same period will only increase competition for limited State resources.

⁸ See Lumina Foundation www.luminafoundation.org; Advance Vermont www.advancevermont.org.

The demographic impact on VSCS is even more direct. Approximately 83% of VSCS students are Vermonters. In FY2020, VSCS revenue from tuition and fees and room and board is slightly more than 78% of total budgeted revenue, essentially the same percentage as for FY2019.⁹ Any variance in enrollment therefore has a significant impact on revenue.

The enrollment trends are concerning but not unexpected, keeping close pace with the decline in the number of high school graduates. Between 2012 and 2019, in-state enrollment declined 15.3% (10,794 to 9,142), just about matching the previously noted 15% decline in high school graduates.¹⁰ The cost in dollars will be apparent when we review the projected year-end results and next year's revenue forecasts. As noted, the coming 10-year period offers no demographic relief.¹¹ While the impacts of these general demographic trends can be mitigated by VSCS increasing its share of Vermonters attending college and by increasing retention rates - all important strategies that must be continued - enrollment trends still most closely reflect the demographic facts.

Moving to the second topic, while VSCS has enjoyed a robust (and enviable) 31% increase in total state base appropriations between FY2011 and FY2019, it still accounts for just 18% of VSCS revenue.¹² This makes the State's funding contribution per (FTE) student the lowest in the nation, along with New Hampshire's.¹³ The great majority of VSCS's budgeted revenue comes from a combination of student payments and state support; together, more than 96% of the total. As noted, student charges comprise about 78% of this number. (In 2016, Vermont students bore the highest percentage share of higher education costs in the nation at 84.9% compared to the national average of 46.5%.¹⁴) The point is that the less State support there is, the more the financial burden shifts to the student, and although there has been a meaningful increase in scholarships and other methods of financial support, the telling factor here is student debt.

⁹ VSCS Consolidated Quarterly Financials 4Q FY2019, 3Q FY2020. The percentages differ slightly by campuses, but the general point holds.

¹⁰ Out-of-state enrollment declined by 9.4% (2117 to 1918) for a total decrease of 14.3% (12,911 to 11,060). VSCS Sourcebook, p.11.

¹¹ Nathan Grawe's authoritative national study on these matters shows Vermont and the entire northeastern US undergoing a greater than 15% decline in the number of college-going students between 2012 and 2029 (Nathan Grawe, *Demographics and the Demand for Higher-Education*. Baltimore: Johns Hopkins University Press, p.49). For New England regional 4-year colleges, he estimates the reduction in demand during this period to be 25% (p.73). VSCS's institutional accrediting body, the New England Commission for Higher Education (NECHE), is tracking these trends and how they apply to Vermont. In a letter to Vermont Tech that is representative of its recent communications to VSCS campuses, it asks the institution to continue "to enhance the institution's financial stability with attention to diversifying revenue and 'right-sizing' the institution" in its next accreditation self-study (NECHE, letter to VTC, 2/10/16).

¹² VSCS; JFO.

¹³ This was not always the case. In 1980, Vermont State appropriations provided 49% of revenue (Whitepaper, p.11). See also the New England Board of Higher Education's 5 May 2020 presentation to the Vermont Legislature's Education Committee "Trends in Higher Education Sustainability", especially slide 10.

¹⁴ Grawe, p.160 n4.

Currently, about 60% of Vermont graduates carry debt.¹⁵ Although somewhat dated, the following compilation of median debt by completion status for VSCS students provides a sense of how large and pervasive this problem is.¹⁶

	CCV		CU		JSC		LSC		VTC	
	Complete	Non-Complete								
2011-2012	\$9,248	\$3,639	\$23,000	\$5,500	\$23,750	\$7,920	\$24,500	\$5,677	\$13,000	\$6,333
2012-2013	\$9,500	\$3,750	\$25,000	\$7,000	\$25,000	\$8,850	\$26,000	\$5,651	\$13,000	\$7,100
2013-2014	\$10,850	\$3,900	\$25,000	\$7,350	\$26,000	\$10,000	\$26,850	\$6,500	\$15,000	\$6,942
2014-2015	\$9,861	\$4,000	\$25,000	\$6,625	\$26,000	\$10,653	\$27,000	\$8,250	\$16,000	\$7,100
2015-2016	\$9,088	\$4,400	\$25,000	\$8,750	\$23,819	\$10,819	\$26,750	\$9,500	\$16,050	\$7,029

The impact of these debt levels on the individual and on his or her communities is well established.¹⁷ Financial hardship is the primary reason students stop or drop out of their programs, and the very risk of accruing substantial debt causes many to decide against pursuing higher education altogether. Graduates with debt are limited in their ability to participate in their local economy and may need to relocate to larger communities where there are jobs that pay enough to discharge their debt to the disadvantage of rural areas which are then deprived of the graduate's education and skills.¹⁸ Given VSCS's other challenges, the best immediate chance to alleviate this burden is for the State to increase its share of support.¹⁹

¹⁵ Advance Vermont. For details concerning student costs, see Sourcebook pp.52ff.

¹⁶ Provided by the Chancellor's Office, VSCS.

¹⁷ Vermont has an estimated 77,000 citizens, or 15% of its population, who have some college but no degree. (Vermont Insights: www.vermontinsights.org) Many, likely most, carry debt as the VSCS chart shows. This is a national problem but an opportunity as well if more of these people can be supported in returning to fulfill their educational goals.

¹⁸ There is a wealth of information and studies on this phenomenon. See, for example, Cooper and Wang "Student Loan Debt and Economic Outcomes", The Federal Reserve of Boston Current Policy Perspectives, No.14-7 at www.bostonfed.org.

¹⁹ There are, of course, other factors that impact affordability. The availability of scholarships is one, although most VSCS support in this form comes from tuition discounting, not third-party sourced funds or endowments. Increasing discounting rates, however, tends to increase intra-system competition.

Another strategy is cost containment which must be a component of future strategic planning. But there are limits to this strategy. VSCS has too small a resource base to cut its way to success. Cost containment properly implemented bends expense trends in a meaningful way. Cost containment badly implemented hollows out institutions.

- The Covid-19 emergency

Covid-19's impact on higher education is unprecedented, substantial, and unpredictable.²⁰ The immediate operational impact on VSCS has been the suspension of in-person instruction and residential services on March 13 and the completion of the academic year using distance learning methods. The major immediate financial impact was the proportional refunding of students' room and board charges, and loss of other revenue as will be noted in Section 4.

Covid-19's impact on FY2021 will be operational and financial, carrying considerable risk and costs. The operational risk will be to the health and safety of students, faculty and staff. The operational costs will include developing more capacity for distance / hybrid delivery of programs, creating physical accommodations for social distancing, increased medical testing and other safety features, and increased student services. The financial impact includes the costs of making these changes but center on the risk of a greater and possibly crippling decline in enrollment as well as the possibility of again having to suspend in-person instruction and residential services.²¹

- Public Uncertainty

The final challenge comes from public uncertainty concerning VSCS's future or, more accurately, the future of some of VSCS's member institutions. The Whitepaper challenges were not news to those who had been following developments over the past few years. It was widely appreciated, for example, that the consolidation of Johnson and Lyndon Colleges into Northern Vermont University was a necessary response to the changing circumstances addressed in the Whitepaper. What took many by surprise was the System's spring 2020 plan to shrink its footprint - that is, to close campuses - to accommodate declining enrollment. This dramatic announcement had an immediate impact on all campuses but especially NVU, causing a marked decline in inquiries, applications, and commitments to return as students and their families have concerns about programs and institutions that soon might not be there, a situation only complicated by the uncertainties around Covid-19. Some of these students will enroll elsewhere, many to established online institutions. Others will simply not pursue higher education, at least for a time, thereby adding to Vermont's educational attainment gap. This uncertainty also increases the risk of an institution's losing otherwise committed faculty and staff, and it compromises established and potential projects with external partners. The point is straightforward: uncertainty increases instability and VSCS cannot afford more instability. In addressing these issues, therefore, time is of the essence.

4. FY2020 End of Year Assessment

In assessing the projected FY2020 financial results, three questions are to be answered:

- Are the financial results likely to be as projected by VSCS?

²⁰ The 1918 pandemic bears some similarities from a public health perspective, but the size and role of public higher education was so much smaller at that time making the comparison not very useful.

²¹ It is unknown at this time what legal liabilities an institution may have if, for example, a student returns to in-person instruction and becomes infected as a result. Higher-ed leadership is currently pressing the Federal Government for guidance on this matter.

- ii. Are the results consistent with VSCS history and with VSCS-identified external challenges?
- iii. Are there significant factors that might improve or exacerbate the projected results?

I'll first consider the System's results as if there had been no Covid-19 emergency. Covid-19's impact will then be added and the total projected result assessed. This order is important so as to be clear about what portion of the projected results is due to structural and longer-term "Whitepaper" issues and what portion is due to Covid-19's immediate impact.

My review of the projected FY2020 results (and for the FY2021 budget projections) is based on a review of data and materials supplied by the Chancellor's Office and the individual campuses, together with phone conferences and individual discussions.²² VSCS initiated the development of 'best-worse' case scenario planning and the campuses submitted their first drafts of these scenarios to the Treasurer's Office on May 6. This was followed by a series of teleconference meetings with each of the institutions to review and clarify the material that included the Treasurer's Office, the System's CFO, and myself. These meetings generated follow-up submissions with further information and additional or refined scenarios as requested. These materials compose the core of the data and information for my analysis, supplemented by additional discussions I have had with the Chancellor's staff, with each president individually, and with some campus staff.²³

To understand the budgeting process, I reviewed the VSCS Board of Trustee's budgeting policies and practices as well as a recent history of their annual budgets and end-of-year results to assess consistency and forecasting accuracy.²⁴ VSCS uses a consolidated budget aggregating the budgets

²² See Section 7 for a list of data and documents reviewed.

²³ The Treasurer's and my reviews therefore use common data by design. Our analyses and conclusions, while mutually informed, are our own. I want to thank Treasurer Pearce and her staff for their thorough work and penetrating analysis, and for their willingness to include me in their process.

²⁴ See the VSCS Consolidated Reviews 2017-2020 as well as the Audited Financial Statements for that same period available on the System's website. VSCS develops its budget in accordance with System Policy 403: System Annual operating Budget, and has followed a standard calendar and framework since FY2017. (Policy 403 is available on the System's website. A description of the calendar and framework is presented in VSCS Memorandum "Rationale for Proposed Reallocation of State Appropriation under Policy 403", 24 September 2018.)

The process begins with the Board Finance and Facilities Committee's February review of the current year's budget results to date, a detailed review of enrollment data and preliminary fall admissions outlook. Budget estimates are at that point top-down, "approximate and conservative". At the Committee's first meeting in April, each institution and the Chancellor's Office present preliminary "bottom up" numbers. A second April meeting reviews these numbers as developed in greater detail. The Committee approves final numbers in May and forwards them to the full Board for June approval. The budget is then checked quarterly throughout the fiscal year at the System and Board level with changes made as appropriate. This process provides adequate if not plentiful time; its effectiveness optimized to the degree campuses collaborate on addressing budget questions and coordinate their efforts.

Policy 403 currently uses an allocation formula that trends towards an outcomes-based funding model. Some systems have moved away from that model as it increases intra-system competition rather than cooperation. This should be considered in the next stage of System strategic planning.

from its four institutions together with that of the System Office using a standard set of Revenue and Expense categories. VSCS's most recent forecast dated March 31 captures actual revenue and expenses through the third quarter and presents an end-of-year projection that is the basis for this review. The summary numbers follow. Breakdown by individual campus is available in the full VSCS document.²⁵

FY2020 Budget Outlook as of March 31, 2020

Vermont State Colleges System

(Amounts rounded to \$1,000)

EXECUTIVE SUMMARY

	FY2020	Outlook as	Mar 31	Var	COVID-19	Mar 31 vs.	Mar 31 vs.
	Budget	of	vs.	> +3%	Changes	w/COVID	w/COVID
		31-Mar	Budget			Budget	Budget
REVENUES							
Castleton University	56,958	55,894	(1,064)				
Community College of Vermont	27,504	27,768	264				
Northern Vermont University	56,730	52,469	(4,261)	*			
Vermont Technical College	38,715	40,257	1,542	*			
Chancellor's Office	<u>500</u>	<u>620</u>	<u>120</u>				
TOTAL REVENUES	180,407	177,008	(3,399)				
EXPENSES							
Castleton University	56,952	56,367	(585)				
Community College of Vermont	27,754	27,801	47				
Northern Vermont University	58,496	55,331	(3,165)	*			
Vermont Technical College	38,843	39,428	585				
Chancellor's Office	<u>500</u>	<u>596</u>	<u>96</u>				
TOTAL EXPENSES	182,545	179,523	(3,022)				
NET REVENUES/(DEFICIT)							
Castleton University	6	(473)	(479)	*	(1,938)	(2,411)	(2,417)
Community College of Vermont	0	217	217			217	217
Northern Vermont University	(1,766)	(2,862)	(1,096)	*	(1,183)	(4,045)	(2,279)
Vermont Technical College	(128)	830	958	*	(300)	530	658
Chancellor's Office	0	24	24			24	24
NET REVENUES/(DEFICIT)*	<u>(1,888)</u>	<u>(2,265)</u>	<u>(377)</u>	*	<u>(3,421)</u>	<u>(5,686)</u>	<u>(3,798)</u>
		-1.2%	-0.2%		-1.9%	-3.1%	-2.1%

* The \$1,888 budgeted deficit in this Summary is inclusive of \$250 of Carried Over Funds from CCV; Carried Over Funds are listed as "Non-Recurring Items" in the VSC Consolidated presentation, resulting in budgeted Net Revenues of negative \$2,138.

Pre-Covid, the above forecasts consolidated revenues of approximately \$177MM and expenses of \$179.5MM leaving a pre-Covid-19 operating deficit of \$2.265MM (-1.2%), \$377M (-0.2%) against budget. The likely accuracy of these numbers was confirmed in discussions with the

²⁵ VSCS Consolidated Budget vs. Actuals Report for the Quarter Ending March 21, 2020.

VSCS CFO, individual institutional staff members, and in discussions with the Treasurer's Office.²⁶ These results are also consistent with recent past results, demonstrating sustained accuracy in budgeting and forecasting as the following chart shows.²⁷

FY	Budget	Actual	Variance	
2020	Rev: 180,407,000 Exp: 182,545,000	Rev: 177,008,000 Exp: 179,523,000	(3,399,000) 3,022,000	Pre-Covid19 estimate
2019	Rev: 171,979,000 Exp: 173,969,000	Rev: 173,911,000 Exp: 174,741,000	(1,932,000) (778,000)	
2018	Rev: 173,099,000 Exp: 173,132,000	Rev: 171,416,000 Exp: 168,637,000	(1,683,000) (3,495,000)	

Further comparison comes from looking at a history of student-sourced revenue and state allocations between FY2016-FY2020.²⁸ In FY2016 tuition and fees accounted for exactly the same percentage of revenue as is budgeted (pre-Covid-19) for FY2020: 64%. Similarly, Room and Board was within a half percent: 14.4% in 2016 v 14% in 2020. Appropriations increased significantly, from 14.9% in 2016 to 18% in 2020. On the expense side, wages and benefits dropped from 66% in 2016 to 62% in 2020, due primarily to position reductions undertaken in response to enrollment declines. It is worth noting that Scholarships / Fellowships - mostly in the form of tuition discounting - increased significantly from 5% of expenses in 2016 to 11% in 2020, reflecting increased attention to affordability, but putting increased pressure on revenue.

While all the revenue and expense categories are important, three revenue categories - Tuition and Fees, State Appropriations, Room and Board - tie directly to the issues highlighted in Section 3 and account for more than 96% of total budgeted FY2020 revenue (Tuition and Fees 64.25%, Appropriations 17.7%, Room and Board 14.42%).²⁹ These categories received particular attention.

²⁶ Balancing an approved budget is an important and, under these conditions, a noteworthy achievement. Yet a balanced budget is not necessarily a sign that all is financially well. A budget may underfund depreciation, for example. This strategy can be useful to bridge a short-term budget gap, but chronic underfunding leads to an inevitable and sometimes unrecoverable increase in deferred maintenance, an issue now requiring VSCS attention with its more than \$108MM in deferred maintenance. Also, a budget that just breaks even may not have included investment funds to update programs, improve classroom technologies, etc. Any institution that foregoes investing puts itself at a significant competitive disadvantage.

²⁷ Another standard method of assessing an institution's fiscal position would be to look at four core financial ratios (Primary Reserve, Net Operating Revenues, Return on Net Position, Viability). The most recent VSCS report using this method dates from 2016 and so is of limited value here. (See "Vermont State Colleges Ratios, 2012-2016", prepared by O'Connor & Drew, P.C.) As this analysis will be required by the National Center for Education Statistics in future reporting, I recommend VSCS adopt it as a regular feature of their reporting as soon as is feasible. It should include national benchmarks as well as multi-year VSCS goals. For an example of a fully developed system, see the University of Maine System's "FY2018 Core Financial Ratios and Composite Financial Index" available at www.maine.edu.

²⁸ The following data are from the April 20, 2020 VSCS Board Presentation.

²⁹ VSCS Consolidated Budget vs. Actuals Report for the Quarter Ending 31 March 2020. Results for FY2021 will likewise center on these same three categories.

I have concluded from this review process that the forecasted, pre-Covid-19 results should be approximately as presented. I now turn to the projected end-of-year results with Covid-19's impact added.

The March 31 spreadsheet indicates \$3.4MM in known Covid-19 related charges, leaving a total year end deficit of approximately \$5.68MM, or 3.1% of budget. That number will be directly reduced by \$5.1MM in pending CRF reimbursements for Room and Board refunds approved by the Legislature, \$125,000 for cancelled student travel, and \$50,000 of facilities modifications at NVU.³⁰ While this still leaves a projected deficit of approximately \$500,000, that number should represent a worst-case outcome, one that may be appreciably improved as implemented expense reductions are fully counted. VSCS now believes the final result will be somewhere between a very small surplus, in effect a break-even, and the indicated deficit. In either event, closing a FY2020 deficit within this range is within VSCS's current resources.³¹

- Summer 2020 Investments

Before ending this section, it is important to consider additional VSCS costs and investments to be made in ongoing response to Covid-19. These efforts span the two fiscal years under consideration with many needing to be started before the end of FY2020 and all undertaken this calendar year. Details for FY2020 are in the top half of the following chart.³² This lists reflects VSCS's substantial and impressive progress in planning for Covid-19's continuing impact. Receiving these funds will be necessary if VSCS is to meet its year-end projections and to make those investments necessary to address the continuing the health and safety threats posed by Covid-19.

³⁰ VSCS. This math is correct at the System level, but Federal CARES dollars are allocated to campuses, not systems. Unless the Chancellor's Office and some of the campuses contribute "their" surpluses, the gap isn't really to projected levels. However, I believe the Board has the authority to direct these surpluses.

³¹ Personal communication.

³² Memorandum from VSCS CFO Stephen Wisloski to The Honorable Peter Fagin, House Committee on Appropriations and The Honorable Dylan Giambatista, House Committee on Education concerning VSC Systems requests for assistance from the State of Vermont's Coronavirus Relief Fund, dated 22 May 2020.

Vermont State Colleges System State of Vermont Coronavirus Relief Fund (CRF) Request						
Fiscal Year 2020/Over the Summer	Castleton University	Community College of Vermont	Northern Vermont University	Vermont Technical College	System Level	Total
COVID-Related Cost						
Room and Board Refunds (previously reported on May 5)	\$2,235,834		\$1,922,230	\$959,728		\$5,117,792
Cancelled Student Travel			65,000	60,000		125,000
Masks	37,500	25,000	37,500	25,000		125,000
Equipment & Supplies/PPE	15,000	100,000	15,000			130,000
Facilities Modifications	150,000		150,000	150,000		450,000
Remote/Hybrid Instruction	1,730,000	177,623	1,125,000	1,115,000	70,000	4,217,623
Increased Sanitation & PPE	150,000	100,000	400,000	350,000		1,000,000
Health Screening/Medical Support	25,000	25,000	25,000	25,000		100,000
FFCRA/Sick Leave Costs					950,000	950,000
TOTALS	\$4,343,334	\$427,623	\$3,739,730	\$2,684,728	\$1,020,000	\$12,215,415
Fiscal Year 2021						
COVID-Related Cost						
Health Screening/Medical Support	200,000	25,000	325,000	375,000		925,000
Instruction Changes for Distancing	250,000	2,225,057	200,000	250,000		2,925,057
Mental Health for Students	100,000		80,000	75,000		255,000
Admissions & Recruiting	495,000		721,000	620,000		1,836,000
Financial Aid	1,500,000		2,000,000	2,450,000		5,950,000
Marketing	600,000	20,000	667,000	330,000		1,617,000
FFCRA/Sick Leave Costs					1,750,000	1,750,000
TOTALS	\$3,145,000	\$2,270,057	\$3,993,000	\$4,100,000	\$1,750,000	\$15,258,057
TOTAL FY2020 & FY2021:						\$27,473,472

FY2020 Expenditures include reimbursement for Room and Board refunds along with coverage for a number of medical and safety items, including facilities modifications if there is to be in-person but socially distanced fall instruction. Of particular note are those FY2020 and FY2021 expenditures associated with remote/hybrid instruction. The more than \$7MM associated with these expenditures include substantial investment in VSCS's ability to provide effective distance delivery of programs. It includes technological improvements in, for example, IT infrastructure and software upgrades, developing more "smart" classrooms, and for providing advanced training to make these programs more effective.³³

³³ Effective distance or hybrid instruction now requires a host of skills in addition to those found in the classroom. These include programmers and digital course designers working in teams with the instructor.

Importantly, almost every dollar invested in this area effectively serves two purposes. These investments enable the institutions to deliver (most of) their programs should Covid-19 repeat in FY2021, and these same investments will advance VSCS's strategic drive to expand program delivery, a necessary step if it is to be competitive in the developing higher educational landscape, especially with respect to serving working adults and other placebound learners. This is a unique opportunity to advance VSCS strategically and must not be passed over. These investments also send an important and timely message of support for VSCS and its students, helping combat the public uncertainty noted above.

There is a caveat. These resources should not simply be distributed to the campuses to carry out local versions of these projects. Uncoordinated implementation will be duplicative, more costly, will optimize the local to the detriment of the whole, and will miss an opportunity for achieving the significant financial and operational return on investment that comes from a tightly coordinated, system-wide project.³⁴

Now, to answer (i-iii):

- i. Are the financial results likely to be as projected by VSCS?

Yes. VSCS's leadership has tracked and responded swiftly to the year's developments. VSCS should break-even in FY2020 with projected results running from a small surplus to a \$500,000 deficit. VSCS has the capacity to handle any result in this range.

- ii. Are the results consistent with VSCS history and with VSCS-identified external challenges?

Yes, for both pre-Covid-19 and Covid-19 impacted results.

- iii. Are there significant factors that might mitigate or exacerbate the projected results?

Yes. The Legislature's actions reimbursing accrued FY2020 costs and funding the summer expenditures are essential if VSCS is not to find itself operationally unready or financially exhausted going into FY2021. Furthermore, in making funds available for improved distance / hybrid learning, the Legislature would be making a unique and strategic investment in the future of Vermont public higher education while sending a much-needed message of support for VSCS and its students.

5. FY2021 Scenarios Assessment

Deliverable i2 reads: "Identify the expected financing gap and the timing of needed funds in the 2020-2021 academic year if the system maintains operations at a level to be specified." The important issue here is operating "at a level to be specified". It has been determined that no campus will close in academic/fiscal year 2021.³⁵ Looking, then, at all campuses operationally,

³⁴ To be clear, this is not a concern about the professional skill sets that reside on the campuses. Implementation should certainly remain in the hands of the front line IT and instructional professionals. It is a strategic resource allocation and project management issue.

³⁵ I support this decision. Rural public colleges and universities are often among an economically challenged region's last and most important anchor institutions. Experience in Maine has shown that the

one fact is clear. Although most of the accommodations made in response to Covid-19 will remain in place for some time, the campuses will of necessity begin the new academic year organized and operating generally as they have in the past. There has been no time since the withdrawal of the Chancellor's spring plan or the Covid-19 onset to think through, let alone implement, the degree of changes that a fully realized strategic response to the various challenges demand. For that reason I agree with those who characterize FY2021 as a bridge year, joining past practice to future state. As we will see, there is no level of operations that will not require supplemental State support as bridge funding to support operations during this bridge year and to prepare the institution for whatever changes will come thereafter.³⁶

Two primary, and primarily external, factors will drive FY2021 results: enrollment, including both new students and the retention of current ones, and Covid-19 restrictions. In addition to State support, the main budgeting variables driving FY2021 results will be the number of new and returning students and associated revenue from residential services (Room and Board). Enrollment numbers will be driven primarily by students and their families determining whether, how and where they will pursue their educational goals. Decisions about Covid-19 restrictions will be made by System or State authorities in response to general health and safety concerns.

At this time, no one knows enough about what actual fall health conditions will be or what choices students will make.³⁷ In the face of this uncertainty, VSCS has developed a number of campus-centered scenarios and associated budgets organized best case to worst. What follows, therefore, is a range of estimated deficits tied to the various scenarios. This is sound strategy. As a colleague has put it, in this situation every problem needs to be solved four different ways. As circumstances develop, as they quickly will, VSCS will then be prepared to make sound decisions and move forward.³⁸

As was the case in reviewing the FY2020 projected results, a number of questions need to be answered in assessing the FY2021 budget scenarios:

relatively small savings accrued by closing one of these institutions would be outweighed by the economic and social costs to the families, businesses, and communities served by these institutions. Nevertheless, this cannot be taken as an endorsement of the status quo. Maintaining operations may require wholesale change in *how* an institution provides these services.

³⁶ I am aware of four task forces concerned with the future of VSCS or one of its member institutions, not including any number of campus-based initiatives to address local issues, recruitment or retention, for example. These are: the NVU Strong Advisory Committee; VTC's Transition Action Taskforce; a System-wide task force; and possibly a Legislature-sponsored committee or commission to look at Vermont higher education generally. Coordination amongst these groups is essential if there is to be progress.

³⁷ Current surveys and other normally reliable enrollment predictors such as year-over-year admissions comparisons on particular dates have to be approached with caution as facts and attitudes are changing rapidly. (The decline in VSCS FAFSA processing referenced in the Treasure's Report may be an important exception.) The most reliable information is what admissions directors know every new morning. Nevertheless, decisions must be made. A simple headline review shows the range of responses as administrators try to bring order to their planning. The California State System, for example, has suspended almost all in-person classes for the fall. Purdue University, on the other hand, has determined it will open in the fall, with appropriate health and safety precautions in place.

³⁸ None of these scenarios reflect the situation if Vermont experienced an extraordinarily severe recession with major cuts to current levels of State support, students economically unable to enroll, and so forth. In that case a different kind of response might be necessary.

- iv. Do the FY2021 budget scenarios reflect the likely circumstances? What factors might improve or worsen the projected results?
- v. What level of additional state-provided funds should be available to maintain operations?
- vi. What is the timing for these additional funds to be made available?

The process here is the one used in reviewing the FY2020 forecast outlined in Section 4. Because each campus developed their scenarios independently, attention must be paid to the differences in how they are presented. Actual enrollment declines could be anywhere within the identified ranges and will almost certainly differ between institutions. I will briefly summarize each institution's scenarios - details are in the Treasurer's Report - and then summarize the whole. All numbers are rounded.

Castleton University offers four scenarios.³⁹

	Enrollment decline from FY2020	Operating deficit	Operating deficit with no in-person instruction or residential services
Best Case	-3%	(\$1.6MM)	(\$12MM)
Middle Case	-8.3%	(\$4.1MM)	(\$13.4MM)
Worse Case	-13%	(\$5.8MM)	(\$14.7MM)
Worst Case	-25%	(\$10MM)	(\$16.6MM)

I agree with the Treasurer's Office that CU's Best Case, while obviously desirable, is too optimistic for planning purposes and I will not include it in the summary.

It should be noted that CU has few regular online programs for undergraduates. Despite their rapid adjustment to distance delivery this spring, this puts them at a significant short-term competitive disadvantage if there is again a suspension of in-person instruction. Hence the investments in distance / hybrid delivery noted in Section 4 are of particular importance here.⁴⁰

³⁹ Plus a "pre-Covid-19" scenario with an operating loss of \$1.3MM, reflecting estimated conditions should Covid-19 not have occurred.

⁴⁰ There are two points about CU's planning to be noted here. First, CU is highly dependent on Room and Board plans for revenue. It appears they have calculated reductions in those plans proportional to any decline in enrollment. Given students' and their families' health and safety concerns, that assumption may need to be revisited. Second, CU has budgeted a possible 25% reduction in tuition in the event of a suspension of in-person instruction. But if CU has to suspend in-person instruction, then presumably other VSCS institutions will too, along with most if not all of its regional competitors. It is then not clear that there would need to be a competitive discounting race of this magnitude. All VSCS institutions should be mindful of this issue. The VSCS Board should move to control discounting rates as a response to enrollment challenges, ensuring that any increases at one institution do not come at a cost to their sister institutions.

Northern Vermont University offers three scenarios.

	Enrollment decline from Post-Covid FY2020	Operating deficit	Includes
Best Case	-14.3%	(\$9.1MM)	No in-person instruction or residential services ½ of Fall semester
Worst Case	-29.9%	(\$14.4MM)	No in-person instruction or residential services ½ of Fall semester
Worst+ Case	-29.9%	(\$16.2MM)	No in-person instruction or residential services the entire fall semester

NVU faces the most immediate enrollment threat. While NVU’s recent creation from the merging of Johnson and Lyndon was itself a reaction to local demographics, its enrollment since consolidation has been impacted as potential students and their families take time to become familiar with a “new” institution.⁴¹ NVU then was faced with the fallout from the System’s spring closure plan as well as the Covid-19 impact. The net effect, as one senior NVU administrator put it, has been “devastating”. One can appreciate why. Few, after all, want to invest themselves, their family members, or their money in an institution that might soon not be there. NVU needs meaningful messages of support, and it needs time.

Vermont Technical College offers two scenarios.⁴²

	Enrollment decline FY2020	Operating deficit	
Best Case	-10%	(\$3.8MM)	With in-person instruction
Worst Case	-25%	(\$8.5MM)	No in-person instruction for the entire Fall semester

While VTC has enjoyed relatively stable enrollment due in part to its focus on programs that are highly responsive to the needs of state employers, it has also felt some of the effect of the spring plan with its proposed closure of Randolph.

The Community College of Vermont offers four scenarios. Before reviewing them, it is important to note that CCV has a quite different business model. It has no permanent faculty but uses part-time instructors who are specialists in their fields. Budgets are built on average class sizes, providing maximum flexibility around program offerings and cost controls. Should a class not “make” its enrollment, it is cancelled with the instructor paid a cancellation fee. A critical budget

⁴¹ NVU is only in its second year and a certain amount of transitional disruption is normal. The consolidation shows promise, resulting so far in more than \$2.3MM in annual savings, primarily through administrative consolidation. It is too soon to judge whether all the goals hoped for in the consolidation will be successful, but it is also too soon to conclude they will not be.

⁴² Plus a pre-Covid-19 scenario that carries an operating surplus of \$285M.

factor, therefore, is class size. CCV's operating deficits therefore increase considerably if average class size must be reduced to accommodate social distancing or other Covid-19-related factors.

	Enrollment decline from FY2020	Average class size	Operating surplus / deficit
Best Case	no change	12.5	\$300M
Middle Case	no change	9.8	(\$2.1MM)
Worse Case	-25%	12.5	(\$3.1MM)
Worst+ Case	-25%	9.8	(\$5MM)

Prior to Covid-19's onset, CCV's enrollment has been impacted by its high tuition rates relative to other nearby community college systems (attributed to state support levels), and to the declining number of high school students. CCV's 15% (headcount) enrollment decline over the past 5 years mirrors the decline in Vermont high school graduate reviewed in Section 3. While enrollments in community colleges have traditionally run counter-cyclical to economic expansions and contractions, Covid-19 calls even this predictor into question.

Summarizing the four institutional presentations:⁴³

	CU	NVU	VTC	CCV	Total
Best Case	(\$4.1MM)	(\$9.1MM)	(\$3.8MM)	(\$2.1MM)	(\$19.1MM)
Worse Case	(\$10.3MM)	(\$14.4MM)	(\$8.5MM)	(\$3.1MM)	(\$36MM)
Worst Case (suspension of in-person instruction and residential services)	(\$16.6MM)	(\$16.2MM)	(\$8.5MM)	(\$5MM)	(\$46.3MM)

(Best Cases for CU and CCV are not recorded here. Their Middle Cases is here considered Best. All worse case enrollment declines are up to 25%; 29.9% for NVU.)

Simplifying considerably, the best-to-worse case deficits of up to \$36MM center on declines to enrollment. The additional \$10.3MM comes from the suspension of in-person instruction and residential services for some or all of the fall semester. Although they are based in part on estimates and a great number of unknowns, they represent the campuses' best estimates, have been reviewed and checked thoroughly by the Treasurer's Office and are consistent with the discussions I have had with VSCS leadership.

I have a number of general points to add before making a recommendation concerning bridge funding.

- The worse case scenarios represent just that: worst cases.

⁴³ See the Treasurer's Office Summary spreadsheets attached as Exhibit 1 for details. There are minor differences in the tables due to small discrepancies in the data and differences in rounding. They are not material to the conclusions.

- These numbers assume flat FY2021 State appropriations. Any decline in appropriations will increase the deficit commensurately.
- Because of time constraints, there has been little attempt by the campuses to model expense reductions, especially under the more severe scenarios. While there are limits to any personnel changes under collective bargaining, there is much that can be done under the other categories or with reorganizations. Properly planned and implemented, these savings would be material.
- Various practical and legal encumbrances limit the amount of reserve funds readily available to \$8-15MM. The Treasurer and I agree that these funds should be held in reserve and not used to close the FY2021 deficits under any but the most dire circumstances.⁴⁴ VSCS will need all the resources it can muster to support the change strategies that emerge from bridge year planning.
- Accepting any one of these scenarios is neither an endorsement of the status quo nor a request that the State write ongoing blank checks. The campuses are not asking for either. They agree the Whitepaper challenges are very real and that those pressures are accelerating.

Based on these factors, a reasonable and responsible Legislative set aside for bridge funding would be \$30MM to address worse-case enrollment scenarios. An additional \$10.3MM would be needed if there is a suspension of in-person instruction and residential services.

Importantly, if the campuses are unable to open for in-person fall instruction, or if they reopen but are again forced to suspend in-person instruction and residential services, the \$10.3MM in Room and Board refunds and other directly associated costs would fall within the guidelines for CRF use if funds were still available. However, caution is required. These funds need to be tied to Covid-19-related events that occur before 30 December 30 2020. If these funds were available but fortunately did not have to be used, one would quickly have to find alternative acceptable use for those funds before the end of this calendar year.

The approximately \$6MM difference between the \$36MM worse-case deficit and the recommended \$30MM set aside would be made up primarily by expense reductions and, only if necessary, judicious use of reserves. Should a 25% enrollment decline occur, it is quite reasonable to expect some correlating reduction in expenses. This reduction cannot be dollar-for-dollar, but \$6MM amounts to about 3.5% of forecasted ‘Worse Likely Scenario’ expenses of \$173MM.⁴⁵

Unless there is an unlikely aligning of very best circumstances, failing to provide sufficient funds risks VSCS’s not being able to serve its students or to be in position for successful operations post-FY2021. On the other hand, having these funds available not only ensures continued operation at an appropriate level but also sends a timely, powerful, and much needed message

⁴⁴ See Treasurer’s Report for a complete accounting of VSCS reserves. 25% enrollment declines count as dire.

⁴⁵ See Exhibit 1.

that State leadership understands and supports the state's educational needs and the critical role VSCS plays in meeting those needs.

Finally, should the State provide bridge funding, I strongly recommend these funds be released to the Chancellor's Office and tied to aligned, measurable VSCS Board of Trustees priorities and guided outcomes for FY2021, giving VSCS the best chance for securing long-term institutional success. There is no time for diffuse, uncoordinated actions and expenditures.

In terms of when bridge funds should be available, VSCS requests that either the entire amount be available October 1 or whenever the budget for the last three-quarters of the year is complete or, alternatively, that some portion be available by October 1 with additional amounts determined using the FY2021 budget adjustment act in January 2021.⁴⁶ This request is reasonable. However, to repeat, I recommend these funds be released to the Chancellor's Office.

What happens after FY2021 with respect to any bridge funding depends, of course, on VSCS's future direction. It is quite likely, however, that whatever next steps are, there will be a need to increase base funding for the reasons outlined here.

To answer questions iv-vi:

- iv. Do the FY2021 budget scenarios reflect the likely circumstances? What factors might improve or worsen the projected results?

Yes, the budget scenarios reflect the likely circumstances, although there is not yet enough information to know with any certainty where in their ranges actual enrollments will be. The key factors driving the deficits are enrollment and Covid-19-related restrictions. Results may be improved by successful enrollment strategies, by tangible State support, and by collaborative, aligned System-wide planning and actions. Where necessary, there should be aggressive but carefully considered and closely monitored cost controls. The largest single decision affecting outcomes will be the decision to re-open or restrict in-person instruction and residential services.

- v. What level of additional state-provided funds should be available to maintain operations?

\$30MM to address worst-case enrollment scenarios and another \$10.3MM for the suspension of in-person instruction and the closing of residential services. As noted, funding for the \$10.3MM may be available from Federal sources.

- vi. What is the timing for these additional funds being available?

The VSCS has requested that bridge funds be available October 1 or when the budget for the last three-quarters of the year is complete. As an alternative, they request some portion be available by October 1 with additional amounts determined using the FY2021 budget adjustment act in January 2021. I agree, subject to the proviso that these funds be released to the Chancellor's Office to be used according to Board priorities and directions.

⁴⁶ Personal communication with the Chancellor's Office.

A final observation: VSCS provides enormous value to its students and to the state. It has managed generally to live within its means, but it is not organized for long-term success. It has neither the time nor resources to meet its challenges at the individual institutional level, yet it still operates mainly as a confederation, not yet as a system. This artificially restricts the Board and Chancellor's ability to undertake strategic planning and to allocate resources as they are needed to implement any such plan. It also restricts the degree and pace of change.

To be successful, VSCS and its institutions must be highly collaborative, functionally integrated, and laser-focused on a single set of Trustee priorities directing how VSCS will best meet its mission. For these reasons, it would not, I think, be a misnomer to label FY2021 the Year of the Board. The Vermont State Colleges System is fortunate to have quality, committed faculty and staff. Working with the Trustees as a true system, there would be every reason to believe in their collective success for the benefit of Vermont.

6. Exhibit 1: Treasurer's Report Scenarios Summaries

(begins next page)

Summary of Scenarios and Net Revenue
FY 2021
Vermont State Colleges
(Amounts rounded to \$1,000)

Best/Middle Likely Scenario Assuming On Campus Access Fall 2020

	FY2021	NVU	VTC	CCV*	Castleton**
REVENUES					
Tuition and Fees	107,314	26,059	23,603	22,615	35,038
State Appropriation	30,985	10,920	7,142	6,119	6,804
Room and Board	20,188	6,119	3,269	0	10,800
Sales and Services	2,258	681	671	6	900
Gifts	830	250	130	50	400
Other Revenue	1,173	497	170	86	420
TOTAL REVENUES	162,747	44,526	34,984	28,876	54,362
EXPENSES					
Employee Salaries & Benefits	(111,017)	(32,765)	(24,336)	(23,917)	(30,000)
Services, Supplies and Travel	(30,348)	(8,011)	(7,469)	(4,373)	(10,495)
Scholarships and Fellowships	(17,919)	(5,469)	(2,280)	(170)	(10,000)
Utilities	(6,414)	(2,158)	(1,687)	(325)	(2,244)
Other Expenses	(191)			(191)	0
Debt Service	(5,607)	(1,756)	(722)	(1,034)	(2,095)
Chancellor's Office	(7,991)	(2,951)	(1,630)	(1,600)	(1,810)
COVID Efficiencies			394		
Other Transfers	(2,120)	(549)	(288)	626	(1,909)
TOTAL EXPENSES	(181,213)	(53,659)	(38,018)	(30,984)	(58,553)
CAPITAL INVESTMENT & SYSTEM DEBT					
Payment to C/O for System Debt	(392)		(392)		
Investment in Capital	(400)		(400)		
NET REVENUE	(19,258)	(9,133)	(3,826)	(2,108)	(4,191)

* Data for CCV University utilizes "middle" scenario listed as best. It is essentially an Q3 rollforward to FY21.

** Data for Castleton University utilizes a middle scenario as current enrollment deposits and pre-registration is closer to this projection.

Summary of Scenarios and Net Revenue

FY 2021

Vermont State Colleges

(Amounts rounded to \$1,000)

	Worse Likely Scenario*				
	FY2021	NVU	VTC	CCV	Castleton**
REVENUES					
Tuition and Fees	86,580	21,316	19,669	16,963	28,632
State Appropriation	30,985	10,920	7,142	6,119	6,804
Room and Board	16,105	5,005	2,180	0	8,920
Sales and Services	1,567	314	447	6	800
Gifts	830	250	130	50	400
Other Revenue	1,173	497	170	86	420
TOTAL REVENUES	137,239	38,302	29,737	23,224	45,976
EXPENSES					
Employee Salaries & Benefits	(106,402)	(32,765)	(24,336)	(19,301)	(30,000)
Services, Supplies and Travel	(30,348)	(8,011)	(7,469)	(4,373)	(10,495)
Scholarships and Fellowships	(14,623)	(4,473)	(2,280)	(170)	(7,700)
Utilities	(6,414)	(2,158)	(1,687)	(325)	(2,244)
Other Expenses	(191)		0	(191)	0
Debt Service	(5,607)	(1,756)	(722)	(1,034)	(2,095)
Chancellor's Office	(7,991)	(2,951)	(1,630)	(1,600)	(1,810)
COVID Efficiencies	918		918		
Other Transfers	(2,120)	(549)	(288)	626	(1,909)
TOTAL EXPENSES	(172,777)	(52,663)	(37,494)	(26,368)	(56,253)
CAPITAL INVESTMENT & SYSTEM DEBT					
Payment to C/O for System Debt	(392)		(392)		
Investment in Capital	(400)		(400)		
NET REVENUE	(36,331)	(14,361)	(8,549)	(3,144)	(10,277)

*Decline in enrollment calculated at 25% except NVU which is projected to be 29.9%.

** Castleton University also presented an additional scenario with 13% enrollment decline with a resulting deficit of \$6.0 million; scenario above is at 25% decline.

Summary of Scenarios and Net Revenue
FY 2021
Vermont State Colleges
(Amounts rounded to \$1,000)

	Worst Likely Scenario*				
	FY2021	NVU	VTC	CCV**	Castleton***
REVENUES					
Tuition and Fees	80,308	21,316	19,669	16,963	22,360
State Appropriation	30,985	10,920	7,142	6,119	6,804
Room and Board	8,908	3,128	2,180	0	3,600
Sales and Services	1,567	314	447	6	800
Gifts	830	250	130	50	400
Other Revenue	1,173	497	170	86	420
TOTAL REVENUES	123,770	36,425	29,737	23,224	34,384
EXPENSES					
Employee Salaries & Benefits	(108,217)	(32,765)	(24,336)	(21,116)	(30,000)
Services, Supplies and Travel	(29,153)	(8,011)	(7,469)	(4,373)	(9,300)
Scholarships and Fellowships	(10,773)	(4,473)	(2,280)	(170)	(3,850)
Utilities	(6,170)	(2,158)	(1,687)	(325)	(2,000)
Other Expenses	(191)	0	0	(191)	0
Debt Service	(5,607)	(1,756)	(722)	(1,034)	(2,095)
Chancellor's Office	(7,991)	(2,951)	(1,630)	(1,600)	(1,810)
COVID Efficiencies	918		918		
Other Transfers	(2,120)	(549)	(288)	626	(1,909)
TOTAL EXPENSES	(169,303)	(52,663)	(37,494)	(28,183)	(50,964)
CAPITAL INVESTMENT & SYSTEM DEBT					
Payment to C/O for System Debt	(392)		(392)		
Investment in Capital	(400)		(400)		
NET REVENUE	(46,325)	(16,238)	(8,549)	(4,959)	(16,580)

* The above scenarios assumes 25% decline and closure of campuses for Fall semester for Castleton and Vermont Technical College. NVU decline is projected to be 29.9% with closure of campus for Fall semester.

**CCV assumes -25% enrollment and a reduction in class size.

***Castleton University also presented an additional scenario with 13% enrollment decline with closure of campus for Fall semester, with a resulting deficit of \$14.7 million; scenario above is at 25% decline

7. Documents Reviewed; Individuals Consulted

Documents Reviewed

- VSCS Financials: Consolidated Quarterly Financials 4Q 2018 – 3Q 2020; 2019 Audited Financials; Slide presentation “Review with Standard & Poor Global-Ratings”, 18 May 2020; Reserves Reports for 2019, 2020; 2012-2016 Financial Ratios Report, prepared by O’Connor & Drew, P.C.; Median Debt by Completion Status, 2012-2016 report; “Long Term Strategic Plan for the Most Effective Use of Capital Funds”, 2017; Deferred Maintenance Project Report, January 2020.
- VSCS organization and policies: Chancellor’s Office Organizational Chart, May 2020; System Policy 403 “System Annual Operating Budget” and the VSCS Memorandum “Rationale for Proposed Reallocation of State Appropriation under Policy 403”, 24 September 2018.
- VSC basic data: Chancellor’s Office and each institutional website; Sourcebook of Institutional Data, (“Sourcebook”), February 2020.
- VSCS change documents: “Serving Vermont’s Students by Securing the Future of the Vermont State Colleges System” (the Whitepaper), Office of the Chancellor, v1.2, 26 August 2019; the Chancellor’s Office 20 April 20 2020 Board Slide Presentation on Transformative Change.
- VSCS FY2021 data: Consolidated Admissions Report, 5/1/2020; CU, CCV, NVU, VTC FY2021 data, including initial budget estimates, enrollment projections and trends, Best/Worst scenarios with narratives, submitted between May 1 and June 2, 2020.
- Memoranda from VSC CFO Stephen Wisloski to The Honorable Peter Fagin, House Committee on Appropriations and The Honorable Dylan Giambatista, House Committee on Education concerning VSC Systems requests for assistance from the State of Vermont’s Coronavirus Relief Fund, dated May 5, 11, and 22, 2020.
- Various New England Commission for Higher Education (NECHE, formerly NEASC) communications concerning recent accreditation reviews: VTC 5 year interim report summary 2/10/16; CCV 5/2/17 5 year interim report summary; CU 5 year interim report summary 1/12/17; NVU Unification Progress Report 10/28/19.
- Treasurer’s Office Report “The Vermont State Colleges System Financial Review”.

Individuals Consulted

- Office of the Treasurer
Elizabeth Pearce, Vermont State Treasurer
William Kriewald, Chief Financial Officer, Office of the State Treasurer
- Joint Fiscal Office
Stephen Klein, Chief Fiscal Officer
Catherine Benham, Associate Fiscal Officer, Chief Operating Officer

Dr. Joyce Manchester, Senior Economist

- Vermont State College System
 - Chancellor's Office
 - Dr. J. Churchill Hindes, Chair, Board of Trustees
 - Sophie Zdatny, Esq., Interim Chancellor
 - Stephen Wisloski, Chief Financial Officer
 - Dr. Yasmine Ziesler, Chief Academic Officer
 - Castleton University
 - Dr. Karen Soforo, President
 - Dr. Jonathan Spiro, Interim President
 - Laura Jakubowski, Chief Budget and Finance Officer
 - Maurice Ouimet, Dean of Enrollment
 - Community College of Vermont
 - Joyce Judy, President
 - Andrew Pallito, Dean of Admissions
 - Northern Vermont University
 - Dr. Elaine Collins, President
 - Sharron Scott, Dean of Admissions
 - Vermont Technical College
 - Patricia Moulton, President
 - Littleton Tyler, Dean of Admissions
 - Jessica Van Deren, Assistant Dean of Admissions

About the author: James Page is the retired Chancellor of the University of Maine System.

Item 12: Proposed BOT Meeting Dates 2020-2021

Board and Committee Meetings for 2020-2021

Date	Location	BOT	Audit	F&F	EPSL	LRPC
Wednesday PM, June 17, 2020	Zoom			√		
Thursday, June 18, 2020	Zoom	√				
Thursday, July 23, 2020	Zoom			√	√	√
Wednesday, August 12, 2020	Zoom	√				
Monday, August 24, 2020	Zoom			√		
Tuesday, September 22, 2020	Zoom	√				
Wednesday, September 23, 2020	Zoom	√				
Monday, October 26, 2020	TBD		√	√	√	√
Wednesday, November 4, 2020	Zoom	√				
Monday, December 7, 2020	TBD	√			√	
Monday, February 1, 2021	TBD		√	√	√	√
Saturday, March 27, 2021	TBD	√		√		
Monday, April 19, 2021	TBD		√	√		
Monday May 31, 2021	TBD			√	√	√
Wedsday PM June 16, 2021	TBD	√				
Thursday, June 18, 2021	TBD	√				
Monday, August 23, 2021	TBD			√		
Monday, September 20, 2021	TBD	√				
Tuesday, September 21, 2021	TBD	√				
Monday, October 25, 2021	TBD		√	√	√	√
Monday, December 6, 2021	TBD	√			√	

Item 13: College Restart Plans

ONLINE LEARNING AT CCV

CCV knows online education. We've been providing a high-quality online learning experience to Vermonters for more than 20 years, with a focus on small class sizes, engagement with faculty and peers, and personalized support from advisors.

In fall 2020, choose from more than 700 courses in 5 different formats.

- Our **standard Online classes** take place 100% online, with no required in-person or virtual meetings.
- **Hybrid classes** combine online learning with limited in-person meetings. In fall 2020, this includes classes like Anatomy & Physiology, Ceramics, and Child Development.
- **Synchronous classes** are online classes that include regularly scheduled Zoom sessions, where you'll actively engage with peers and faculty in activities and discussions. In fall 2020, classes like Effective Speaking and Intro to Sign Language are offered synchronously.
- For greater flexibility, **Flex classes** are self-paced online classes with multiple start dates, meaning you can work through the course on a schedule that fits your needs and goals.
- For the same credits in less time, **Accelerated classes** provide the same content as standard courses, but in a condensed time frame. Accelerated classes take place online and can range in length up to seven weeks.

Visit ccv.edu/schedule
to explore our fall 2020 offerings.

CCV is committed to non-discrimination in its learning and working environments for all persons. All educational and employment opportunities at CCV are offered without regard to race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, veteran status, or any other category protected by law. CCV is an equal opportunity employer. Auxiliary aids and services are available upon request to individuals with disabilities.

COMMUNITY
CCV
COLLEGE
OF VERMONT

Joyce,

Thanks for the call today. I have discussed your questions about CCV and the appropriate testing protocol with the Department of Health.

We all agree that CCV is in a unique position. Given the school's plan to eliminate most in person learning except for about 20 classes (compared to about 700 online classes), and the plan to only have those 20 classes meet for labs and similar experiences on an irregular basis, the Agency of Commerce feels that it is appropriate that CCV be exempt from the universal testing requirements within the mandatory campus learning guidance issued recently. We made this determination based on the following facts:

- Nearly all CCV students are Vermonters
- The total number of in person classes will be restricted to about 20
- The total number of students impacted by in person classes will be about 250
- These 250 students will be spread out between all 6 campus locations and at no time will multiple classes be in the same building
- All students and faculty will undergo a rigorous health screening process before attending in-person learning in line with the mandatory campus learning guidance
- Classroom density will be reduced, and 6 foot social distancing strictly enforced
- In accordance with the mandatory campus learning guidance, all students and faculty will wear cloth face coverings

Good luck.

Ted

+++++

Ted Brady
Deputy Secretary
Vermont Agency of Commerce and Community Development
(802) 622-4200
On the Web at accd.vermont.gov
Check out the new Thinkvermont.com



Vermont Technical College

RESTART PLAN

Last Updated: August 10, 2020

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Vermont Technical College Plan for a Successful Return to Campus

The faculty and staff at Vermont Technical College has worked diligently to determine the safest possible plan to open the College during these trying times. This plan has been developed with the awareness that the novel virus COVID-19 is an evolving public health emergency and that plans may need to adapt and change in order to ensure the Vermont Tech Community remains healthy and safe. The College is monitoring this ever changing situation closely and has developed this restart plan with the guidance from Governor Scott, Dr. Levine and other medical and public health experts.

Vermont Technical College developed this restart plan with several goals in mind. These goals included: 1) providing a safe and healthy return to campus for all of our students and employees; 2) developing a plan that would ensure the continued health and safety of the college and communities around us. In this spirit, this plan identifies the requirements set forth by the College that are in addition to the requirements set by the State of Vermont. All employees and students must comply with the protocols as written. Individuals that choose not to comply with these regulations will face disciplinary action.

After examining all options available, Vermont Technical College has elected to adopt a “Low-Residency” model for the Fall 2020 Semester. This “Low-Residency” model, which incorporates a hybrid approach to delivery, is one method of controlling the number of students coming onto campus at any one time. All didactic classes will be held in an online format only. For most programs that require laboratory or clinical time, each program has been granted up to three lab weeks where students will come to campus in controlled groups to complete labs and meet program requirements and objectives. During lab intensive weeks some students have the option of living on campus for that week only and then must vacate campus. Several programs have been granted an exception to have more than three weeks of labs. These programs that deal with living creatures (people or animals) are the primary reason for these exceptions. Additionally, the College will have certain populations in residency throughout the semester. The College is also prepared to extend this model for the Spring 2021 semester if that becomes necessary due to the pandemic.

The following was created as a means of communicating and highlighting our plan to minimize the likelihood of an outbreak of COVID-19 on campus. The guidelines also discuss the methods in place for decreasing the seriousness of an outbreak if one does occur.

1. **DECREASE RISK OF INDIVIDUALS INFECTED WITH COVID-19 FROM ENTERING THE CAMPUS THROUGH EFFECTIVE PUBLIC HEALTH PREVENTION**

a. Health Safety Contract:

Vermont Technical College has developed and distributed a student specific health contract that outlines expectations for behavior and requirements while on campus. The contract discusses requirement for testing and quarantine, the requirement for wearing a mask at all times, visitor limitations, travel restrictions, daily temperature screening as well as responsibility to the VTC community. This student health contract also discusses the consequences for not complying with VTC requirements up to and including dismissal from the College without a refund of tuition or room and fees. See Appendix A for Health Contract.

In addition to the Student Health Contract the Knights Pledge was developed. The Knights Pledge is a health pledge that the entire VTC community will be required to read and sign. The pledge discusses an individual's responsibility to themselves, the VTC community and the local community. See Appendix B for Knight's Pledge.

b. Quarantine:

Vermont Tech is has taken the requirement of quarantine seriously and has strict guidelines for students to follow before coming to campus. All students coming to campus from hot spot counties (according to the most recent version of the hot spot county map provided by the Vermont State Health Department) will be required to quarantine. This quarantine will occur either in their own home or on campus depending on location of origin and means of transportation.

Out of State Students/Students traveling by mass transit: Students that are coming from Out of state and/or traveling by mass transit will be required to move into the Randolph Campus Dormitories on August 12, 2020. These students will then quarantine on campus before other students arrives on campus. During quarantine, students will not be allowed to leave campus. They will be required to maintain social distancing of six (6) feet or more between other individuals at all times, wear masks and implement recommended hand hygiene practices. All meals will be delivered to residence halls in a take-out manner to limit contact with others. RA's will then distribute to the food to students.

In State Students/Non-Quarantine Counties: Students that are moving into the dormitories from either in-state or non-quarantine counties will be required to provide proof of a negative COVID-19 test prior to moving onto campus. This cohort of students will arrive on August 23, 2020 and will be housed on a different floor than all out of state/mass transit students.

c. Health Screenings

All students that come to campus at any time during the semester will be required to perform daily self-attestation health screenings including temperature checks, symptom checks and potential exposure checks. This self-attestation must be logged into the CastleBranch COVID-19 Compliance tool. All screening must occur prior to arrival on campus. This system allows for a continuous tracking of temperatures throughout the semester. System administrators are assigned to each department as well as general users. If an individual is “non-compliant” with the screening than the CastleBranch COVID-19 Compliance tool will send the administrator and email indicating that attention is due. System administrators can then follow up with the individual. Vermont Tech defines compliance as a temperature being recorded into the Compliance tool every day that the individual is coming to campus.

Each of the campuses across the state including all distance nursing sites have faculty and staff that has been assigned as Health Officers. The Health Officer is responsible for ensuring that the students are completing the screening and are safe to be on Campus. For a current list of Health Officers at each campus please contact our Coordinator of Health Services

d. Register for CastleBranch COVID-19 Compliance:

Vermont Technical College has elected to utilize the vendor CastleBranch in lieu of SaraAlert. CastleBranch allows for a continual tracking of students throughout the semester rather than a short two (2) week period. All faculty, staff and students will be required to utilize CastleBranch for self-attestation screening each day. For students that are coming to Campus for lab intensive weeks they will be required to screen for one week prior to arriving on Campus as well as the entire week they are coming to Campus. If students return to campus several times for labs and/or clinical that student must complete the two week screening each time they attend. Some programs, like nursing, are requiring their students to utilize the COVID-19 Compliance log daily for the duration of the semester.

e. Curtail Visitors:

Vermont Tech has elected to allow only one (1) designated guest to assist full semester residential students on move-in day. This visitor must comply with all quarantine requirements prior to coming on campus.

Students that are coming to live on campus for one week intensive lab classes will not be permitted to bring any guests with them on move-in day (aside from transportation alone). This will reduce the number of people coming onto campus.

Additionally, the Student Health Contract which students are agreeing to and signing, states they will not allow any guest onto campus or into the residence halls. This visitor restriction applies to students residing in another residence hall as well. The only people allowed inside a residence hall will be students that reside there and staff that provide services to that building.

SHAPE Gym has been closed to the general public for the fall semester to decrease traffic on campus.

Athletics has agreed that no spectators are allowed on campus for practices, games or meets.

f. Testing:

Vermont Tech has made the decision that in order to best protect our community at large, all students that are coming to campus (both in-state and out-of-state students) at any time will be required to have a test for COVID-19 within 2-7 days prior to coming to campus the first time. Students must agree to remain in quarantine from the time of the test until coming to campus.

Students coming from a high-risk county or area defined by yellow or red on the ACCD map (<https://accd.vermont.gov/covid-19/restart/cross-state-travel>) will be required to quarantine for seven (7) days prior to getting tested.

Results must be sent to Coordinator of Health Services the Friday before move in or classes starting. If proof of testing and results are not received students will not be permitted to move in or begin class.

Any student that is coming for one-week lab intensive weeks from high-risk areas (yellow and red counties) will have a COVID-19 test performed prior to each time they need to return to campus for labs. Any out of pocket expenses after insurance is applied will be reimbursed by the College.

All students coming to any Vermont Tech Campus must be tested seven (7) days after they first arrive.

Vermont Tech is highly encouraging students to receive PCR testing over Antigen testing. Research indicates that PCR testing provides a higher accuracy than antigen testing (Federal Drug Administration, 2020).

Vermont Tech has paired with Gifford Medical Center to provide testing of our full

semester residency students upon arrival and after seven (7) days on campus. Additionally students have been given the link (<https://humanresources.vermont.gov/popups>) and encouraged to make an appointment at a pop-up testing site or any other appropriate testing site.

Students in programs that will attend clinical and preceptorships at outside agencies are expected to comply with the testing requirements of those agencies.

Any student that is able to complete all course work at home and does not have to come to campus at any point in the semester is exempt from testing.

g. Travel:

Travel outside of the state of Vermont to red or yellow counties for college related business is prohibited for all faculty, staff and students from 8/22/20-11/20/20. Faculty, staff and students are strongly encouraged to not take personal travel to any high risk areas during this same time period.

If travel is required out of the State than a request must be placed with an approval by the Coordinator of Health Services. The individual must then follow all guidance/restrictions as given.

Please see plan outlined in 2h: Change Academic Schedule for our plan to mitigate students traveling during breaks.

h. Change Academic Schedule:

Vermont Tech has modified the academic calendar to decrease the possibility of residential students leaving campus to return home and then returning to campus.

Vermont Tech has eliminated the week long breaks in the academic calendar from the start of the semester until the start of Thanksgiving break. Most students will not return to campus after Thanksgiving break. Most classes and exams will be offered exclusively online after Thanksgiving break. Programs with clinical and preceptor (health occupations) experiences may continue those experiences through December break. Any student that is living on campus and plans to return for clinical experiences after Thanksgiving break will not be permitted to leave for the Thanksgiving Break. Any student that leaves campus for Thanksgiving break will not be permitted to return to campus until spring semester.

Vermont Tech has not made decisions about spring semester at this time in order to allow time for events to unfold and new information to assist with this decision.

i. Reduce on-campus events

Vermont Tech has made the difficult decision to cancel some in-person events on Campus this semester. Events that do occur on campus will follow all social distancing and building restriction guidelines from the State.

2020 Commencement has been postponed to a later date, arrangements are still under discussion. 2021 Commencement will be decided upon as events unfold.

Homecoming weekend has been cancelled.

Any opening weekend event that requires an out-of-state presenter will occur remotely.

2. DECREASE TRANSMISSION OF COVID-19 AMONG STAFF AND STUDENTS ONCE ON CAMPUS THROUGH EFFECTIVE PUBLIC HEALTH MEASURES.

a. Face Coverings:

All faculty, staff, students and visitors (including vendors/deliveries) will be required to wear facial coverings when in the presence of others. Masks must be worn covering the nose and mouth.

Masks must be worn during all lab and clinical time by all parties.

A culture of mutual reminding has been adopted to ensure that our community is respectfully encouraging the use of masks.

Vermont Tech is providing all faculty, staff and students with cloth masks at the start of the academic year.

Face coverings are not required in private offices or in private dorm rooms when alone.

In addition to the required facial coverings, Vermont Tech has installed Plexiglas “sneeze guards” in areas where student interaction is inevitable and physical distancing may not be feasible. Areas such as front desks, and student services are where the Plexiglas has been installed.

b. Health Screenings:

All health screening will occur through the CastleBranch COVID-19 Compliance tool system. Faculty, Staff and Students are required to log in daily to enter their temperature and answer nine (9) screening questions. This must be completed every week day prior to coming to campus or interacting with anybody in the College community. Employees are strongly encouraged to also record temperatures on weekends and days off in order to maintain a true 14 day rolling log.

Vermont Tech CastleBranch COVID-19 Compliance tool system administrators will be notified by the system if an individual is not compliant with this requirement.

c. Contact Tracing Journal:

The entire Vermont Tech community has been encouraged to maintain a contact tracing journal of all close contacts.

Reduced campus population combined with all precautionary requirements should facilitate this endeavor.

The practice of maintaining this journal has been encouraged in the student health contract, the COVID-19 Training modules for faculty, staff and students.

d. Hand Hygiene:

Vermont Tech understands that diligent hygiene practices, including hand hygiene, are a key resource in mitigating the spread of COVID-19. With this in mind, our facilities team, has worked hard to ensure that CDC approved hand sanitizer is available in all classrooms, hallways, offices and restrooms. All restrooms are stocked with soap for easy handwashing.

Additionally, the college has taken steps to place signs throughout the campuses reminding everyone to wash their hands frequently and educating on the proper method to use for effective handwashing.

e. Cleaning and Disinfecting:

Vermont Tech has put significant thought and effort into ensuring that the plan for cleaning and disinfecting will be more than adequate to ensure community safety.

All Campuses were provided with a deep clean after students began remote learning in March 2020. This included offices, classroom and lab space.

High use areas and touch points (bathrooms, common areas, stairwells, doors and doorknobs/bars) will be cleaned by facilities three times daily, seven days a week.

Classrooms and Lab Space: Once classroom and lab space is being utilized the space will be cleaned before and after all use by the faculty/staff running the lab. In addition, all students are responsible for cleaning their personal table space/work area after conclusion of the learning experience. Cleaning will be completed with the use of supplied, approved, disinfectants.

Dormitories: In addition to three times daily service by the facilities team, students will be responsible for cleaning their own personal space after each use. Disinfectant cleaner will be supplied in kitchenette areas on Williston campus and bathrooms for students to use after using the area. All kitchen areas on Randolph campus will be closed.

Work Vehicles: All vehicles will be cleaned before and after each use by the driver of the vehicle. Limit vehicle occupants to no more than three (3).

Ventilation and Air Flow: All HVAC systems have been serviced to ensure optimal ventilation. HVAC systems are to be adjusted to also increase fresh-air intake as systems and weather permits. Air filter have been upgraded where systems allow. In addition, in compliance with State of Vermont requirements, when able given Vermont weather and supervision of equipment and sensitive documents and information, windows and doors can be opened to further promote air flow through buildings.

Vermont Tech continues to investigate additional air purification systems.

f. Physical Distancing:

While on any of the Vermont Tech Campuses all faculty, staff, students and visitors must maintain proper physical distancing of six (6) feet or more. While there is a certain element of self-responsibility to ensure this distancing, Vermont Tech has taken steps to facilitate this requirement. The following steps have been implemented:

- Every student will reside in single rooms during first semester
- Kitchens and Lounges will be closed in all residence halls
- No guests will be allowed in the residence halls
- All classrooms and Labs have documented maximum occupancy limits that will be followed at all times.
- Common areas such as break rooms will be closed for employees
- Furniture has been removed or rearranged to decrease the possibility of groups congregating in one area.
- Signage has been placed throughout campus reminding all individuals of the required distancing while on campus.

g. Dining Halls:

The dining hall on Randolph Campus will remain open with reduced hours and protocols in place to ensure student and staff safety. The dining hall will serve brunch and dinner seven days a week. Students will be able to swipe their card using a contactless system. All students will be required to wear masks while in the dining hall, except for while they are eating.

During non-lab intensive weeks, all full semester residential students will be permitted to either do a takeout option or dine-in. All students will be required to choose a seat in the dining hall at the beginning of the semester and this will then be their assigned seat for the semester. All seating will maintain proper physical distancing. Students may not elect to change seats once the seat is assigned. Assigned seating will assist with Vermont Techs ability to provide contact tracing within the dining hall if needed.

During lab-intensive weeks the population on campus will be higher. In order to ensure the safety of all students, dine-in will not be an option. Students must do takeout for all meals. Physical distancing and facial coverings will still be required while in the dining hall.

Any individual choosing to do takeout will be provided with single use food container and utensils. Students may elect to eat in their residence rooms or in common areas around campus, including outside.

Additional, screening prior to entering the dining hall will be managed by Sodexo per their required guidelines.

h. Classrooms:

All classrooms and labs have been assigned COVID-19 max room occupancy levels. This ensures that there is adequate space in each classroom to ensure proper physical distancing.

Classrooms and labs will be cleaned before and after use by the faculty/staff member. Additionally, students will be responsible for cleaning their table space (with supplies provided by the College) before and after each learning experience.

All faculty/staff and students must be wearing facial coverings during all lab or clinical experiences.

In situations where students may be working at a desk area, assigned seating will be implemented. In cases where students may have to work with another individual, lab partners will be assigned for the semester.

i. Residence Hall Density:

All students that come to live on campus, whether for the entire semester or for lab intensive one week periods will be granted single rooms. Common areas will be closed in dormitories.

By shifting to a “low-residency” model, Vermont Tech is able to greatly decrease the number of students living on campus at any one time. The “low-residency” model will utilize fewer residence halls enabling custodial staff to undertake the additional cleaning.

j. Athletics:

Vermont Tech has made the decision to cancel Basketball competitions for the fall semester. Students will still be permitted to practice and condition in anticipation for the spring semester.

At this time, the Cross-Country team will be permitted to maintain their season. Several restrictions have been implemented to ensure safety of all participants.

- Athletes will be required to run separately during practices. No congregation during running.
- Any competition will be organized by school so that athletes are not running in close proximity to an individual from another team.
- No spectators will be allowed on campus

Soccer, at this time, will be permitted to practice with the potential for games in the coming weeks. The following requirements will have to be met in order for games to occur:

- The opposing team will be required to test for COVID-19 prior to arrival.
- Students will not be permitted to shake hands with team members from opposing teams.
- No spectators will be allowed on campus.

The plan for athletics is evolving at this time and plans will continue to develop over the coming weeks. This includes plans for Intramural Sports.

k. Performing Arts:

Vermont Tech will not be hosting any performing arts or other in-person entertainment during the semester. Any student activities will be done in accordance with required social distancing and occupancy requirements.

l. Protect at risk faculty, staff and students:

Vermont Tech is taking every precaution to protect the vulnerable members of our community. Any individual that has a pre-existing condition that may place them at higher risk of contracting COVID-19 or developing severe illness in the event on contracting the virus will be encouraged to maintain remote access to their classes.

All students sign a liability waiver as included in the Student Health Contract for on campus participation.

m. COVID-19 Trainings for Employees and Students:

All employees were required to complete the training issued by VOSHA prior to their return on campus. The training that was issued can be found at:

<https://labor.vermont.gov/document/protecting-safety-and-health-workers-vosha>

As a way of ensuring the Vermont Tech Community is all receiving the same information regarding requirements, expectations and procedures during the fall semester, an online training module is being developed for all community members to refer too.

3. QUICKLY IDENTIFY INDIVIDUALS WITH COVID-19 AND PUT CONTAINMENT PROCEDURES IN PLACE TO MINIMIZE THE IMPACT ON STUDENTS, STAFF AND EDUCATION

a. Adequate Health services:

Vermont Tech has partnered with Gifford Medical Center to ensure that adequate testing is available for Randolph Campus of our students. Williston students will also be tested via a testing contract. Nursing students at remote sites must obtain a test prior to the start of classes. The costs of all COVID-19 testing will be reimbursed by the college.

Additionally, our Coordinator of Health Services has ensured that the college has an adequate amount of PPE available to faculty, staff and students. Each employee and student that arrives on campus will be issued a health bag that contains a VTC face mask, hand sanitizer and a thermometer. The college has also ordered face masks, face shields, goggles and gowns.

Faculty, staff and students will be supplied with face coverings. Faculty and students that are required to use N95's (dental students and faculty) will be supplied with this PPE provided by the College as well as appropriate fit testing.

b. Isolation Procedures:

In the event that a student either needs to quarantine or tests positive for COVID-19, VTC has several plans in place.

In the event that illness were to occur, the student would be required to inform the Coordinator of Health Services immediately. The Coordinator would then provide instructions to the student and to any employee that this may effect.

Per the Student Health Contract all residential students must have a plan with family for leaving campus immediately if they were to test positive. Students will be required to leave campus immediately without coming into contact with any other community member.

If a student is unable to vacate campus for any reason than that student will be quarantined away from other students. A dorm has been designated to be used specifically for isolation. Each student would have their own bathroom for isolation. The student would be delivered food by food services in a single-use container each day. Custodial services would enter the building daily to provide cleaning services to the area. Custodial services employees would be required to wear full PPE including N95, gown, gloves and goggles. Additionally, the student would be in frequent communication with the Coordinator of Health Services.

c. Campus Contingency Plans:

Vermont Tech is prepared to move completely online if needed due to an outbreak on campus. The planned opening with a low number of residential students, lectures entirely online and labs occurring intermittently through the semester, an entirely remote model can be implemented fairly quickly. A completely remote delivery option is a last resort given the applied, hands-on nature of a Vermont Tech education.

d. Contact Tracing:

In the event of a positive case, Vermont Tech is prepared to work closely with the Vermont Department of Health to assist them in conducting a contact tracing.

Appendix A

**Vermont Technical College
Student Health Contract
2020-2021 Academic Year**

Students at Vermont Technical College are expected to foster a culture of safety, awareness, accountability and responsibility to one another, faculty, staff and visitors. This conduct is essential as the Vermont Tech community implements best practices surrounding COVID-19.

I understand and agree to uphold my responsibility as a student to support the health, safety, and well-being of the Vermont Tech community during the COVID-19 pandemic. To demonstrate this commitment, I agree to:

Fully participate in:

- All state of Vermont COVID-19 restrictions
- **Full Semester Residential AND In-Person Commuter Students (including ALL Health Professions, Vet Tech, Agricultural and Professional Pilot Program Students):** Temperature checks and all screening questions will be completed and logged into Castlebranch every day for the duration of the semester.
- **Temporary Residential/Commuting Students** (students coming to labs on specific weeks): Temperature checks and all screening questions will be completed and logged into Castlebranch for one week prior to arrival on campus and will continue each day that I am on campus.
- **Testing Requirements:** All commuter and residential students that are coming to campus (both in-state and out-of-state students) at any time will be required to have a test for COVID-19 within 2-7 days prior to coming to campus. I agree to remain in quarantine from the time of the test (or an additional 7 days prior to the test if coming from a high risk county) until coming to campus. Results must be sent to Coordinator of Health Services at rsivret@vtc.edu the Friday before move in or classes starting. If proof of testing and results are not received students will not be permitted to move in or begin class. If I am a temporary Residential/Commuter Student there most likely will be further testing requirements beyond this. (Our strong recommendation is to obtain a PCR test if possible over an Antigen test)
- All quarantine and testing requirements and procedures required by the College and State of Vermont Department of Health prior to returning to Campus.
- If traveling from a high-risk county to live on campus I will arrive on campus on 8/12/2020 in Randolph (**this includes me living in Randolph for the week even if my housing is in Williston**). During this time I will quarantine in my room and agree to be retested by the College on 8/19/2020. If commuting from a high risk county I will quarantine at home 7 days in advance of coming to campus and will continue quarantining while commuting with the exception of traveling directly to campus.
- All isolation procedures if I contract COVID-19 or am otherwise instructed to self-isolate.

- Not traveling out of the State of Vermont from 8/22/20-11/20/20 (if I need to travel out of the State I will make a request to the Coordinator of Health Services and will follow any guidance/restrictions he/she gives)
- Vacating campus immediately if I test positive for COVID-19 (I will have a personal plan for this with my family).
- If from out of state, and I cannot leave campus immediately, I agree to be quarantined and may be isolated with others who have tested positive.
- I will immediately quarantine if I have a fever of 100.4 degrees Fahrenheit or over or if I have any potential COVID-19 symptoms. Additionally, I will not come back to campus until I am cleared to return by a medical provider.
- Full Semester Residential Students ONLY will be allowed one (1) designated person to assist on move in day. This designated person must comply with all quarantine guidelines prior to coming to campus.

I will also:

- Agree to share my health records with the Coordinator of Health Services and appropriate faculty and staff members as relevant for COVID-19 precautions.
- Follow critical personal practices including wearing cloth face coverings in common areas and learning environments, practicing enhanced personal hygiene, including frequent hand washing and sanitizer use, adhering to all social distancing practices, and following all COVID-19 related instructions and signage, which may change from time to time.
- Practice sanitizing personal areas of use (classroom workspace, residence hall personal space, bathroom sink space, SHAPE equipment, dining hall table, etc.) immediately before use and after use before the next student/person uses the space.
- Observe strict social distancing of six (6) feet or more at all times while on campus.
- Discuss receiving the influenza vaccine (flu shot) in fall 2020 with my healthcare provider
- Consult with my healthcare provider about receiving a COVID-19 vaccine, if/when it becomes available.
- Comply with all other College policies and expectations, including but not limited to those pertaining to restrictions on campus visitors, off campus travel, social gatherings and other group activities.
- Bring a working thermometer (one thermometer will be provided to you) and any medication I may need to campus, including ibuprofen, acetaminophen, allergy medications, etc.
- Consult with my healthcare provider if I am considered by the [Center for Disease Control](#) to be at higher risk for severe illness due to COVID-19.
- Respectfully remind peers of safety expectations and be respectful of others when they remind me.
- Comply with directions of employees (Faculty, Staff, RA's etc.) regarding COVID-19 safety precautions.
- Comply with state regulations and college policy regarding no outside guests entering residence halls. This applies to students that reside in different buildings as well.

- Comply with all evacuation and lockdown procedures mandated by state, federal, or Vermont Tech officials, should they become necessary.
- Consider maintaining a contact tracing journal that indicates people you have been in close contact with each day.

Health Professions Students: Please note that there will be additional, program specific requirements in addition to the health contract.

COVID-19 pop-up testing sites change rapidly depending on need. For an updated list of testing sites please visit: <https://humanresources.vermont.gov/popups> . Please note that you may have to make an appointment for testing. Call early to make an appointment so that you can get this test completed within the required time frame.

I will immediately inform the Health Center, Public Safety, Student Affairs staff, or other College official if I have unexpected symptoms related to COVID-19. I will then follow all instructions provided to me regarding how to proceed.

COVID-19 symptoms include:

- Fever/chills
- Cough
- Shortness of breath/difficulty breathing
- Fatigue
- Muscle or body aches
- Headache
- New loss of taste or smell
- Sore throat
- Congestion or runny nose
- Nausea or Vomiting
- Diarrhea

*This list, per the <https://www.CDC.gov> website, does not include all possible symptoms of COVID-19 infection.

I understand that Vermont Technical College recommends that I **do not travel more than 10 miles from campus** during the fall semester as a way to limit exposure.

I understand that my behavior directly impacts the health and safety of our community and serves as an example to my peers. I further understand that complying with the expectations and requirements outlined above helps protect our community, including its most vulnerable members. Disregarding these expectations exposes the Vermont Tech community to an elevated level of risk. This is true even if illness does not result from my disregard of the commitments I have made above.

Failure to comply with the requirements and commitments outlined above will be addressed through the College's conduct policies and processes as presented in the Student Handbook. Consequences for repeated or egregious behaviors may include dismissal from class, campus, program or the College, **with no refund of my tuition and fees**. Faculty and staff have the right to instruct non-compliant students to leave the learning environment. Failure to leave or continued disruptive behavior will be managed by Public Safety. I understand that violation of any major public safety components, (such as quarantine requirements) shall require the College to require my immediate removal from the College.

I acknowledge that Vermont Technical College has recommended I consult with a health care professional regarding risks I personally may encounter regarding COVID-19.

I have independently evaluated and reviewed the risks of being exposed to or infected with COVID-19 and have determined to be a student at Vermont Technical College, attending classes in person at one of the College campuses or sites, with full knowledge and acceptance of the risk. Fully understanding these risks, I, for myself, my child(ren), my spouse, my legal representatives, heirs, and assigns, hereby agree to assume full responsibility and liability for the risk of bodily injury, illness, permanent disability, and/or death which may result from exposure to or infection with COVID-19 before, during, or after being on any of the Vermont Technical College campuses or sites.

I, for myself, my parents, child(ren), spouse, legal representatives, heirs and assigns, hereby waive, release, and discharge Vermont Technical College, its officials, employees, volunteers, attorneys, and agents from any and all liability to me, my child(ren), my spouse, my legal representatives, heirs, and assigns, for any and all losses or damages resulting from bodily injury, illness, permanent disability, and/or death, whether caused by negligence of Vermont Technical College or its officials, employees, volunteers, attorneys, and agents or otherwise, which claims, losses, and demands arise

during or result directly or indirectly from exposure to or infection with COVID-19 before, during, or after participating in a Vermont Technical College program, event, or activity.

Student Signature _____
Date _____

Parent Signature (if under 18 years of age) _____ Date

Student Name (Printed) _____

Parent Signature Printed (if under 18 years of age) _____

Appendix B

Vermont Technical College**The Knights Pledge**

We at Vermont Technical College take pride in knowing that while we are a small college we offer big outcomes. This success comes from a tight knit community of dedicated students, faculty and staff that works hard to better ourselves and each other. We take pride in knowing and acting in a way that ensures that our behaviors support the community around us. As a member of the Vermont Tech community, I know that I must take action to protect the health of myself and my community during this COVID-19 pandemic. In this spirit, I pledge the following:

In order to best protect myself I pledge to:

- Ensure that I am six feet away from others whenever possible.
- Wear my face covering when in a public location.
- Follow all quarantine requirements.
- Complete daily temperature checks before leaving my residence/home.
- Wash and/or sanitize my hands frequently.

In order to best protect the health of the VTC Community I pledge to:

- Follow the guidelines outlined in the Health Contract (if a student) that I have signed
- Stay at home and not enter campus if I am sick.
- Stay home and quarantine per guidelines if I come into contact with someone that is sick or tests positive for COVID-19.
- Wear my face covering at all times on campus.
- Clean my personal space in the bathrooms, residence hall room, dining hall, gym, classrooms and labs.
- Be tested for COVID-19 as required by the College and the State.
- Complete my temperature checks daily and will stay at my residence/home if my temperature is over 100 F or higher or if I have a cough, difficulty breathing, fatigue, chills and/or shaking, muscle pain, headache, sore throat or loss of taste or smell.

In order to best protect the health of our neighbors and local community I pledge to:

- **Follow all requirements regarding no outside guests on campus or in residence halls.**
- **Maintain physical distancing of 6 feet between myself and others whenever possible.**
- **Quickly report to the Coordinator of Health Services if I become ill or test positive for COVID-19.**
- **Consult with my health care professional if I become ill or have to isolate before coming out of quarantine.**

I understand that COVID-19 is a novel virus that is having a huge impact on the lives of all community members. I also understand that it is my responsibility to ensure that I am doing my part to try to prevent the spread of COVID-19. In order to do my part I have read and signed the health contract (if a student) that was issued by VTC and also have read and signed “The Knights Pledge” and agree to follow all regulations. I know that deliberate disregard of this pledge puts myself, my family and my community at risk. Non-compliance with these expectations may therefore be addressed through VTC student conduct personnel and/or policies and procedures as applicable. I take pride in myself, my community and my College and make this pledge to all.

Signature: _____

Print Name: _____

Date: _____

Vermont Technical College

Vermont Technical College

COVID-19 Program and Exposure Control Plan

August 10, 2020

Vermont Technical College COVID-19 Program and Exposure Control Plan

Purpose:

1. The purpose of this exposure control plan is to develop a clear and consistent guideline for all faculty, staff and students at Vermont Tech to decrease the risk of exposure to the COVID-19 virus within our community.
2. Vermont Technical College has diverse requirements including multiple campuses, the requirement of in person lab and clinical experiences and a diverse group of students, therefore our plan is very specific to our unique situations.
3. Vermont Technical College understands that in order to ensure the safety of all faculty and staff the safety of students is paramount. This plan identifies the safety strategies for faculty, staff and students.
4. To implement the **Mandatory Health and Safety Requirements for all Business, Nonprofits & Governmental Operations** as required by the Vermont Department of Health, Centers for Disease Control and Prevention (CDC) Guidelines, Vermont Occupational Safety and Health Administration (VOSHA) and The Vermont Agency for Commerce and Community Development. Using the measures provided by these agencies, Vermont Technical College will strive to protect the health of our employees and students. This program will document the measures we use to comply with the provided guidelines.

Definitions:

COVID-19 - COVID-19 is a respiratory disease spread from person to person. SARS-CoV-2 is the virus that causes COVID-19.

Physical Distancing – indicates that a minimum of six (6) feet is maintained between each person.

Responsibilities:

Health Officer: The Vermont Tech Community has several different campuses and sites. Health officers have been identified at each of our campuses and sites.

Our Health Officers are:

Randolph (Main) Campus: Robert Sivret, Coordinator of Health Services

Phone (802) 728-1270

Email: rsivret@vtc.edu

Williston Campus: Jean-Marie Clark, Dean of Williston Campus

Phone: (802) 879-2322

Email: jclark@vtc.edu

Northwest Region: Lisa Fox, Nursing Site Director

Phone: (802) 879-2369

Email: lisa.fox@vtc.edu

Brattleboro: Becky Steele, Nursing Site Director

Phone: (802) 257-2845

Email: esteele@vtc.edu

North East Kingdom: Sarah Billings-Berg, Associate Dean of Nursing, Central Region Site Director, Interim North East Kingdom Site Director

Phone: (802) 728-1586

Email: sbillings2@vtc.vsc.edu

Southwest Region: Carolyn Standard-Carlo, Nursing Site Director

Phone: (802) 442-8811

Email: cstannard-carlo@vtc.edu

Administrative Person:

Robert Sivret, our Health Officer at Randolph (main) campus will be responsible for the administration of our COVID-19 Exposure Control Plan, including the following:

- Assess the hazards in this workplace (see Hierarchy of Controls in this document)
- Administer and update this program as necessary
- Regularly review guidance from Agency of Commerce and Community Development (ACCD) is updated
- Review the effectiveness of this program
- Participate in any investigation of employee complaints, failure to comply with company rules
- Provide effective training reference COVID-19 and the preventive measures the company has taken and that the employee must follow.

Health officers at Distance Sites:

- Ensure that all employees follow the protective measures outline in this program.
- Enforce compliance with this program using the existing disciplinary structure of the company
- Ensure training for COVID-19 protections has been completed and documented in accordance to the ACCD guidance

Employees:

- Follow all rules and practices created by the Vermont Tech, including, but not necessarily limited to:
 - Participate in all trainings relative to COVID-19
 - Stay home if you are sick
 - Wash hands frequently
 - Practice Social Distancing – 6 foot minimum
 - Report to your HR person if you feel sick, have a temperature, or you have had close contact with a person suspected of having COVID 19
 - Wear protective PPE as outlined by this Vermont Tech
 - Wear protective cloth mask as outlined by Vermont Tech

Exposure Determination for Vermont Technical College:

The first step Vermont Tech has taken is to conduct a hazard assessment to determine our risk level and exposure potential. The following was determined.

Due to the nature of differing requirements of programs at Vermont Technical College, each school within VTC has an individual risk and has been examined individually. Each program has been listed below in its corresponding risk assessment category based on employee and student requirements.

In addition, all other jobs and departments at the college have been outlined in the specific risk category.

High Risk Employees or Job Descriptions

- School of Nursing and Health Professions – Students and employees will be entering health care settings in order to perform clinical learning hours.
- Student Health Services employees who must enter areas of isolation to provide necessary emergency care to individuals with symptoms or with a known positive COVID-19 result.
- Employees of Custodial Services that must enter areas of isolation to provide cleaning services.

Medium Risk Employees or Job Descriptions.

- Employees of Custodial Services and Facilities that are providing cleaning and disinfecting services to dorms and any other building that remains in use.
- Vermont Tech dining services staff that are providing meals to students living on campus.
- Any Vermont Tech employee that must perform tasks in areas that require working within six (6) feet with other employees, students or the public.

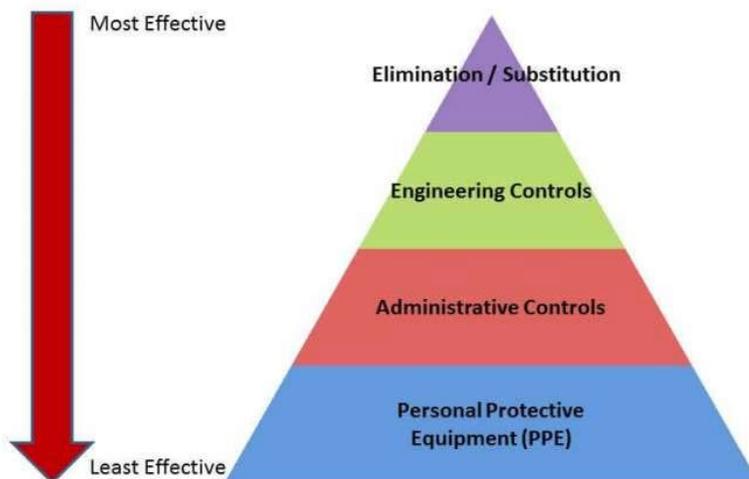
Low Risk Employees or Job Descriptions.

- Vermont Tech Administrative Staff
- Any Vermont Tech faculty or staff member that is able to perform necessary tasks either off campus or on campus with no requirement for close contact with other employees, students or the public.

Hazard Reduction:

As with all hazards, it is this Vermont Tech's goal to eliminate the hazard if possible. Using the Hierarchy of Controls and the VOSHA Mandatory Health and Safety Requirements for all Business it is our goal to minimize the hazard.

Hierarchy of Controls



Vermont Technical College understands that the most effective method for decreasing hazard for faculty, staff and students is to eliminate the risk completely. Given the nature of our College and the programs that we offer, elimination in all areas is not possible. However, measures have been put in place to minimize risk as much as possible for all members of the Vermont Tech community. In order to best protect our community the following measures have been put into place:

A: Elimination

The practices that Vermont Tech has eliminated and replaced with alternative methods are:

- Vermont Technical College has chosen to utilize a “Low Residency” model for the fall semester. Only students who are out-of-state or for other documented and approved reasons will be permitted to live on campus for the duration of the Fall semester.
- In order to complete the required lab/clinical time for certain classes and programs the college has dedicated 6 weeks (spaced out) of the semester to bring designated students to campus to complete an intensive week of lab and clinical time. These students will only be permitted to be on campus for one week at a time.
- Didactic classes will be offered completely online. No face-to face classes will occur.
- Non-essential employees are encouraged to remain working at home for the balance of this calendar year and perhaps permanently.
- Meetings with employees or with students will occur online or on the phone. No face-to-face meetings are to occur.
- Each classroom has been assessed for “COVID-19 capacity” which will allow proper physical distancing between all individuals in the room. Please See Attachment 2.
- Clinical and Lab classes will be conducted in shifts to split up larger instructional groups into smaller groups.

B: Engineering Controls

The Engineering Controls that this Vermont Tech has implemented are:

Classrooms and Labs:

- Classrooms will have seating spaced six (6) feet apart. Instructors will be at least 6 feet away from students when possible.

- Classrooms and labs have been rearranged to ensure that proper socially distanced spacing is maintained.
- Tables will be wiped down before and after each class by the instructor.
- Maximum capacity for each classroom has been identified and this will be followed during in-person labs and clinical to ensure proper physical distancing. See Attachment 2.
- All HVAC systems have been serviced to ensure optimal ventilation
- All HVAC systems to be adjusted to increase fresh-air intake as systems and weather permits.
- Air filters were upgraded where systems allow
- Additional air purification systems are being investigated.

Computer Labs and Resource Rooms:

- All computer labs and resource rooms have limited occupancy guidelines to enable social distancing.

Offices:

- Face coverings must be worn over mouth and nose at all times if within 6 feet of another person. It is permissible to remove mask if there is only one individual in a contained office space.
- Eliminate, as much as possible, the sharing of equipment. If sharing of any equipment is required then proper disinfectant procedures will be utilized before, during and after each use.

- Plexiglas sneeze guards have been placed where social distancing is not possible and in areas that are high traffic
- Private office doors should be kept closed
- Lunch rooms and break rooms will be kept closed

Library/Dining Hall/SHAPE Gym:

- All furniture and workout equipment to be arranged to ensure physical distancing.
- Students aware that these areas may be closed in the event of an outbreak on campus.
- SHAPE gym closed to all use on Williston Campus.
- **SHAPE Gym on Randolph Campus will be closed to general public**
- Assigned seating will be implemented in the dining hall for the entire Fall semester.
- Seating in the dining hall will be at least 6 feet apart from other students and from employees of food services.
- During lab intensive weeks, when more students are on campus, the dining hall will offer take-out only so that students do not congregate.
- Optional pre-packaged meals to be delivered in single use containers to students who are in quarantine to minimize exposure to all staff and other students.

Hallways/Common Areas:

- Furniture will be removed to discourage group gathering

Dormitories:

- On Randolph campus, all residential students, both semester long and temporary, will be issued single occupancy rooms
- On Randolph campus, all full semester and temporary residential students will be housed in separate rooms. Temporary residential students will be in separate wings as much as possible.
- Each residential building will be serviced and cleaned daily by facilities seven days a week.
- High use areas and touch points (bathrooms, common areas, stairwells, doors and doorknobs/bars) will be cleaned by facilities three times daily, seven days a week.
- Only one (1) designated person will be permitted on campus to assist with move-in day. This designated person must comply with all quarantine guidelines prior to coming onto campus.
- Visitors are not allowed in the residence halls during the semester.

C: Administrative Controls

It is believed that Administrative Controls / Work Practice Controls can be very effective in preventing the spread of COVID-19.

The Administrative Controls that this Vermont Tech has implemented are:

- The academic calendar has been altered to decrease risk of exposure due to students leaving campus. All break weeks prior to Thanksgiving break have been eliminated. After Thanksgiving, all classes and exams will be offered exclusively via remote learning.
- All faculty, staff and students are required to conduct daily temperature self-checks. Each day the result of this must be uploaded to CastleBranch COVID-19 Compliance tool to maintain a record and history of temperatures over the course of fourteen (14) days.

- Students and Faculty/Staff are required to sign a health pledge outlining all expectations and requirements.
- Students will have a staggered move-in day to ensure a controlled number of people on campus at all times
- Students entering from out of state will be required to come to campus early to quarantine (August 12).
- Students will be required to self-quarantine at home according to Vermont State guidelines (guidelines are specific to region of origin) prior to coming to campus.
- The college has moved to remote learning with controlled on site face-to-face labs and clinical on certain weeks.
- No unnecessary/unauthorized travel for faculty, staff and students will be permitted.
- Residential students must remain in Vermont for the entire semester to limit the possibility of exposure in high-risk areas.
- All faculty and staff will be screened by public safety officers prior to entering campus.
- All staff has undergone VOSHA training regarding safe health practices in the workplace and COVID-19 signs and symptoms.
- Hand sanitizer and sanitizing stations have been added to all classrooms. Stock and availability will be monitored by custodial services on both Randolph and Williston Campus. On distance nursing sites, the site director will monitor availability.
- One area on both Randolph and Williston Campuses has been dedicated as a quarantine location if needed for residential students.
- Signage posted at all entrance doors indicating that no one may enter any building if they have signs of a respiratory illness.
- Telework will be completed whenever possible by all employees.
- Any lab/clinical time will be conducted in small groups/staggered schedules to limit exposure and to maintain a lower number of people on campus at a time.

- All deliveries will be routed through public safety to ensure that all vendors are screened prior to entering campus.
- Any employee from an outside vendor that must enter campus will be required to wear a mask at all times.
- All infection control requirements outlined in this plan have been implemented.

D: Personal Protective Equipment

Vermont Technical College understands that the following is considered to be Personal Protective Equipment (PPE)

- Gloves
- Body Protection
- Eye/Face Protection
- Respirators
- Face Mask
 - <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

Vermont Technical College has several plans in place for personal protective equipment.

- All students will be issued a kit of PPE, including a cloth mask, hand sanitizer and one thermometer
- Goggles and face shields will be available for use by both faculty, staff and students
- Disposable gloves will be available for both employee and student use on campus
- Appropriate faculty and staff have N-95 masks and needed fit testing.

In the event of quarantine. Employees that are required to enter the quarantine area to ensure health and safety of the students will be required to wear:

- Disposable gloves
- Disposable fluid resistant gown
- Face shield or goggles
- Disposable N95 respirator

Training for donning and doffing of PPE in these circumstances has been completed using **Canvas Training Module and _____**

Mandatory Requirements

The following is a list of mandatory requirements set by the state that Vermont Technical College has met and exceeded.

A. Face Coverings:

Vermont Tech has accomplished this by the following practices:

- All students are required to wear face coverings at all times while in classrooms/labs and in any area where social distancing is not possible.
- Faculty will be required to wear a facial covering or face shield while teaching any face-to-face lab or clinical.
- Face coverings will be required to be worn by all faculty if in a shared office space when another individual is present.
- Plexiglas “sneeze guards” have additionally been placed in areas where student interaction is required to ensure community safety.

The person responsible for researching and accomplishing this is : Vermont Tech’s Coordinator of Health Services is responsible for ordering appropriate PPE for the various Vermont Tech sites. Leadership at each of the 12 Vermont Tech locations are responsible for assuring their departments are complying with all necessary face coverings and social distancing.

B. Physical Distancing of a minimum of 6 feet.

No congregation of employees is allowed. Common areas (except break rooms and cafeterias) will be closed

Practices put in place for all residential students:

- Every student will reside in single rooms during first semester
- Kitchens and Lounges will be closed in all dormitories
- No guests will be allowed in the dorms
- Bathrooms in the dormitories will be cleaned three times daily seven days a week
- Dining will be in assigned seats that are appropriately physically distanced

Practices put in place for employees:

- Common areas will be closed
- Employees will be required to physically distance while on campus
- Face masks are required while on campus
- Office doors should be closed at all times

The person responsible researching and accomplishing this is: Student Housing: Jason Enser. Common areas: Ted Manazir, Director of Facilities. Supervisors of each administrative departments and all faculty and lab technicians in applicable rooms.

C. Break Room access controlled

Vermont Tech has accomplished this by the following practices.

- Kitchen spaces will remain open for the purpose of storing food only.
- Breakrooms will remain closed and staff will eat all meals in offices maintaining safe physical distancing.

- Room occupancy levels have been determined and will be followed by all faculty, staff and students. See Attachment 2.
- Hand sanitizer will be available for use prior to any food preparation.
- Disinfectant wipes will be located in kitchen spaces to allow for cleaning of space after kitchen use.
- Signs indicating room occupancy are posted in all employee common areas/break rooms.

The person responsible researching and accomplishing this is: Ted Manazir, Director of Facilities

**D. Open windows and doors to promote air flow
Limit the number of people occupying a single indoor space**

- Refer to COVID-19 room occupancy (Attachment 2) information in regards to the determined maximum number of people allowed in each classroom and lab.
- HVAC Systems have been serviced to promote ventilation.
- The colleges “Low Residency” model ensures that the college will have no more than 150 residential students living on campus at a time and that lab classes are kept small.
- Faculty are encouraged to teach their classes from home to limit the number of employees coming onto campus daily.
- When feasible, given weather conditions in Vermont, windows and doors can be opened in an occupied and supervised location.

The person responsible researching and accomplishing this is: Ted Manazir, Director of Facilities

E. No More than 2 people shall occupy a vehicle while working and shall wear face coverings when riding together

Vermont Tech has accomplished this by the following practices.

- Public Safety will not permit more than 2 officers in a vehicle at a time while on patrol.
- Vehicles will be disinfected before and after each use by the driver/passenger.
- If more than one officer is present in the vehicle at a time than face masks will be worn.

The person responsible researching and accomplishing this is: Emile Fredette, Director of Public Safety

F. All common spaces and equipment, including bathrooms, frequently touched surfaces and doors, tools and equipment, and vehicles must be cleaned and disinfected at the beginning, middle and end of each shift and, when possible, prior to transfer from one person to another. <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

Vermont Tech has accomplished this by the following housekeeping procedures.

Supplies: Disinfectant wipes and hand sanitizers are to be placed in every classroom/lab that will be used during the semester. Additionally, sanitizer will be distributed throughout hallways and at the entrance of any common space. All bathrooms will have cleaning supplies. Availability will be monitored and restocked by the custodial staff at both Randolph and Williston Campuses. At the distance nursing sites the site director will monitor the availability and will restock as needed.

Facilities staff are using several brands of cleaners/disinfectants:

- 1) Enviro-Solutions 64 Neutral Disinfectant
- 2) Miracle Disinfectant Spray 'N Wipe Cleaner
- 3) Hydrogen Peroxide Multipurpose Cleaner

- 4) Monk Disinfectant Wipes (we currently use these at SHAPE and will also install dispensers throughout the campus)
- 5) Clorox Commercial Solutions Disinfecting Wipes
- 6) LYSOL Brand III Disinfectant Spray
- 7) Claire Disinfectant Spray Q

Hand Sanitizers:

- 1) Scott Moisturizing Hand Sanitizer
- 2) NYS Clean Hand Sanitizer
- 3) Purell Hand Sanitizer Gel

Schedule: All high traffic and high touch areas such as doors, bathrooms, and dormitory areas will be cleaned three times per day seven days a week. Other cleaning will occur by facilities once daily but any area that is used will be disinfected by the user before and after active use.

The person responsible researching and accomplishing this is: Ted Manazir, Director of Facilities

G. Employees have easy access to soap and water or hand sanitizer.

Handwashing is required frequently including before entering and leaving the workplace

Vermont Tech has accomplished this by the following practices:

- Hand sanitizer is available in every classroom and lab space as well as in hallways and at entrances.
- Students are required to sign a health contract indicating that they will be responsible with frequent hand hygiene.
- Sinks with soap and water are available in every bathroom.
- Ample supply of hand sanitizer is stocked throughout the buildings to allow for easy hand hygiene.

- Signs posted in bathrooms providing a reminder and educational tool on proper procedure for frequent, effective hand washing.

The person responsible researching and accomplishing this is: Ted Manazir, Director of Facilities

H. Signs must be posted at all entrances clearly indicating that no one may enter if they have symptoms of respiratory illness.

Vermont Tech has accomplished this by the following practices:

- Signs posted at all operating entrances stating that no one may enter with symptoms of respiratory illness.
- Signs are posted throughout campus and at entrances indicating that masks are required while on campus
- Signs posted regarding proper handwashing procedures in all bathrooms.
- Signs posted to remind all on campus of proper social distancing spacing.

The person responsible researching and accomplishing this is: Amanda Chaulk, Director of Marketing and Communications

I: To the extent feasible, prior to the commencement of each work shift, prescreening or survey, including temperature checks shall be required to verify each employee has no symptoms of COVID-19. Symptoms include;

- Cough
- Shortness of breath or difficulty breathing

Or at least two of these symptoms:

- Fever (≥ 100.4 F or subjective fever)
- Chills
- Repeated shaking with chills

- Muscle pain
- Headache
- Sore throat
- New loss of taste or smell

Prior to the commencement of each work shift, pre-screening, including temperature checks and health survey shall be required to verify each employee has no symptoms of respiratory illness (fever, cough, and/or shortness of breath). At the present time non-contact thermometers are in short supply, however employers shall immediately order, and use their best efforts to obtain, thermometers in order to conduct routine temperature checks.

We have accomplished this by the following practices.

- Employees and students will all take their temperature and answer nine (9) screening questions daily and will enter this information into CastleBranch, which allows for temperature tracking.
- Any employee coming onto campus will have to enter through a “check point” which will verify the logging of temperature.
- At each checkpoint each faculty member will be required to answer all screening questions and have a temperature screen.

The person responsible researching and accomplishing this is: Emile Fredette, Director of Public Safety

- J. Employees shall not report to, or be allowed to remain at, work or job site if sick or symptomatic (with fever, cough, and/or shortness of breath). • Non-symptomatic COVID-19 positive workers are not allowed on site and any worker(s) who have contact with a worker or any other person who is diagnosed with COVID-19 are required to quarantine for 14 days.**

Vermont Tech has accomplished this by the following practices.

- Students have been instructed that they are not to attend lab/clinical if they have any symptoms of COVID-19

- Any residential student who develops symptoms must immediately vacate campus
- Students are not permitted to return to campus until cleared to do so by a health care professional.
- Absence policy has been updated to reflect the colleges desire to have students stay home in the event of illness.
- Faculty that must isolate will be required to stay home and either find coverage for their class or teach remotely
- Faculty must stay home and avoid campus if they are ill. Human Resources should be notified if employees are home due to illness.

The person responsible researching and accomplishing this is: Kelly Rue Riso

Employee Training

All faculty and staff at Vermont Technical College were required to complete the training as released by VOSHA and the Vermont Department of Health.

All faculty must submit a Certificate of Completion to the Vermont Technical College Human Resources Department.

The training that was issued can be found at: <https://labor.vermont.gov/document/protecting-safety-and-health-workers-vosha>

This training covers all of the requirements as set forth in Attachment 1, found below.

Kelly Rue Riso will either train, or arrange for training, in the required elements of the VOSHA COVID-19 requirements. Training will be provided at no cost to the employee and during working hours.

Additionally, an online training module for all faculty, staff and students is being developed to ensure that key organization information is made widely available. Additionally, information regarding all pre-screening before work, where to find Colleges VOSHA Plan and College Restart Plan will be relayed.

Training Documentation:

Documentation must include the name of the employee, date of training, summary of training

and the name of the trainer/s. We maintain our training records for at least (3) years or for the duration of the employment, whichever is longer.

- a. Training records required by the VOSHA standard are made available to employees, employee representatives, or to VOSHA representatives for examination and copying.

Recording Workplace to COVID-19 Illnesses in the Workplace

- a. OSHA recordkeeping requirements (29 CFR Part 1904) mandate covered employer record certain injuries and illnesses on the OSHA 300 log.
- b. COVID-19 can be a recordable illness if a worker is infected as a result of performing their work-related duties. However, employers are only responsible for recording cases of COVID-19 if all of the following are true:
 1. The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19):
 2. The Case is work-related (as defined by 29 CFR 1904.5) and
 3. The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g. medical treatment beyond first aid, days away from work).

Additional information can be found at OSHA's Enforcement Guidance for Recording Case of COVID-19.

Medical Records

- a. Medical records shall be maintained for at least the duration of employment plus 30 years.
- b. If [Vermont Technical College](#) ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the Director of NIOSH, US Department of Health and Human Services, at least three months prior to their disposal and transmit them to the Director, if required by the Director to do so, within that three month period.

Issue Date:

Reissue Date:

Signature of Safety Monitor:

Signature of Company Exec.

DRAFT

Attachment 1

TRAINING PROGRAM

Our Training Program includes the following elements (at a minimum)

An explanation of the modes of transmission of COVID-19

A general explanation of the symptoms of COVID -19

An explanation of the modes of transmission of COVID -19

An explanation of Vermont Technical College exposure Control Plan and the means by which employees can get a copy of the plan

Instruction on how to properly put on and take off gloves, N95's and cloth masks

An explanation on the basis for the selection of PPE

Information of how to contact someone if the employee has a temperature or does not feel well

What to do if the employee traveled to high risk areas or have been exposed to possible COVID-19 cases

Hand washing techniques

Cleaning schedules

Pre-screening before work

Attachment 2

COVID Room Occupancy Limits

<u>Site</u>	<u>Building</u>	<u>Room #</u>	<u>Room Type</u>	<u>Max Capacity</u>	<u>C-19 Capacity</u>
<u>Randolph Center</u>					
	Catamount	100	ATT Lab	19	19
	Catamount	101	DPT Lab	18	18
	Clarke	103	CET CADD Lab	20	18
	Clarke	110	Telepresence II	32	18
	Clarke	200	Nursing lab	36	20
	Clarke	204	Offices	6	0
	Clarke	210	Biology Lab	16	9
	Clarke	215	All-night CAD	21	14
	Clarke	300	Classroom	20	12
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Northern Vermont University

RESTART PLAN

August 11, 2020



Content Outline

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Northern Vermont University COVID-19 Restart A Plan for the Successful Return to our Campuses

The faculty and staff at Northern Vermont University have worked to determine the safest possible plan to open the university during the difficult and unprecedented times of the COVID-19 pandemic. NVU developed this restart plan knowing that because COVID-19 is an evolving public health emergency, the university will undoubtedly need to adapt its practices as knowledge about the pandemic and the situation in Vermont, New England, and the nation change. The work embodied in this plan has been developed to ensure the Northern Vermont University Community remains healthy and safe. As it has since COVID-19 arrived in the United States in January, NVU is monitoring the pandemic closely. NVU developed this restart plan with guidance from Governor Scott, Dr. Levine, and other medical and public health experts. NVU is closely following, and often exceeding, the requirements set forth in the state of Vermont's [RESTART PLAN: COLLEGE AND UNIVERSITY CAMPUS LEARNING](#).

Northern Vermont University has elected to return to our Johnson and Lyndon campuses for the Fall 2020 Semester. Students began returning the weekend of August 8 and 9 with most students returning to campus August 13 and 14. The first day of classes will be August 18. Classes will be taught through a variety of methods, including face-to-face, hybrid, fully remote, and online.

Northern Vermont University developed this restart plan with several goals in mind. Two that are of utmost importance are: 1) providing a safe and healthy return to campus for our students and employees; and 2) developing a plan to ensure the continued health and safety of the communities around us. All employees and students must comply with the protocols as written. Individuals that choose not to comply with these regulations will face disciplinary action.

NVU developed this plan to minimize the likelihood of an outbreak of COVID-19 on an NVU campus, and to outline methods to decrease the seriousness of an outbreak if one does occur.

1. Decrease the Risk of Individuals Infected With Covid-19 from Entering the NVU Campuses through Effective Public Health Prevention

a. NVU Health Pledge

Northern Vermont University has developed and distributed a community-wide [NVU Health Pledge](#) that outlines expectations for behavior and requirements while on NVU campuses whether as a student or employee. The contract discusses requirements for testing and quarantine, wearing a mask, visitor limitations, travel restrictions, and daily temperature and health screenings as well as the responsibility of students and employees to the NVU community.

b. Quarantine Requirements

Northern Vermont University is taking the Vermont state quarantine requirements seriously. Strict adherence by students is required. If a student is from, or has recently traveled to, a county outside of Vermont that requires quarantine per the Vermont Agency of Commerce and Community Development, see [here](#), that student will be required to quarantine for 14 days prior to returning to campus. If a student is unable to do that OR if that student is using public transportation to come to campus, that student will need to move into quarantine housing for at least 7 days (until receiving a negative test result on the second test). Once a second negative test is received, the student may move into fall housing. Quarantine housing requires students to self-isolate and remain in the building where they will receive food delivery from NVU staff.

c. Health Screenings

All students and employees that come to an NVU campus at any time during the semester will be required to perform daily self-attestation health screenings, including temperature checks, symptom checks, and potential exposure checks. This self-attestation will be logged into CastleBranch, an app used to collect daily temperature readings and other health information and educate on prevention. This system allows for a continuous tracking of temperatures throughout the semester.

1. Move-in and Check-in of Students

Commuting Students. All commuting students must participate in check-in and COVID-19 testing on August 13 and 14 from 5 p.m.-8 p.m.

Check-in will be a drive-thru format in the Bentley (Johnson campus) and Vail (Lyndon campus) parking lots where students will be tested and receive welcome and health items. Students may not begin in-person classes until testing is complete with a negative result. Testing will take place again on day 7.

Everyone who comes on to campus is required to wear a face covering that covers the mouth and nose.

Commuters who are moving to the area from a quarantine county will need to quarantine for 14 days before they are permitted to begin classes.

Residential Students and Check-in. All students are required to sign up in advance to check-in. Check-in times will be on August 13 and 14 at 8 a.m., 11 a.m., 2 p.m., and 5 p.m. Check-in will be a drive-thru format where students will be tested and receive other welcome and health items; there will be a series of tents set up for this process. Once complete, students will proceed to their residence halls to move in. Check-in will take place in a parking lot on each campus:

On the Johnson Campus, this will be in the Bentley Parking Lot.

On the Lyndon Campus, this will be in the Vail Parking Lot.

Assistance during check-in: Each student may have one helper for move-in. This visitor must comply with all Vermont state and NVU quarantine requirements prior to coming on campus. Additional people arriving with a student must remain with the vehicle while on campus. Each person arriving on campus is required to participate in a COVID-19 screening (which includes a temperature check and symptom review) at the check-in tent. Everyone who comes to campus must wear a face covering or mask that covers the mouth and nose. If one is outside and physically distanced, the face covering may be removed as long as 6-ft. distancing is maintained; anyone entering a building must wear a face covering; students may remove their face coverings when they are alone in their own room with the door closed.

d. Register for CastleBranch

Northern Vermont University is using CastleBranch for a continual tracking of students and employees throughout the semester. All faculty, staff, and students will be required to use CastleBranch for self-attestation screening each day.

e. Curtail Visitors

The NVU Health Pledge stipulates that students and employees are agreeing and signing that they will not allow any guests onto campus or into the residence halls. The only people allowed inside a residence hall will be students that reside there and staff that provide services to that building.

The SHAPE Gym on both NVU campuses is closed to the public for the fall semester.

Spectators are not allowed on NVU campuses for any athletics practices, games, or meets.

f. Testing

All campus-based NVU students, commuting and residential, will be tested on August 13 and 14 and at day 7 at no cost to the student. All NVU employees will be tested around August 20 and 21. Random testing of students and employees will take place throughout the fall.

Students coming from a high-risk county or area defined by yellow or red on the [ACCD map](#) will be required to quarantine for seven (7) days prior to being tested (see Quarantine Requirements above).

Testing exemptions: Any student who is able to complete all course work remotely and chooses to do so and does not need to come to campus at any point in the semester is exempt from testing. If that situation changes and the student must come to campus, testing will be required.

g. Travel

Academic and NVU travel is prohibited unless approved by the president. Additionally, all students and employees must follow ACCD travel guidelines. NVU will further restrict travel as necessary.

h. Academic Calendar

Northern Vermont University has modified the academic calendar to decrease the possibility of students leaving campus to return home and then returning to campus. NVU will begin the fall semester on Tuesday, August 18, one week earlier than planned. There will be no fall break. The semester will end early with a return home for Thanksgiving break and remote exams to complete the semester. Students will not return to campus until the spring semester, which starts January 19, 2021. The number of teaching days will not be affected by these changes. NVU has not made decisions about the spring semester at this time.

Fall 2020 Calendar

- Tuesday, August 18: First day of classes
- Monday-Friday, November 23-27: No classes, Thanksgiving break
- Monday-Thursday, November 30-December 3: Remote final examination period

i. Campus Events

Large traditional events will be cancelled or adjusted per state and CDC guidelines. Event organizers will have plans screened by campus and event staff before approval. This review includes the performing arts as well as other events.

2. Decrease Transmission of COVID-19 among Employees and Students Once on Campus through Effective Public Health Measures.

a. Facial Coverings/Masks

Wearing of masks is required inside, except in one's own office or residence hall room with the door closed if the room or office is not shared and without others present. Outdoors, with 6-foot distancing, individuals may be mask free.

Any visitors (including vendors/deliveries) will be required to wear facial coverings when in the presence of others. Masks must be worn covering the nose and mouth.

NVU is providing all employees and students will cloth masks at the start of the academic year.

In addition to the required facial coverings, Northern Vermont University has installed plexi "sneeze guards" in areas where student interaction is inevitable and physical distancing may not be feasible, including such areas as front desks, admissions, and student services.

Additionally, face shields have been purchased for employees in higher-risk settings with the intent that they be worn with cloth face coverings and never alone. Efficacy of protective qualities of face shields is tied to the use of shields and face coverings at the same time.

b. Health Screenings

All health screening will occur through the CastleBranch system. See details in Health Screenings in section 1 above. NVU CastleBranch system administrators will be notified by the system if an individual is not compliant with this requirement.

c. Contact Tracing Journal

The entire Northern Vermont University community has been encouraged to maintain a contact tracing journal of all close contacts.

d. Hand Hygiene

NVU understands that good hygiene practices, including hand hygiene, is key to mitigating the spread of COVID-19. With this in mind, the NVU facilities team has

worked to ensure that hand sanitizer is available in classrooms, hallways, offices, and restrooms. All restrooms are stocked with soap for easy handwashing.

Employees and students are expected to wash hands frequently and thoroughly, washing with soap and water (hot or cold) for twenty seconds. In the absence of water, the use of hand sanitizer with at least 60% alcohol is encouraged. Members of the NVU Community should wash their hands:

- When they touch their face, nose, or mouth
- Before and after eating
- Before and after putting on their mask/face covering
- After opening a door
- After using the restroom
- At other intervals as determined necessary

Additionally, the university has taken steps to place signs in restrooms reminding community members to wash their hands frequently and educating on the proper method to use for effective handwashing.

e. Cleaning and Disinfecting

NVU has put significant thought and effort into ensuring thorough cleaning and disinfecting on NVU campuses.

Common areas

Custodial staff will clean, sanitize, and disinfect all facilities once each weekday and disinfect these areas on weekends. Additionally, disinfectant product will be available in all classrooms so faculty and students can clean the space as desired.

Staff and faculty areas

Faculty and staff will be responsible for the cleaning and disinfecting of their own office space. Work orders may be submitted for additional cleaning services.

Residence halls

Custodial staff will clean, sanitize, and disinfect all facilities once each weekday and disinfect these areas on weekends. Disinfectant will be provided in all restrooms for residents to use as desired.

High-touch areas will be serviced on a more frequent basis when possible. When requested by a work order, additional cleaning supplies and PPE will be provide in these high-touch areas.

NVU vehicle fleet: All vehicles will be cleaned after each use; occupancy is limited to three people in minivans (including the driver) and four people in larger vehicles (including the driver).

Ventilation and Air Flow: All HVAC systems have been serviced to ensure maximum air quality, including disabling occupancy sensors to ensure more air exchange.

f. Physical Distancing

While on NVU campuses, all faculty, staff, students, and visitors must maintain proper physical distancing of six (6) feet or more. While individuals are responsible for ensuring their own distancing, NVU has taken steps to facilitate this requirement. The following steps have been implemented:

- Faculty, staff, and students are all required to sign the NVU Health Pledge, which commits to keeping a minimum physical distance of at least 6 ft. when possible.
- Physical distancing reminders will be posted throughout our campuses.
- Floor placards will be installed in places where lines will form (i.e. postal office). Physical barriers have been installed in areas that require proximate face-to-face communication.

Additionally,

- Every student will reside in a single room during the fall semester.
- Furniture has been removed or rearranged to decrease the possibility of groups congregating in one area.
- Tents have been placed on the campuses to encourage outside meetings and socializing. The tents may be reserved through the EMS system.
- Signage has been placed throughout campus reminding all individuals of the required distancing while on campus.

g. Dining Halls

NVU and Sodexo will control the number of customers that enter the dining halls to avoid overcrowding as required by state, local, and client guidelines.

To reduce capacity and configure clear directional paths, seating configurations have been changed. Current dining capacities are 117 people seated indoors on the Johnson Campus and 100 people seated indoors on the Lyndon Campus.

A one-way customer entrance and exit has been configured to maximize social distance spacing. Signage, floor markings, and stanchions will facilitate traffic flow and reinforce social distancing, particularly in the most crowded areas, such as at serving counters and cash registers.

A well-marked travel pattern will allow customers to move efficiently from the Welcome Station to selected food stations. Uniformed staff at the stations will wear and use appropriate PPE. Staff will frequently sanitize serving stations to ensure safety and instill confidence.

To ensure safety for staff and guests, no personal refillable containers will be allowed in the dining room. Reusable dishware and utensils, if available, will be stored behind the service area and distributed by the attendant in a sanitary fashion.

h. Classrooms

Classrooms have been rearranged to ensure that all students maintain a minimum of six feet of separation. Additionally, at least ten feet will separate the instructor/faculty and students.

Please see above for disinfecting practices in classroom areas.

i. Residence Halls

Housing arrangements: Students who do not feel comfortable returning to campus or who have all remote classes will be permitted to request an exemption from their contract/housing requirement for the fall semester.

j. Athletics

NVU's athletic conference, the North Atlantic Conference, announced in August that NAC competition for 2020 fall sports is cancelled due to health and safety concerns stemming from the COVID-19 pandemic. There will be no scheduled fall sport NAC competitions or championships.

NVU is committed to exploring meaningful athletic experiences for NVU athletes. As health and safety conditions allow, teams may be allowed to participate in conditioning, strength training, and sport-related practice opportunities. Under the NAC guidelines, conference members may consider alternate competitions for their sport programs, dependent on CDC, state, local, and university health guidelines. NVU will explore setting up competitions between the Johnson and Lyndon campuses and other colleges as the fall semester gets underway.

SHAPE Facilities

NVU SHAPE facilities will be open to NVU students and employees only. Opening will be phased in with phase one at 25% capacity and spacing of 200 sq. feet per person and phase two at 75% capacity and spacing of 50 sq. feet per person. All Locker Rooms will be closed. Vermont Agency of Commerce and Community Development Gym Opening Guidelines will be closely followed for occupancy of SHAPE. Signups will be required prior to arrival or check-in. Athletic equipment may not be rented. Pickup games are not allowed. Reopening to the public will be reevaluated periodically throughout the fall semester. No group reservations will be allowed.

k. Residence Hall Density

All NVU students who live on the Johnson or Lyndon campuses will be given single rooms.

l. Protect At-risk Employees and Students

The health and safety of the NVU Community is of foremost importance. NVU is taking every precaution to protect the vulnerable members of our community. Employees with a pre-existing condition that may place them at higher risk of contracting COVID-19 or developing severe illness in the event of contracting the virus may go through the official ADA request for reasonable accommodation process to request working or teaching remotely. NVU faculty have prepared to teach their courses in the full range of teaching modalities—in-person, hybrid, and remote. If a student is at-risk, that student may request to take their courses through a hybrid or remote mode.

m. COVID-19 Trainings for Employees and Students

All employees were required to complete the training issued by VOSHA prior to their return on campus. The training that was issued can be found at <https://labor.vermont.gov/document/protecting-safety-and-health-workers-vosha>

Additionally, stay-healthy and other webinars are being offered. Students and employees participated in Covid-19 safety education provided by Copley Hospital.

3.) Quickly Identify Individuals with Covid-19 and Put Containment Procedures in Place to Minimize the Impact on Students, Employees, and Education

a. Adequate Health Services

NVU has partnered with the Broad Institute to ensure testing for all students and employees. Additionally, NVU has an adequate supply of sanitizer, masks,

thermometers, and PPE. Students will also have access to telehealth medical services and counseling programs.

b. Isolation Procedures

Any students with positive tests will be immediately isolated in specific isolation housing with ongoing virtual medical, dining, and residential life support. Commuter students will have access to virtual medical and counseling support.

c. Campus Contingency Plans

Northern Vermont University is prepared to move completely to remote instruction if required due to an outbreak(s) or at the request of the state of Vermont. Faculty have been preparing for all scenarios.

d. Contact Tracing

In the event of a positive case, Northern Vermont University will work closely with the Vermont Department of Health to assist the VT-DOH in conducting contact tracing. Attendance will be taken in classrooms and student identification cards will be used to time and date stamp entry into residence halls and dining halls.



Castleton University

RESTART PLAN

Last Updated: August 11, 2020

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The faculty and staff at Castleton University have worked diligently to determine the safest possible plan to open the University during these trying times. This plan has been developed with the awareness that the novel coronavirus COVID-19 is an evolving public-health emergency and that plans may need to adapt and change in order to ensure the safest possible environment for the Castleton Community. The University is monitoring this ever changing situation closely and has developed this restart plan with the guidance from Governor Scott, Dr. Levine, and other medical and public health experts.

Castleton University developed this restart plan with several goals in mind. These goals include: 1) providing a safest possible return to campus for all of our students and employees; 2) developing a plan that would help provide the continued health and safety of the communities around us. In this spirit, this plan identifies the requirements set forth by the University that are in addition to the requirements set by the State of Vermont. All employees and students must comply with the protocols as written. Individuals that choose not to comply with these regulations will face disciplinary action.

Castleton announced on July 15, 2020, that it will offer students the option of a residential campus experience for the fall 2020 semester and deliver its academic courses online. The plan offers the benefits of both online teaching and a residential campus experience. Under the plan, any student who chooses to access campus may do so by agreeing to the Spartan Pledge, which mandates COVID-19 testing and adherence to social distancing protocols. Additionally, the University will follow the guidelines put in place by the State of Vermont and the Centers for Disease Control and Prevention (CDC) recommendations. Students and commuters will have access to many of the offices, services, and resources the campus provides. Those who wish to remain off-campus can remotely access services such as the Academic Support Center, Wellness Center, and Career Services.

Castleton University developed this plan to minimize the likelihood of an outbreak of COVID-19 and to outline methods to decrease the seriousness of an outbreak if one does occur.

1. **DECREASE RISK OF INDIVIDUALS INFECTED WITH COVID-19 FROM ENTERING THE CAMPUS THROUGH EFFECTIVE PUBLIC HEALTH PREVENTION**

a. Spartan Pledge:

Castleton University has developed and distributed a campus-wide [Spartan Pledge](#) that outlines expectations for behavior and requirements while on campus. The pledge defines the expectation to participate in mandated testing and quarantine, visitor limitations, travel restrictions, and face covering policies. It states the expectation that non-compliance will be addressed through student conduct and/or personnel policies and procedures as applicable.

In addition an [addendum](#) to the housing contract was created indicating specific COVID-19 related policy changes to the agreement to live on campus.

b. Quarantine:

Castleton is has taken the requirement of quarantine seriously and has strict guidelines for students to follow before coming to campus. Pre-arrival quarantine was offered beginning August 1st so that residents could fulfill the most stringent quarantine mandate of 14-days to assure being ready to move into their fall assignment by the start of classes on August 18th. Additionally, some students in off-campus housing moved back to apartments to complete this requirement. [Guidelines](#) for returning to campus were published to help a student identify early how they would meet the state mandate for quarantine.

c. Health Screenings

All employees or students that come to campus at any time during the semester will be required to perform daily self-attestation health screenings including temperature checks, symptom checks and potential exposure checks. This self-attestation will be logged using CastleBranch. All screening must occur prior to leaving their residence hall or arrival onto campus. System administrators are assigned to each user profile (employee, student, etc) as well as all users.

d. Curtail Visitors and Campus Events:

The University has elected to allow two designated guests to assist residents on move-in day. No person who is not a resident under contract will be allowed in the Residence Halls. This includes family, significant others who don't reside in housing, and Castleton students living off campus. We will limit outside speaker

programming and have a changed the typical family homecoming weekend activities to a week long, virtual-only experience that will showcase the talents of alumni and others.

SHAPE Gym will be open to passholders for the fall semester. The Library may be open for use by the public; however, it will open August 10 only to faculty, staff, and students. The University Bookstore will be open to general public. The dining hall and associated retail will be for the exclusive use of Castleton students and employees.

e. Testing:

COVID-19 testing is required for all students living on campus and for off-campus students who wish to access Castleton University facilities. Following State guidelines students coming from a quarantine county as defined by yellow or red on the [ACCD](#) map published on August 1 will be required to complete quarantine mandates and complete a COVID-19 test on the day of arrival. All students will be required to test 7 days into the semester.

Tests are being coordinated by Castleton Family Health (CFH), with testing being performed by Rutland Regional Medical Center (RRMC). All students will register with CFH indicating their insurance provider. Insurance will be billed by RRMC, and those not covered will be paid for by Castleton using COVID Relief Funds (CRF).

f. Travel:

All official travel conducted by the University will meet the expectations of the Agency of Commerce and Community Development (ACCD) travel guidelines and require Presidential approval. Students living in Vermont will be expected to follow the same guidelines, performing quarantine requirements before returning to campus from a quarantine county.

g. Change Academic Schedule:

Castleton has modified the academic calendar to decrease the possibility of students leaving campus to return home and then return to campus. The academic schedule has been adjusted to eliminate our traditional fall break, and those students leaving on November 20 at the end of regular classes and the end of the residential meal plan will be expected to stay away until the start of the spring term.

Castleton University has not made decisions about spring semester at this time in order to allow more time for events to unfold and assist with this decision.

2. DECREASE POTENTIAL TRANSMISSION OF COVID-19 AMONG FACULTY, STAFF AND STUDENTS ON CAMPUS THROUGH EFFECTIVE PUBLIC HEALTH MEASURES.

a. Face Coverings:

All faculty, staff, students, and visitors (including vendors/deliveries) will be required to wear facial coverings when in the presence of others. Masks must be worn covering the nose and mouth.

A culture of mutual reminding has been adopted to ensure that our community is respectfully encouraging the use of masks.

While the expectation is that each person is responsible to supply and use a mask while on campus, free masks will be made available to all faculty, staff, and students through the Student Government Association, the new student orientation program, and the Office of Human Resources. An additional supply of 7,500 surgical masks was acquired for use as needed. A supply of facial shields (200) and clear masks (200) are available to accommodate when this type of face covering is essential.

Face coverings are not required in private faculty or staff offices when alone or in personal residence hall room

In addition to the required facial coverings, Castleton has installed plexi-glass “sneeze guards” in areas where student interaction is inevitable and physical distancing may not be feasible. Areas such as front desks, science labs, and food areas are where most of the plexi-glass has been installed.

b. Health Screenings:

All health screening will occur through the CastleBranch system. See details in Health Screenings in section 1.

c. Contact Tracing Journal:

The entire Castleton community has been encouraged to maintain a contact tracing journal of all close contacts.

d. Hand Hygiene:

Castleton understands that good hygiene practices, including hand hygiene, is a key resource in mitigating the spread of COVID-19. With this in mind, our facilities team has worked hard to ensure that hand sanitizer is available in hall classrooms, hallways, offices, and restrooms. All restrooms are stocked with soap for easy handwashing.

Additionally, the college has taken steps to place signs in restrooms reminding community members to wash their hands frequently and to educate on the proper method to use for effective handwashing.

e. Cleaning and Disinfecting:

Castleton has put significant thought and effort into ensuring that the plan for cleaning and disinfecting will be more than adequate to ensure community safety with coordinated centralized guidance from the Chancellor's Office and the coordinated efforts of the Directors of Facilities at each VSCS campus.

As classes will be delivered through remote instruction cleaning and disinfecting efforts can be concentrated in the Residence Halls and public-facing spaces on campus in the fall semester. While classrooms may be used as meeting space, use will be limited and scheduled to allow adequate cleaning between uses. Additional wipes and self-service options for cleaning will made available. Cleaning will be completed with the use of supplied and approved disinfectants.

Dormitories: In addition to daily service on weekdays by the facilities team, students will be responsible for cleaning their own personal space after each use. Disinfectant cleaner will be supplied in kitchenette areas and bathrooms for students to use after using the area.

Fleet Vehicles: All vehicles will be cleaned before and after each use by the facilities team. Occupancy is limited to three people, with required mask use if more than one person, for service vehicles. Occupancy numbers for vans, mini-buses, and the two larger CDL-required vehicles are being researched in coordination with the Governor's Restart team for Higher Education.

Ventilation and Air Flow: Throughout the summer HVAC systems have been serviced to ensure maximum air quality. Upgrades from MERV 8 to MERV 10 were achieved in building systems, along with disinfecting the coils and fogging of the return vents in consult with our vendors. Individual unit filters

have also been upgraded wherever possible. More frequent filter changes will occur than in the past.

f. Physical Distancing:

While on campus, all faculty, staff, students, and visitors must maintain proper physical distancing of six (6) feet or more. While there is a certain element of self-responsibility to ensure this distancing, we have taken steps to facilitate this requirement. The following steps have been implemented:

- No guests will be allowed in the dorms.
- Classrooms and Labs have documented maximum occupancy limits that will be followed at all times.
- Common areas such as break rooms will be assessed for safe use by employees.
- Furniture has been removed or rearranged to decrease the possibility of groups congregating in one area.
- Signage has been placed throughout campus reminding all individuals of the required distancing while on campus.

g. Dining Halls:

Sodexo has been working to align the dining hall to match state guidelines. They will monitor the occupancy numbers and create a system to aid in contract-tracing journal entries. A video was published to showcase the changes a person can expect on “How to Do Huden.” This proactive approach by our partner in dining services has helped ease the transition students can expect when returning to the facility.

Any individual choosing to do takeout will be provided with single-use food container and utensils. Students may elect to eat in their residence rooms or in common areas around campus, including outside.

h. Classrooms:

All classrooms and labs have been assigned COVID-19 max room occupancy levels. This ensures that there is adequate space in each classroom to ensure proper physical distancing.

Classrooms and labs will be cleaned before and after use by the faculty member. Additionally, students will be responsible for cleaning their table space before and after each learning experience.

All faculty and students must wear facial coverings during all lab or clinical experiences.

In situations where students may be working at a desk area, assigned seating will be implemented. In cases where students may have to work with another individual, lab partners will be assigned for the semester.

i. Athletics:

Castleton University will plan on conducting fall sports with practices and limited competition, if possible. Student-athletes who are living on campus, in town, or at home within driving distance from the University and not living in a yellow or red zone are welcome to attend practices. Student-athletes will not be invited to attend a practice or team meeting until they have the results back from their first COVID-19 test. Should they test positive they would not be allowed to take part in any activity including watching from the sideline. Not all fall teams will have a roster size large enough to conduct practices but those student-athletes may attend strength and conditioning activities if they choose. Once a team has started practice, outside competition may be considered after three weeks of practice should no cases of COVID-19 appear in that group. This scenario may change hour by hour and day to day as we receive daily reports from the Governor of Vermont, mandates governed by the NCAA, and the reported number of cases that arise on our campus.

j. Performing Arts:

Most large events have been canceled or delivered virtually. Castleton's Soundings program will be completed by students through online delivery. Some limited in-person programming will be coordinated through the Campus Activities Board, but always in alignment with ACCD guidelines for large group events. Some in-person ensembles are expected to perform with the option of online involvement available. Use of specialty spaces, such as music practice rooms, is being evaluated.

k. Protect at-risk faculty, staff and students:

Castleton is taking every precaution to protect the vulnerable members of our community. Any individual that has a pre-existing condition that may place them at higher risk of contracting COVID-19 or developing severe illness in the event of contracting the virus will be encouraged to maintain remote access to their classes.

1. COVID-19 Trainings for Employees and Students:

All employees, including students, are required to complete the [training issued by VOSHA](#) prior to their return on campus.

3. QUICKLY IDENTIFY INDIVIDUALS WITH COVID-19 AND PUT CONTAINMENT PROCEDURES IN PLACE TO MINIMIZE THE IMPACT ON STUDENTS, FACULTY, STAFF, AND EDUCATION

a. Adequate Health services:

Castleton has partnered with Castleton Family Health and Rutland Regional Medical Center to ensure that adequate testing is available for all of our students.

Additionally, our small staff of Registered Nurses that work per diem in the Castleton Wellness Center will be available during the week to offer education and referrals for students using a combination of telemedicine and limited in-person appointments.

b. Isolation Procedures:

The state has mandated 5% bed capacity for those needing to isolate. We have three halls for this exclusive use. Any resident with a positive test will be immediately isolated in Adams Hall and be connected to Castleton Family Health for telehealth monitoring and to VDOH for contract tracing. They will be supported through telepresence by the Residence Life staff and as needed by the RN Staff.

c. Campus Contingency Plans:

Castleton is delivering academics almost exclusively through remote instruction for the fall semester. An adjustment to campus life can be done quickly as needed. Options for quarantining individual rooms, suites, floors, or buildings can be done as required or directed by local health officials.

d. Contact Tracing:

In the event of a positive case, Castleton is prepared to work closely with the Vermont Department of Health to assist them in conducting a contact tracing.