

# Policies 311 and 311-A

Protocol and Expectations  
2023

# Policy 311:

## Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct

### Topics Covered

What It Means

Who It Protects

In Simple Terms

What To Do

# What The Policy Says:

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 on 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.

\*\*For the sake of clarity, these will be referred to as "protected categories" for the duration of these slides.

# In Other Words...

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.

Any reports that come in that are not related to the aforementioned classes do not fall under the umbrella of Policy 311 investigations and will be pursued through other policies. These investigations can happen in or out of the United States, if the perceived discrimination happened on a school-sanctioned trip abroad.

Furthermore, any reports or incidents that contain acts of sexual misconduct or sexual harassment and which are deemed to meet the definitions of Policy 311-A (Title IX Sexual Harassment or Non-Title IX Prohibited Conduct) must be addressed under Policy 311-A.

This does not just  
apply to full-time  
VSC employees.

This policy extends to the Board of Trustees, part-time employees, contractors, consultants, or any other person who is working for or on any campus or VSC-related building.

# Let's Talk Definitions

## Discrimination:

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 any protected categories protected by state or Federal law.

## Harassment

(based on protected category):

An incident or incidents or 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 protected category protected by state and 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.

Examples include: 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.

## Hostile Environment

(based on protected category):

A work or educational environment in which the alleged conduct is sufficiently serious as to limit/deny the ability of the person subjected to the harassment to participate in or benefit from the environment. Factors included are the degree to which the education or employment was affected, the types of harassment, frequency and duration, identity of the alleged harasser, the relationship between harasser and subject, the number of individuals involved, and the settings and context in which the harassment occurred.

In order to proceed under the policies, the report of a hostile environment must be based on a protected category.



# Let's Talk Definitions

## Sexual Harassment:

Unwelcome conduct of a sexual nature, including physical conduct of a sexual nature, such as sexual assault or other acts of sexual violence. Conduct that does not fall under the definition of Title IX may fall into the following categories:

### 1) Quid Pro Quo Harassment (Something for Something):

generally involving a person in a position of power 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 action being taken.

### 2) Hostile Environment Sexual Harassment:

Sexual harassment that creates a hostile employment or educational environment, which is also a form of sexual discrimination. Examples include sexual advances, intentional unwanted or offensive touching, indecent exposure, sexually-derogatory comments, obscene or offensive gestures, images and depictions of a sexual nature, and writings of a sexually derogatory or suggestive nature.

\*The above definitions apply where conduct is not deemed to meet the Definitions of Title IX Sexual Harassment or Non-Title IX Sexual Misconduct under Policy 311-A.

# One More Thing!

Sexual harassment may be committed by anyone, regardless of relationship, gender identity, sexual orientation, or sex.

Conduct is unwelcome if the person subjected to the alleged sexually harassing behavior did not request or invite it, and regards it as undesirable or offensive.

Related unprofessional conduct by a VSC employee is the initiation of or participation in an amorous relationship with a student. This behavior falls under this moniker when there is no sexual harassment conducted, but where the employee is, or may reasonably be perceived to be, in a position of power and authority over the student. No employee with any authority over a student may engage in a relationship with that student.



# Scenario

## One:



A man is working for a supervisor who practices a different religion than him. The supervisor treats other employees of the same religion better. Promotions and pay raises are given to employees who practice the religion of the employer before the man with a different religion even though his performance is equal. More than once, documents about converting have been left on his desk, but his supervisor insists it must be the staff who clean. Is this harassment/discrimination?

# Scenario

## One:



A man is working for a supervisor who practices a different religion than him. The supervisor treats other employees of the same religion better. Promotions and pay raises are given to employees who practice the religion of the employer before the man with a different religion even though his performance is equal. More than once, documents about converting have been left on his desk, but his supervisor insists it must be the staff who clean.

Is this harassment/discrimination?

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This could be considered discrimination. Based on the allegation, additional information would need to be found. However, there would be credible evidence (leaving religious literature on the employee's desk) proving the allegation to be accurate. As is with any report, additional information will always need to be found in order to take the best corrective action.

# Scenario

## Two:



Alex uses they/them pronouns and has asked everyone at work to respect this. Their boss, Lucy, continually refuses to use the correct pronouns, saying that "it's just too confusing."

One day at lunch, Alex and their coworker are discussing plans to attend the Pride festival that weekend. Lucy overhears and says, "Why does there need to be Pride? What about Straight Pride?"

Is this harassment/  
discrimination?

# Scenario

## Two:



Alex uses they/them pronouns and has asked everyone at work to respect this. Their boss, Lucy, continually refuses to use the correct pronouns, saying that "it's just too confusing." One day at lunch, Alex and their coworker are discussing plans to attend the Pride festival that weekend. Lucy overhears and says, "Why does there need to be Pride? What about Straight Pride?" Is this harassment/discrimination?

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This would not necessarily be considered discrimination or harassment. More information would be needed before a determination could be made. It's important to note that intention is not what matters in allegations, however. The perceived intent and impact supersede the intention of the complainant. That being said, it could be considered discrimination to refuse using the correct pronouns when you've been asked to do so.

# Scenario

## Three:



A student tells her advisor that she is uncomfortable continuing her sociology course. She states that last week, the instructor used the "N-word" during a discussion about race and racism, as well as several other slurs. She reports that the instructor continued to use these slurs out of context, as well as several peers. When the student approached the instructor after class, she was told, "This is college and I have academic freedom. You need to have a tougher skin and learn to handle a joke." Is this harassment/discrimination?



# Scenario Three:



A student tells her advisor that she is uncomfortable continuing her sociology course. She states that last week, the instructor used the "N-word" during a discussion about race and racism, as well as several other slurs. She reports that the instructor continued to use these slurs out of context, as well as several peers. When the student approached the instructor after class, she was told, "This is college and I have academic freedom. You need to have a tougher skin and learn to handle a joke." Is this harassment/discrimination?

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More information would be needed to make an accurate determination, including the nature of the words used and the impact. If there is no identifiable victim, additional information and discussion needs to take place. This would likely be a conversation with HR.

# Scenario

## Four:



A student is falling behind in coursework. He stays after class one day to ask the professor if there is any additional work he can do for extra credit. The professor gives him his phone number, and tells him that he hopes he uses it, "if he catches his drift." The student feels uncomfortable, and drops out of his class as a result. Is this sexual harassment/misconduct?

# Scenario

## Four:



A student is falling behind in coursework. He stays after class one day to ask the professor if there is any additional work he can do for extra credit. The professor gives him his phone number, and tells him that he hopes he uses it, "if he catches his drift." The student feels uncomfortable, and drops out of his class as a result. Is this sexual harassment/misconduct?

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This could be considered sexual harassment or misconduct. As we discussed in a previous scenario, the perception of the complainant trumps the intention of the respondent. Given the impact of the statement (e.g., the student dropping the course), an argument could be made stating harassment. More information would need to be found.

# Scenario

## Five:



Rod is a VSC administrator. While on campus, Rod is told by another employee who heard from a third employee that a law enforcement search warrant related to sexual misconduct was effectuated for the on-campus office of a faculty member. Although Rod did not obtain this information directly, he is unsure what to do. Is this reportable under Policy 311?

# Scenario

## Five:



Rod is a VSC administrator. While on campus, Rod is told by another employee who heard from a third employee that a law enforcement search warrant related to sexual misconduct was effectuated for the on-campus office of a faculty member. Although Rod did not obtain this information directly, he is unsure what to do. Is this sexual harassment/misconduct?

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Rod is required to report any information known to the Title IX Coordinator. Even if information is gained indirectly, matters which fall under sexual misconduct or Title IX must be reported immediately.



# Scenario

Six :



Jane is walking to her car at the end of the workday. Bruce, one of her coworkers, follows her and stands between her and the driver's door. Bruce asks Jane on a date, which she turns down. Instead of moving out of her way, Bruce tells Jane that he will not move until she agrees to go out with him, and that he can stand there all night. Is this sexual harassment/misconduct?

# Scenario

Six :



Jane is walking to her car at the end of the workday. Bruce, one of her coworkers, follows her and stands between her and the driver's door. Bruce asks Jane on a date, which she turns down. Instead of moving out of her way, Bruce tells Jane that he will not move until she agrees to go out with him, and that he can stand there all night. Is this sexual harassment/misconduct?

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Yes. Jane has made it very clear that she is uninterested in a relationship with Bruce. Bruce is disregarding Jane's wishes and putting her in a position where her safety and health may be compromised,

# What Happens Next?

Under Federal regulations, as well as Policy 311, you are required to make a report to the Title IX and Protected Rights Coordinator and/or the Deputy Title IX Coordinator, a designated contact person, the Dean of Students, the President, or, if the employee works in the Office of the Chancellor, to the Director of Human Resources.

Furthermore, you are not expected to, and should not, investigate the report yourself, unless specifically assigned to investigate a complaint. When reporting the incident, be sure to include all known relevant details, including a description of the alleged incident(s), the names of anyone involved or present, the date, the time, and the location. Any report that comes in on any campus should be redirected to the Title IX Coordinator, and appropriate measures will be taken from there.

Failure to report an incident can result in disciplinary action.

\*Individuals whom report complaints in good faith are protected from retaliation through VSC Policies, as well as applicable state and federal statutes.

# Policy 311-A: Sexual Harassment, Sexual Exploitation, Domestic Violence, Sexual Assault, and Stalking

## Topics Covered

What It Means

Who It Protects

In Simple Terms

What To Do

# What The Policy Says:

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 warning, reprimands, and educational sanctions, as well as possible referral for criminal investigation and prosecution under Vermont Law.

\*\*For the sake of clarity, these will be referred to as "protected categories" for the duration of these slides.



# In Other Words...

If a determination of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking has occurred, timely action is expected in order to address any concerns. VTSU will respect confidentiality where applicable. This policy extends to all staff, faculty, students, and third parties who come on campus.

Furthermore, any reports or incidents that contain acts of sexual harassment and which are deemed to meet the definitions of Policy 311-A (Title IX Sexual Harassment or Non-Title IX Prohibited Conduct) must be addressed under Policy 311-A.

Students are not required to make reports of any of the aforementioned behaviors, but faculty, staff, and the Board of Trustees are.

# It's all about Affirmative Consent, meaning...

it needs to be shown through words  
and actions how someone said yes. A  
lack of yes means NO-there is no  
consent.

# Scope of Coverage

## Who:

All members of the VTSU community, including students, employees, and other third parties who come onto campus (parents, visitors, independent contractors, vendors, etc.)

## What:

Prohibited Conduct into VTSU's educational, extracurricular, athletic, and other programs and activities, as well as in the employment setting; other forms of sexual harassment that do not meet this policy's definition are addressed under a separate policy and are likewise prohibited

## Where:

Any VSC campus or VSC adjacent property utilized for VSC purposes, including off campus, online, or which have a nexus to any VSC program/activity.

## When:

The length of time between an incident and a report does not change VTSU's willingness to investigate or support the reporting individual. However, a prompt report increases the effectiveness and ability to investigate; VTSU encourages reports to be made following an incident.

# Let's Talk Definitions:

## Title IX Sexual Harassment

### Title IX Quid Pro Quo:

(Something for Something); Generally involving a person in a position of power 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 action being taken, and which occurred in the United States.

### Title IX Severe, Pervasive, and Objectively Offensive Sexual Harassment:

Conduct on the basis of sex committed in an education or activity program of VTSU which constitutes unwelcome conduct and determined to be so severe, pervasive, AND objectively offensive that it effectively denies a student or employee equal access to an educational or activity program, either through employment or an educational context

# Let's Talk Definitions:

## Title IX Sexual Assault

### Rape:

Penile-vaginal penetration of a person without consent, including instances where they are incapable of giving consent because of age or temporary/permanent mental or physical incapacity\*; oral or anal sexual intercourse with another person without consent; use of an object or instrument (including inanimate objects or body parts other than a penis) to unlawfully penetrate the genital/anal opening of the body of another without consent;

### Fondling:

Touching of the private parts of another person for the purpose of sexual gratification without consent (meaning 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

### Statutory Rape:

Sexual intercourse with a person who is under the statutory age of consent

\*without consent hereafter will refer to the above definition for the sake of clarity

# Let's Talk Definitions

## 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, including but not limited to sexual or physical abuse or the threat of such abuse; considered a crime under Clery Act

## Domestic Violence:

Felony or misdemeanor crime of violence committed by a current or former partner or spouse, a person with whom the victim shares a child in common, a person who is/has cohabitated with the victim as a spouse or partner, a person similarly situated to a spouse of the victim under the DV laws of jurisdiction where the crime occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the DV or family laws in the jurisdiction where the crime occurred; considered a crime under the Clery Act

## Stalking:

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; includes non-consensual communication,



# Let's Talk Definitions:

## Non-Title IX Sexual Misconduct

Non-Title Misconduct is prohibited conduct that is addressed by Policy 311A but 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 the program or activity of VSC in the United States.

### Non - Title IX Sexual Assault:

Sexual assault that did not occur in a program or activity of VSC in the United States.

### Non - Title IX Domestic Violence:

Domestic violence that did not occur in a program or activity of VSC in the United States.

### Non - Title IX Dating Violence:

Dating violence that did not occur in a program or activity of VSC in the United States.

# Let's Talk Definitions:

## Non-Title IX Sexual Misconduct

### Non-Title IX Stalking:

Stalking that did not occur in a program or activity of VSC in the United States.

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.

### Non-Title IX 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.

# 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.

Designated Campus Security Authorities are required to report certain crimes to the Office of Public Safety.

Any reported incidents of dating violence, domestic violence, sexual assault, stalking, and any other crimes

Public Safety will issue a timely warning when a crime is considered to pose a serious or continuing threat to the VTSU community.

No personally identifying information will be included in the public reports required by the Clery Act.

# Scenario

## One:



A student comes to you asking for accommodations for her upcoming exam. She explains that she got into a fight with her partner, who threw away all of her study materials and textbooks. When you ask if this has happened before, she says she doesn't want to talk about it, and that she just wants accommodation for the exam. Is this TIX harassment/abuse?

Are you required to provide the accommodation?

# Scenario

## One:



A student comes to you asking for accommodations for her upcoming exam. She explains that she got into a fight with her partner, who threw away all of her study materials and textbooks. When you ask if this has happened before, she says she doesn't want to talk about it, and that she just wants to accommodate for the exam. Is this Title IX harassment/abuse? Are you required to provide the accommodation?

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This would be a report made to the Title IX office for the underlying incident reported by the student. Faculty and instructors are required to consider reasonable accommodations; a conversation would be had for further assistance, and more information may need to be found.

# Scenario

## Two:



You are an RA, talking to one of your residents. He tells you that he and his girlfriend have been having a difficult time lately. He says that over the weekend, they had sex together, but he really didn't want to. He says that when he told his girlfriend he was uncomfortable, she said that it couldn't be sexual assault because they were dating already. Is this TIX harassment/ discrimination?



# Scenario

## Two:



You are an RA, talking to one of your residents. He tells you that he and his girlfriend have been having a difficult time lately. He says that over the weekend, they had sex together, but he really didn't want to. He says that when he told his girlfriend he was uncomfortable, she said that it couldn't be sexual assault because they were dating already. Is this TIX harassment/discrimination?

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Yes, it could be. The resident verbalized his discomfort, and there was not a "yes" consent, which is required under Vermont law. Partners are capable of assault. Additionally, the RA would be required to make a report, as they are a mandated reporter.

# Scenario

## Three:



A student comes to you after class and tells you that the other night at a party, they saw their teammate slip something into someone else's drink while she had her back turned. Later, they disappeared together and the student couldn't get into contact with either person. This student says that they didn't know if they should tell anyone, but was worried, Is this TIX harassment/discrimination?

# Scenario Three:



A student comes to you after class and tells you that the other night at a party, they saw their teammate slip something into someone else's drink while she had her back turned. Later, they disappeared together and the student couldn't get into contact with either person. This student says that they didn't know if they should tell anyone, but was worried, Is this Title IX harassment/discrimination?

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While this incident should be reported, more information would need to be found in order to gain a better understanding. It will be up to the Title IX Coordinator to work with the parties involved and aid in resolution if requested.

# What Happens Next?

Under Federal regulations, as well as Policy 311, you are required to make a report to the Title IX and Protected Rights Coordinator and/or Deputy Title IX Coordinator, a designated contact person, the Dean of Students, the President, or, if the employee works in the Office of the Chancellor, to the Director of Human Resources.

Furthermore, you are not expected to, and should not, investigate the report yourself, unless specifically assigned to investigate a complaint. When reporting the incident, be sure to include all known relevant details, including a description of the alleged incident(s), the names of anyone involved or present, the date, the time, and the location. However, any indication of prohibited conduct must be reported, even if you do not have full information or every detail. Any report that comes in on any campus should be redirected to the Title IX Coordinator, and appropriate measures will be taken from there.

Failure to report an incident can result in disciplinary action.

# Policy 316: Protection of Minors and Mandatory Reporting of Child Abuse and Neglect

## Topics Covered

What It Means

Who It Protects

In Simple Terms

What To Do

# What The Policy Says:

This policy creates a...duty for all members of the VSCS community who interact with, supervise, chaperone, or otherwise oversee minors in VSCS-sponsored programs, activities, and/or residential facilities to receive training on the protection of minors. This policy also creates a...duty for all members of the VSC community, regardless of whether they work directly with minors, to report internally and immediately suspected cases of sexual abuse of a minor by any adult affiliated with the VSCS. Employees who are mandated reporters under Vermont law are legally required to report any suspected abuse or neglect of Vermont DCF within 24 hours.



# In Other Words...

If you know or suspect that child abuse or neglect has occurred, you are required to make a report to the appropriate authorities, including internal structures (Office of Public Safety, Title IX, Office of the Chancellor) and external structures (law enforcement, Vermont DCF). It is not your responsibility to determine whether abuse or neglect has taken place, and you should not investigate these claims on your own. Failure to report suspected abuse or neglect will result in disciplinary action, up to and including termination.

# If You Become Aware of a Violation:

Report to one of the following:

- a) University's or College's Title IX Coordinator or Deputy Coordinators
- b) University or College Dean of Students
- c) University President
- d) Chief Human Resources Officer (if the employee works in the Office of the Chancellor)

Additionally, you can call 1-800-649-5285 to make a report to DCF. If the child is in immediate danger, call 9-1-1 first! Making a report to 911/LEOs is not the same thing as fulfilling duty as mandated reporters and reporting to DCF.

## Reports Include:

- a) Description of the incident/conduct
- b) Names/contact information of those involved
- c) Any potential witnesses
- d) Date, time, and location

# Scenario

## One:



While overseeing a summer camp, you realize that one of the campers is afraid to go home. She tells you that her parents often get into physical fights in front of her, and it scares her. She also tells you that she was told she wasn't allowed to tell anyone about the fights, and that she's worried about her "punishment." Is this reportable under 316?

# Scenario

## One:



While overseeing a summer camp, you realize that one of the campers is afraid to go home. She tells you that her parents often get into physical fights in front of her, and it scares her. She also tells you that she was told she wasn't allowed to tell anyone about the fights, and that she's worried about her "punishment." Is this reportable under 316?

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Yes--this would be a report made to the DCF report line. Additionally, you are required to provide this information to the Title IX officer.

# Scenario

## Two:



A high school student comes to you and tells you that they want to drop a college class they've been taking. When you ask why, they say that the professor was making inappropriate comments toward them, and they feel that they cannot take this course. They will not share the comments made. Is this reportable under 316?

# Scenario

## Two:



A high school student comes to you and tells you that they want to drop a college class they've been taking. When you ask why, they say that the professor was making inappropriate comments toward them, and they feel that they cannot take this course. They will not share the comments made. Is this reportable under 316?

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While this would be a report made to the Title IX officer, this would not necessarily be a report made to DCF. The Title IX officer would find more information and make a report to DCF should additional information be discovered.



# Scenario

## Three:



You are at the mall when you see the football coach for the university. You notice that he is with a teenaged girl. You assume this is his daughter, until you see them kiss. You know that this girl is underage, because she is wearing her high school uniform. They do not see you, and you do not let them know that you've seen them. Is this reportable under

3 16?

# Scenario

## Three:



You are at the mall when you see the football coach for the university. You notice that he is with a teenaged girl. You assume this is his daughter, until you see them kiss. You know that this girl is underage, because she is wearing her high school uniform. They do not see you, and you do not let them know that you've seen them.

Is this reportable under 316?

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Yes and no. While the student is wearing a uniform, she may not be underage. There would be no demographic details available to provide to DCF and the report would likely be rejected. This report would be brought to the Title IX Office and, as with the other scenario, the TIX officer would need to find additional information and report if needed. As always, more information would need to be found. As always, more information would need to be found.

# Questions?

For further information, or to make VTSU reports, please reach out to Amy Daviarz at [amy.daviarz@vsc.edu](mailto:amy.daviarz@vsc.edu) or 802-279-2808.

To make a report concerning CCV, please reach out to Angie Albeck at [angie.albeck@ccv.vsc.edu](mailto:angie.albeck@ccv.vsc.edu) or 802-654-0690.



Thank you!