



Board of Trustees  
“Title IX, Policy 311-A, Policy 311 & Policy  
316 Training”  
August 3, 2022

# Policy 311-A, Policy 311 & Policy 316

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# Introduction

Vermont State Colleges has several policies to address our obligations relating to specific legal challenges: sexual misconduct, discrimination, harassment, and abuse of minors.

This training will provide Trustees with an overview of these policies, as well as provide specific information regarding a Trustee's role in safekeeping our community.

# Overview

- Current Title IX regulations effective August 14, 2020
- Significant Revisions to Title IX regulations are in progress and expected late 2022/early 2023
- Policy 311-A (sexual harassment/assault policy)
- Policy 311 (discrimination & harassment policy)
- Policy 316 (protection of minors & mandatory reporting)

**2021 ASR's – Statistics on Sex Crimes, Alcohol, and Drug Arrests and Referrals  
Vermont State Colleges for 2018, 2019, 2020**

	CCV	CCV	CCV	CU	CU	CU	NVU	NVU	NVU	VTC	VTC	VTC
Year	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020
Enrollment	5378	5104	5102	2194	2399	2211	2374	1999	1747	1638	1704	1572
Forcible Sex Offense	2	0	0	3	0	1	5	2	2	2	2	0
Non-Forcible Sex Offense	0	0	0	2	0	0	0	0	0	0	0	0
Domestic Violence	0	0	1	0	0	0	1	1	0	0	0	0
Dating Violence	0	0	0	3	2	1	2	3	0	1	3	0
Stalking	5	0	0	5	3	3	4	4	3	0	0	0
Liquor Law Arrests	0	0	0	3	0	0	3	1	1	0	7	0
Liquor Referrals <sup>1</sup>	1	1	0	112	72	24	53	49	31	47	58	9
Drug Law Arrests	2	2	0	0	0	0	0	0	0	1	0	1
Drug Referrals <sup>2</sup>	4	0	0	80	46	14	2	1	1	15	25	12

Prepared by Cathy Scott, VSC GC Legal Assistant

<sup>1</sup> Disciplinary referrals for liquor law violations

<sup>2</sup> Disciplinary referrals for drug law violations

# 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 Current Regulations

- The 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 Current 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."

# VSC

# Questions?

# POLICY 311-A

# Policy 311-A: Scope of Coverage

## Title IX & Non –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

# 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”

# **POLICY 311-A IMPLEMENTING PROCEDURES**

# 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

# VSC

# Questions?



# POLICY 311

# ANTI-DISCRIMINATION AT VSC: POLICY 311

VSC addresses discrimination and harassment through Policy 311 which has the following Policy Statement:

The VSC and its member Colleges are “committed to maintaining an educational and working environment free from discrimination, harassment and related unprofessional conduct.”

# POLICY 311 – DISCRIMINATION

Discrimination is the unlawful refusal of, withholding from, exclusion from participation in, or denial of any accommodation, advantages, benefits, facilities, privileges, or services of the VSC or its member Colleges against a person **on the basis of a protected category.**

# POLICY 311 – PROTECTED CATEGORIES

- Race
- Ethnicity
- Sex
- Creed
- Age
- Genetic Information
- Any other status protected by federal or state law
- Color
- National Origin
- Sexual Orientation
- Religion
- Veteran Status
- Ancestry
- Place of Birth
- Gender Identity
- Disability
- Marital Status
- Positive HIV-related Blood Tests

# POLICY 311 – POLICY ON RELATIONSHIPS

Means the initiation or participation of a VSC employee 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.

# VSC

# Questions?

# REPORTING RESPONSIBILITIES

# IF YOU BECOME AWARE OF A VIOLATION...

## REPORT TO ONE OF THE FOLLOWING:

- College's Title IX /Policy 311 Coordinators – see Appendices to Implementing Procedures
- College Dean of Students
- College President
- Director of Human Resources- if the employee works in the Office of the Chancellor



# WHAT SHOULD YOU REPORT?

All known relevant details, such as:

- Description of the incident/conduct
  - Names of those involved and any potential witnesses
  - Date, time, and location
- Do not investigate the allegations yourself or make your own determination as to whether a violation occurred

# TEST YOUR KNOWLEDGE?

Chriss is chatting with you while you wait to check out in your town's local grocery store. Chriss shares that they are a student at a VSC College and shopping for all new items because they unexpectedly left their VSC College apartment. Then they whisper to you that their partner punched them in the nose and say, "don't tell anyone."

# WHAT IS THE BEST OPTION?

- a) Explain that you must report the information to the college and contact the VSC College's Title IX/Policy 311 Coordinator.
- b) Ask the student questions in order to gain a thorough understanding of what happened.
- c) Tell the student that you will keep this confidential and help them load their car.
- d) Report it to the local police department without Individual A's permission

# TEST YOUR KNOWLEDGE?

A VSC College has a renowned Journalism Department. You are excited about this development and decide to attend a workshop held by the Journalism Department. During the workshop, you become aware and observe posts on a VSC Journalism Department discussion page that appear to mock a faculty member and the faculty member's disability.

# WHAT IS THE BEST OPTION?

- a) Find the targeted faculty member and ask him whether he knows of the discussion page.
- b) Find one of the discussion page contributors and ask them to stop.
- c) Take a photograph of the discussion and e-mail it to the VSC's College President with other relevant information.

# VSC's Title IX/ Policy 311 & Policy 311-A Webpage

<https://resolve.vsc.edu/>

# VSC

# Questions?

# POLICY 316



# PREVENT ABUSE OF MINORS AT VSC: POLICY 316

VSC addresses obligations to prevent the abuse of minors through Policy 316 which has the following Policy Statement:

*All members of the VSCS community are required to report any knowledge or reasonable suspicion they may have about sexual abuse perpetrated against a Minor by an adult affiliated with the VSCS.*

# POLICY 316 – REPORTING

Trustees are members of the VSC Community and obligated to report knowledge or suspected abuse of a minor by a VSC adult.

Report to the Title IX/Policy 311-A Coordinator or General Counsel, to the President, Chancellor and Chair of the Board of Trustees and, if the report involves an employee, to the applicable Director of Human Resources.

“Reasonable suspicion” may be based upon witnessing a single incident, upon what a Minor says, upon what an adult says about a child, upon an explanation of an injury that makes no sense, or upon a combination of warning signs.

# WHY THIS FOCUS AT VSC?

- Minors are present at VSC, for example:
  - Some are dual enrollment students
  - Some are campers
  - Some matriculated students are not yet 18 years old
- Multiple universities have faced sexual predator scandals involving scores of victims
- Institutional leaders were often uninformed about the allegations
- Vigorous safeguards are needed

# VERMONT STATE LAW & VSC POLICY

- Vermont State Law identifies specific individuals who are mandated to report suspected abuse to FSD.
- The VSC has expanded who is required to report suspected abuse within the VSC through Policy 316.
- Mandated Reporters who have reasonable cause to suspect abuse or neglect of a minor are legally required to make a report to the Family Services Division (“FSD”) of the Department for Children and Families within 24 hours of the time the mandated reporter received or observed information regarding the suspected abuse or neglect.

# VERMONT STATE LAW

- To make a report: Call FSD at 1-800-649-5285 (24 hours a day, 7 days a week).
- If a Minor is in immediate danger, dial 9-1-1 or call local law enforcement first. Then call the above number for FSD to make a report.
- Calling law enforcement is not the same as reporting to FSD. Mandated reporters must notify FSD directly within 24 hours.

# Mandated Reporter or Not?

- An example of a Mandated Reporter in a VSC-setting is a camp counselor or faculty with minors in the classroom
- If you are not a Mandated Reporter, Policy 316 requires that you report a reasonable suspicion of abuse or neglect using the internal process.
  - \* Title IX/Policy 311-A Coordinator
  - \* General Counsel
  - \* President
  - \* Chancellor
  - \* Chair of the Board
  - \* Director of Human Resources, if the report involves an employee

# TEST YOUR KNOWLEDGE

A neighbor of yours has a middle-school child attending a summer camp on a VSC campus. When you are out for your daily walk, the neighbor complains to you about the camp. He describes an unsettling incident this week involving his child and a camp counselor which, if true, is a violation of our Policy. As a Trustee of the Vermont State Colleges, what is your obligation?

- A. Inquire further, such as asking the neighbor for the names of other campers who might be witnesses, so that you can determine for yourself if this is something that should be reported.
- B. Report the suspected violation to the VSC General Counsel, providing factual information such as the date or timeframe, the name of the camper, and (if known) counselor.
- C. Ignore this as gossip, because the neighbor could be making a mountain out of a molehill.

# WHAT IS THE BEST OPTION?

- A. You may feel a natural desire to inquire further, but it is important that you not conduct your own inquiry. Any such inquiry could affect the integrity of an investigation, which should be left to properly trained individuals. This is not a good choice.
- B. This is the best option. You should report the allegation, as well as factual information such as the names involved and the date or timeframe. You could also report this information to a VSC Title IX Coordinator or a VSC Public Safety Officer. After you have reported it, trained personnel will conduct an initial investigation consistent with the provisions of the policy.
- C. Reporting the situation is much better than ignoring it. Situations such as those that made the news have often involved a lengthy period of time because people hesitated to take the situation seriously or did not want to be the one to report.



# WHAT CAN WE DO AT THE VSCS

- Read and understand VSCS Policy 316 and VT state laws
- Remember that policies don't stop child abuse, people do
- Know how to report
- **Do not conduct your own investigation on the situation**

# VSC

# Questions?