

CHANCELLOR'S PROCEDURES FOR IMPLEMENTATION OF POLICY 311-A: SEXUAL HARASSMENT, SEXUAL EXPLOITATION, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

I. INTRODUCTION

The following procedures outline the steps available to individuals who may have been subjected to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking, as defined in Policy 311-A, and describe the institutional procedures for handling complaints involving such misconduct. These procedures incorporate by reference the terms and conditions of Policy 311-A, *Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault, and Stalking*, and are to be read consistently with the requirements of any state or federal laws and regulations, and unless specifically provided otherwise in these procedures, with any collective bargaining agreement, and any personnel handbook governing the rights and responsibilities of the Vermont State Colleges ("VSC"), its member institutions and its employees. These procedures may be modified as necessary to comply with federal and state law and to respond promptly and effectively to incidents of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, and stalking. If there is any conflict between these procedures and applicable federal or state law, these procedures are to be interpreted consistent with applicable federal or state law.

II. DEFINITIONS

The definitions set forth in Policy 311-A are incorporated here by reference. The following additional definitions apply to these procedures.

"Complainant" means 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 these procedures 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.

"Dean of Students" means the Dean of Students at a Member Institution or any person carrying out that function, however named.

"Designated contact person" means those persons designated by the Office of the Chancellor and the Member Institutions to advise individuals with questions about Policy 311-A, to provide information about available resources for complainants, to assist in the reporting of an incident

that may constitute a violation of Policy 311-A, and to explain the process for filing a complaint. The names of the designated contact persons at each institution shall be published online and made available at the office of the Dean of Students and the office of the Human Resources Administrator for each Member Institution, as well as the office of the Director of Human Resources at the Office of the Chancellor.

“Employee” means all VSC employees, including student employees, such as Resident Advisors and work study students (within their capacity as work study students).

“Parties” means the complainant and the respondent.

“Respondent” means 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.

“Responsible College Administrator” or “RCA” means (1) the President or Dean of Students from the Member Institution where the violation allegedly occurred; (2) the Director of Human Resources at the Office of the Chancellor, if the violation allegedly occurred at the Office of the Chancellor; (3) the Chancellor, if the VSC Director of Human Resources or a President allegedly violated Policy 311-A; (4) the Chair of the Board of Trustees, if the Chancellor allegedly violated Policy 311-A; and (5) any designee of the aforementioned.

“Third Parties” means individuals who are neither students nor employees, such as visitors, parents, vendors, and independent contractors.

“Title IX Coordinator” means the administrator at each Member Institution selected by the President, and the person at the Office of the Chancellor identified and authorized by the Chancellor, to serve as Title IX Coordinator for the purposes of coordinating the VSC’s efforts to comply with and carry out its responsibilities under Title IX, as well as any designee of the Title IX Coordinator. For the purposes of Policy 311-A, the Title IX Coordinator’s responsibilities include overseeing the process for handling all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Title IX Coordinator prepares annual reports on the nature and outcome of complaints at the institution, which are to be used for satisfying any VSC or Member Institution’s legal reporting requirements and for planning and assessing progress toward the goal of preventing sexual misconduct. Contact information for the Title IX Coordinators is located in **Appendix A** to these Procedures.

“VSC” and **“Member Institution”** refer collectively to the Vermont State Colleges and its individual member institutions: Castleton University, Community College of Vermont, Northern Vermont University, and Vermont Technical College, however named or configured.

III. CONTACT INFORMATION

Any person (including students, employees, and third parties) who believes that they have been subjected to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault or stalking (“Prohibited Conduct” and as defined further in Policy 311-A), or who has information about such an incident, may seek advice or information from the Title IX Coordinator, designated contact persons, or Responsible College Administrators. Such individuals have the option to notify law enforcement, to be assisted by VSC officials in notifying law enforcement, or to decline to notify law enforcement.

The VSC encourages all members of the VSC community affected by Prohibited Conduct to seek immediate assistance. Seeking prompt assistance is important to promote a person’s physical safety, to obtain medical care or other support, and to preserve evidence for any legal or disciplinary action. Preservation of evidence is important even if an individual initially chooses not to pursue a complaint, criminal charge or protective order, because the individual may decide to do so at a later time.

Contact information for: (1) trained campus and community advocates and counselors who can provide an immediate confidential response in a crisis situation; and (2) Public Safety, state and local law enforcement, and other first responders, shall be published on VSC websites (currently: <https://resolve.vsc.edu/>) and made available at the offices of the Chancellor, President, Dean of Students, Human Resources, Public Safety, and counseling/student health center.

IV. SUPPORT AND ASSISTANCE

(A) Court Orders

The VSC is committed to promoting the safety and well-being of individuals who are being or who may have been subjected to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking. Such individuals may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from Vermont courts. Upon request, the VSC will assist individuals in making contact with law enforcement authorities and other external resources to seek such orders. This assistance is available regardless of whether an individual chooses to file a complaint with the VSC.

(B) Supportive Measures

Individuals do not have to file a formal complaint, participate in a disciplinary process, or file a criminal complaint in order to request supportive measures from the VSC. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to VSC’s education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the VSC’s educational environment, or deter Prohibited Conduct.

Supportive measures may include but are not limited to:

- counseling;
- academic accommodations, such as extensions of deadlines or other course-related adjustments, course changes or late drops, or other arrangements as appropriate;
- modifications of work or class schedules;
- campus escort services;
- mutual restrictions on contact between the parties;
- residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate;
- changes in work locations;
- leaves of absence;
- increased security and monitoring of certain areas of campus;
- changing transportation or working arrangements or providing other employment accommodations, as appropriate;
- assisting the individual in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, student financial aid services, and legal assistance both on and off campus, as applicable (visit <https://resolve.vsc.edu/> for further information);
- no trespass notices prohibiting the presence of an individual on VSC property, and/or other properties on which VSC programs are occurring;
- informing the individual of the right to report a crime to local law enforcement and/or seek orders of protection, restraining orders, or relief from abuse orders from United States courts or courts outside of the United States as applicable, and providing assistance if the individual wishes to do so. VSC will also work with complainants and others as appropriate to respect and implement the requirements of such orders on premises that it owns or controls, as necessary and appropriate;
- and other similar measures.

Where a complainant reportedly subjected to Prohibited Conduct makes a reasonable request for supportive measures like those described above, VSC is obligated to comply with that request if such measures are reasonably available and not materially inconsistent with established academic guidelines or requirements.

Students and employees seeking supportive measures should direct their request to the Title IX Coordinator for their campus or location. Requests will be evaluated and responded to by the Title IX Coordinator or designee after consultation, as needed, with other campus personnel whose cooperation may be necessary or helpful in evaluating or providing requested measures. The Title IX Coordinator is ultimately responsible for coordinating the effective implementation of supportive measures. Factors that may be considered in determining the appropriateness of

supportive measures may include but are not limited to: the specific need expressed by the requesting individual; the age and position of the individuals involved; the severity or pervasiveness of the alleged conduct; any continuing effects of the alleged violation on the requesting individual; whether the individuals involved share the same residence hall, dining hall, classes, transportation or job location; and, whether any judicial measures, such as court orders, have been taken to protect the requesting individual.

The VSC will take reasonable steps to maintain as confidential any supportive measures provided, to the extent that maintaining such confidentiality does not impair the VSC's ability to provide the accommodations or protective measures.

Supportive measures may be offered as appropriate to the respondent, as well as to the complainant. Assessment of a party's need to receive a supportive measure will generally be made on an individualized basis, as appropriate, based on the information gathered by the Title IX Coordinator. The measures needed by each party may change over time and the Title IX Coordinator will communicate with the parties to evaluate whether the measures provided are necessary and effective based on the parties' evolving needs.

The imposition of any of these measures does not indicate a presumption of guilt, nor does it preclude subsequent disciplinary action. A no contact order in and of itself does not constitute discipline and will not appear in an employee's personnel file or on a student's disciplinary record, but refusal to comply with a no contact order (or other supportive measure) is a violation of policy and may result in disciplinary action. A no trespass notice prohibits the presence of an individual in a designated area. Such notices are legally enforceable and, if violated, may lead to arrest.

(C) Interim Suspension, Emergency Removal and Administrative Leave

1. Interim Suspension of Students in Non-Title IX Sexual Misconduct Cases

In cases that fall within the definition of Non-Title IX Sexual Misconduct found in Policy 311-A, if the VSC has reasonable cause to believe that a student reported to have committed Non-Title IX Sexual Misconduct poses a substantial threat to themselves, the complainant, other people, property, or the continuance of normal VSC operations, the VSC may suspend the student for an interim period, pending the outcome of the disciplinary process. Careful consideration should be given to alternative supportive measures, such as changing class schedules, changing residence hall assignments, and issuing no contact orders or building access restrictions, before imposing an interim suspension, so as to avoid depriving a student of their education where possible. Consideration should also be given to providing a respondent with remote access to classes, where available and feasible under the circumstances.

An interim suspension will not be imposed without prior notice to the student (either written or oral) of the contemplated suspension and a summary of the factual basis for it. The student shall have forty-eight hours in which to submit a letter to or appear personally or virtually before the Dean of Students (or the Dean's designee) to contest the interim suspension. The Dean of Students (or the Dean's designee) shall consider factors such as: (1) the reliability of the

identification of the student; and (2) whether the alleged conduct, if true, based on the surrounding circumstances, reasonably indicates that the continued presence of the student on campus poses a substantial threat to themselves, the complainant, other people, property, or the normal operations of the VSC. The Dean (or the Dean's designee) may require the student to meet certain conditions in lieu of an interim suspension. Unless the Dean of Students (or the Dean's designee) determines that it would be unreasonably difficult or dangerous to delay the interim suspension, the student shall have the opportunity to be heard in person, virtually or in writing before the interim suspension takes effect.

2. Emergency Removal of Students or Employees in Title IX Sexual Harassment Cases

When VSC determines that there is an immediate threat to the physical health or safety of any student or other individual arising from reported conduct that falls within the definition of Title IX Sexual Harassment in Policy 311-A, VSC can remove a respondent from the education program or activity (which may include removing an employee respondent from their employment at VSC per the applicable terms of the any pertinent bargaining unit agreement or personnel handbook) and issue any necessary related no-trespass and no-contact orders. VSC will make the decision to remove a respondent from the education program or activity based on an individualized assessment and risk analysis.

If VSC makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. Specifically, the respondent shall have forty-eight hours in which to submit a letter to or appear personally or virtually before the Dean of Students (or the Dean's designee), if a student-respondent, or before the President (or the President's designee) if an employee-respondent, to contest the interim suspension (though a meeting could be scheduled sooner if requested by the respondent, if practicable or required per the terms of the applicable bargaining unit agreement or personnel handbook).

c. Non-student Administrative Leave in Title IX Sexual Harassment Cases

VSC always maintains the discretion to place non-student employee respondents on paid administrative leave during the pendency of an investigation and resolution process as outlined below, consistent with the terms of the applicable bargaining unit agreement or personnel handbook.

VSC may also place a non-student employee respondent on unpaid administrative leave during the pendency of an investigation and resolution process, consistent with the terms of the applicable bargaining unit agreement or personnel handbook. In those instances in which VSC determines that an administrative leave will be unpaid and the respondent was not offered the opportunity to challenge the suspension without pay before it was imposed through some other process, the respondent may present a written challenge regarding the need for or the adequacy of the unpaid administrative leave to the President or their designee, if the respondent is employed at a VSC institution, or the Chancellor or their designee if the respondent is a President or employee at the Chancellor's Office.

V. **REPORTING SEXUAL MISCONDUCT, SEXUAL EXPLOITATION, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

(A) Report by Complainants or Others with Information

Any person (including students, employees, and third parties) who believes that they have been subjected to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking, or who has information about an alleged incident of such Prohibited Conduct, may report the incident to the Title IX Coordinator, a designated contact person, a Responsible College Administrator, Public Safety, or Human Resources.

Individuals with a disability may request accommodations to ensure their full and equal participation in reporting incidents of such Prohibited Conduct, as well as the investigatory and adjudicatory process under this policy. Requests for accommodations in the Policy 311-A process are determined on an individual basis by the Title IX Coordinator, in consultation with the ADA/Section 504 Coordinator as appropriate.

(B) Reporting Obligations of Employees

Except in circumstances where an employee is acting within the scope of their role as a specifically-designated confidential resource, employees who are aware or have been made aware of an incident of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking are required to report this information to one of the following: the Title IX Coordinator, the Dean of Students, the President, or, if the employee works in the Office of the Chancellor, to the Director of Human Resources.

Employees are not expected to and should not investigate alleged incidents, unless this is part of their job duties or they are assigned to investigate a complaint made under this policy. The report should include all known relevant details, including a description of the alleged incident, the names of anyone involved or present, the date, time, and location.

Failure by an employee to report a complaint or alleged acts of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking is considered a violation of policy and may result in disciplinary action. The procedures and mutual obligations of the VSC and the employee under any collective bargaining agreement, or the VSC personnel handbook, will apply to any such disciplinary action.

(C) Reporting to Law Enforcement Agencies

The VSC encourages accurate and prompt reporting of all crimes to Public Safety and/or to state and local enforcement, when the victim of a crime elects to make a report, as well as when the victim is unable to make a report due to physical or mental incapacity. Definitions of consent and the crimes of dating violence, domestic violence, sexual assault, and stalking under Vermont law are set forth in **Exhibit B** to these Procedures. Contact information for Vermont's Special Investigation Units, by county, is set forth in **Exhibit C** to these Procedures. Additional contact

information for local law enforcement agencies shall be published on VSC websites (visit <https://resolve.vsc.edu/>) and made available at the offices of the Chancellor, President, the Dean of Students, Human Resources, Public Safety, and any campus counseling/health center.

The VSC will not wait for the conclusion of a criminal investigation or proceeding to process complaints or begin its own investigation under this policy. The VSC will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation and may, if so requested, temporarily delay an investigation while law enforcement initially gathers evidence.

In certain circumstances, the VSC may need to report an incident of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking to law enforcement, such as where the incident warrants undertaking safety and security measures for the protection of an individual and/or the VSC community, including but not limited to situations where there is clear and imminent danger and/or where a weapon may be involved. The complainant may choose whether to assist law enforcement.

VI. REPORTING AND INITIAL PROCEDURES REGARDING REPORTS OF PROHIBITED CONDUCT

(A) Reporting

Any VSC student, faculty member, staff member or third party who has reasonable cause to believe that sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault or stalking has occurred or is occurring should report this information to the immediate attention of the appropriate Title IX Coordinator. Contact information can be found in Appendix A.

A report or complaint may be made verbally (in person, by phone, or videoconferencing) during applicable business hours, or in writing (via mail, email or through <https://resolve.vsc.edu/>) 24 hours per day, 7 days per week.

1. Reports Regarding Students

A report regarding sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking by a student shall be filed with the Title IX Coordinator.

2. Reports Regarding Employees

A report regarding sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking by an employee shall be filed with the Title IX Coordinator. A complaint against a Title IX Coordinator shall be filed with the President of the Member Institution, who will designate an alternate contact person. A complaint against a President shall be filed with the Chancellor, who will designate an alternate contact person. A formal complaint against an employee in the Office of the Chancellor shall be filed with the VSC Director of Human Resources (or the Director's designee). A complaint against the VSC Director of Human Resources shall be filed with the Chancellor, who will designate an alternate contact person. A

formal complaint of such misconduct against the Chancellor shall be filed with the Chair of the Board of Trustees.

Respondents who are represented by a union may exercise their rights, pursuant to federal and state labor law, through these procedures, including, but not limited to, the right to have a union representative present for any interview or meeting.

3. Reports Regarding Third Parties

A report regarding sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking committed by a third party shall be filed with the Title IX Coordinator. The VSC's ability to take disciplinary action against a third party may be limited, depending on the particular circumstances, but may include banning the third party from campus.

(B) Initial Communication with Complainant

If the report alleges conduct that would, if proved, be prohibited by Policy 311-A, the Title IX Coordinator will:

- promptly contact the complainant to discuss the availability of supportive measures as defined above;
- consider the complainant's wishes with respect to supportive measures;
- inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- explain to the complainant the process for filing a formal complaint.

(C) Formal Complaints

After an initial discussion, the complainant will be asked to prepare a written statement describing the alleged conduct. The statement should include information such as (if known) the date and time of the alleged misconduct, the name of the respondent, the circumstances surrounding the alleged conduct, and the identity of any person who may have knowledge or information about the conduct. The complainant may incorporate by reference a previously-prepared statement (such as an e-mail, an affidavit, or a statement provided to law enforcement). The Title IX Coordinator may alternatively draft a statement, based upon the complainant's verbal description of the alleged conduct, for the complainant's review and approval. To be considered a formal complaint, this document must be filed by a complainant, signed personally or electronically by the complainant (or signed by the Title IX Coordinator under circumstances outlined below), and request that VSC investigate reported Prohibited Conduct.

(D) Determinations of Applicable Procedures, Dismissals, Transfers and Appeals of Such Determinations

When a complainant requests an investigation, the Title IX Coordinator will promptly upon receipt of a formal complaint:

- 1) determine whether the conduct alleged would, if proved, constitute Title IX Sexual Harassment (i.e., *Quid Pro Quo* Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, or sex-based Domestic Violence, Dating Violence or Stalking) as defined in the Title IX Sexual Harassment definition in Policy 311-A;
- 2) determine whether the conduct allegedly occurred in VSC's education program or activity;
- 3) determine whether the conduct allegedly occurred in the United States; and
- 4) determine whether at the time the formal complaint was made, the complainant was participating or attempting to participate in a VSC program or activity.

If a formal complaint of conduct that would, if proved, satisfy all four of these elements and constitute Title IX Sexual Harassment as defined in this policy is received or signed by the Title IX Coordinator, it will be investigated and resolved through the procedures applicable to Title IX Sexual Harassment matters as outlined below.

VSC will, as noted above, investigate alleged Title IX Sexual Harassment when a complainant submits a signed or electronically-submitted formal complaint to the Title IX coordinator and requests an investigation. In cases where the complainant does not wish to submit a formal complaint but the Title IX Coordinator decides in their discretion to sign a complaint and initiate an investigation and resolution process, the Title IX Coordinator will not be a complainant or otherwise a party to the matter.

If some but not all of the conduct alleged in the complaint satisfies all four of these elements and a formal complaint is received from a complainant or signed by the Title IX Coordinator, VSC will, in its discretion, address the entire matter through the procedures applicable to Title IX Sexual Harassment matters as outlined below (that is, it will as required by federal regulations follow Title IX Sexual Harassment procedures to address the alleged Title IX Sexual Harassment, and it will, to promote efficiency, choose to follow Title IX Sexual Harassment procedures to address Non-Title IX Sexual Misconduct and other non-Title IX alleged misconduct in such mixed cases, so that all related misconduct may be addressed through one investigation and resolution process).

If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all four of these elements, VSC will, as required by May 2020 Title IX regulations, dismiss the matter for purposes of the Title IX Sexual Harassment process, and will transfer it for handling under the Non-Title IX Sexual

Misconduct procedures outlined here or in other VSC procedures, as deemed appropriate by VSC.

Even if the allegations of a matter fall within the definition of Title IX Sexual Harassment, VSC may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process:

- a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- the respondent is no longer enrolled or employed by VSC; or
- specific circumstances prevent VSC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a formal complaint is dismissed by VSC under the circumstances described above, VSC will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the Title IX Sexual Harassment appeal procedures outlined below.

If the respondent is a student and an employee, the Title IX Coordinator will determine which procedures apply based upon the facts and circumstances, such as whether the respondent's status as a student or an employee predominates in the context of the Prohibited Conduct. If a student-employee is found to have engaged in Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment, and in connection with their student status, as appropriate under these and other applicable procedures.

(E) Notice

If VSC initiates an investigation of Title IX Sexual Harassment or Non-Title IX Sexual Misconduct it will provide to the parties a written notice (by electronic or other means) that includes:

- Information about VSC's formal and informal resolution processes;
- A statement of the allegations of behavior potentially constituting Prohibited Conduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial post-intake interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Information regarding VSC's presumption of good faith reporting and a summary of the false information policy outlined in Policy 311-A; and

- Notification that parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- Notification of existing counseling, health and mental health services available on campus and/or in the community.
- Notification that taking any retaliatory action (directly or through others) against any person involved in the investigation is prohibited and will be considered a separate violation of VSC policy.

In Title IX Sexual Harassment cases, the notice will also notify parties that they may inspect and review evidence during the investigation and resolution process, as provided below.

Copies of the written notice to the respondent shall be provided to the complainant, the Title IX Coordinator, the investigators, and VSC's general counsel.

If, in the course of an investigation, VSC decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

(F) Consolidation of Formal Complaints

VSC may consolidate formal complaints as to allegations of Title IX Sexual Harassment and/or Non-Title IX Sexual Misconduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of such Prohibited Conduct arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

(G) Acceptance of Responsibility

If at any point during an investigation, a respondent chooses to accept responsibility under this policy and the Title IX Coordinator has concluded that the respondent is doing so with full knowledge of their rights to participate in the investigation and resolution procedures described below, the RCA may issue a determination and impose disciplinary sanctions upon the respondent in accordance with Article IX below. The RCA may also take other action that is reasonably calculated to address the conduct and prevent its recurrence, including further investigation of the allegations. By accepting responsibility and the imposition of any assigned disciplinary sanction, the respondent waives the right to appeal.

VII. INVESTIGATIONS

(A) Appointing Investigators

The Title IX Coordinator will appoint at its discretion an investigator or investigators¹ who is/are impartial, qualified, and trained, to investigate complaints alleging violations of Policy 311-A. Investigators may be employees of the Member Institution, other VSC employees, or outside investigators.

In selecting the investigator for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The complainant or respondent may raise an objection to the selection of a particular investigator if either believes there is a conflict of interest or demonstrable or reasonably perceived bias on the part of the investigator. Any such objections must be raised upon receipt of notice of the appointments. The RCA shall have final authority in the appointment of investigators.

(B) Conducting the investigation

The investigator will conduct an investigation that is prompt, fair, impartial, and appropriate under the circumstances. The nature and scope of the investigation is within the discretion of the investigator.

The investigation will be conducted as promptly as possible, without compromising thoroughness. The investigator will endeavor to prepare their report within 45 calendar days from their appointment to serve as investigator, excluding scheduled breaks during the fall and spring semesters and other VSC Holidays or closures. This timeframe may be extended for good cause with written notice to the parties of the delay and the reason(s) for the delay.

(1) Witnesses and Evidence

The investigator will interview the complainant, respondent, and any witnesses separately. The complainant and respondent will be asked to identify: (a) relevant evidence they would like the investigator to review; (b) witnesses they would like the investigator to interview; and (c) questions they would like the investigator to ask the witnesses. The investigator has discretion as to what evidence to pursue, which witnesses to interview, and which questions to ask, depending on their determination of what they reasonably believe to be related to the issues in dispute.

The investigator is authorized to contact any and all individuals who may have relevant information. VSC recognizes, however, that individuals who are bound by legal privileges may not be able to disclose privileged information, unless an exception applies. The investigator is authorized to access relevant records, except those legally protected as confidential or privileged, and may collect any additional evidence relevant to the complaint. The investigator will not access, consider, disclose or otherwise use a party's privileged records without the party's voluntary, written consent to do so, and such

¹ For ease of reference, the singular "investigator" will be used throughout the remainder of these procedures.

information will not be deemed relevant to an investigation or adjudication absent the voluntary, written consent of the party.

(2) Advisors

Complainants and respondents are entitled to the same opportunity to have an advisor of their choosing present at any interview or meeting they have with an investigator.² Any such advisor may advise the complainant or respondent privately, but cannot act as a speaking advocate. An investigator may terminate the meeting and proceed with the investigation based on otherwise-available information if an advisor refuses to comply with these requirements. Because a Policy 311-A investigation may lead to discipline, a respondent who is a bargaining unit member has the right to be accompanied to the interview by a union representative.

(3) Additional Policy Violations

If, in the course of the investigation, other allegations against the respondent surface which could result in discipline under this policy, other VSC policies, policies of the Member Institution, any collective bargaining agreement, or personnel handbook, the investigator will inform the respondent, in writing, of such allegations and the respondent will be given an opportunity to respond to the additional allegations before the investigators submit their report. If the alleged additional violations are related to the allegations contained in the complaint, they will be handled through the procedures otherwise applicable to allegations in the formal complaint, as provided below. If the alleged additional violations are unrelated to the allegations contained in the complaint, the VSC may choose to address these separately and not as part of the ongoing investigatory and adjudicatory process.

(4) General Investigation Provisions Applicable Only to Title IX Sexual Harassment Matters

The following general investigation-related provisions are applicable only to the investigation of matters that fall within the definition of Title IX Sexual Harassment, as required by May 2020 Title IX regulations. In such matters, the following provisions will apply:

- Parties' equal opportunity to present witnesses may include evidence from fact and expert witnesses; and
- Parties are not restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence; and

² A party may change advisors during the course of the investigatory and adjudicatory process. A party may request that the Title IX Coordinator and/or the investigators copy their advisor on communications with the party. Typically, each party may have only one advisor present at an interview or meeting, however, in extenuating circumstances, the Title IX Coordinator may grant a party's request for permission to have an additional advisor or support person attend a meeting or interview during the investigation adjudicatory process. A party may have a different advisor during the investigation than the advisor they have to conduct cross-examine during the hearing in the matter, as discussed below.

- Parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.³

(C) Preliminary Investigative Report

In both Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters, when the investigator has completed witness interviews and the gathering of evidence as deemed appropriate by the investigator, the investigator will prepare a preliminary investigative report. The preliminary investigative report will summarize relevant evidence but will not contain any recommendations regarding whether the respondent violated Policy 311-A or any other VSC policy at issue.

1. Preliminary Report Provisions Applicable only to Title IX Sexual Harassment Matters

In Title IX Sexual Harassment cases, the following additional provisions will apply during the preliminary investigative report stage of the investigation:

- VSC will provide each party with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which VSC does not intend to rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Such evidence will not include un-redacted privileged records or information that may have been gathered or received during the investigation, absent written consent from the party holding the privilege.
- VSC will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
- Parties and advisors are not permitted to download, print or copy such evidence subject to inspection and review, and are not permitted to re-disclose such evidence without VSC's permission. Parties and advisors will be required to sign an acknowledgment form indicating that they understand these prohibitions. Violations of these prohibitions may subject parties to VSC discipline under applicable conduct codes.

(D) Review and Response to Preliminary Investigative Report

In both Title IX Sexual Harassment and Non-Title IX Sexual Misconduct matters, the complainant and the respondent will have an opportunity to review the preliminary report and

³ Parties to Non-Title IX Sexual Misconduct matters will receive adequate notice of meetings and hearings, but such notice may not include all of these elements.

provide written responses to the report. The complainant and the respondent must submit any comments, feedback, additional documents, evidence, suggested questions for individuals interviewed, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigator, additional documents or other evidence, within 10 calendar days after the preliminary report is sent to them for review. The parties' written responses will be considered by the investigator prior to completion of the final investigative report, and some or all of the responses may be attached or otherwise incorporated into the final investigative report.

In the event that new, relevant information is provided or identified at this stage, the information will be incorporated into the preliminary report as deemed appropriate by the investigator, and, if the investigator, in consultation with the Title IX Coordinator, determine the new information is sufficiently material to the investigation, the complainant and the respondent will be provided a second opportunity to review and provide a written response regarding the new information within five calendar days, which the investigator will consider prior to completion of the final investigation report. Identification of new and relevant information after the parties' review of the preliminary report is likely to extend the time frame of the investigation.

(E) Final Investigative Report.

1. Final Investigative Report Generally

In both Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters, after considering any written response submitted by either party, or after the 10 calendar day comment period has lapsed without receiving a written response or responses, the investigator will address any relevant issues identified by the complainant and/or the respondent, and as appropriate, pursue any additional investigative steps as needed. The final investigative report may include the investigator's recommendation as to whether the respondent should be found responsible for violating the policy provisions at issue. The investigator's recommendation, if any, will be reached by applying the preponderance of evidence standard, i.e., whether it is more likely than not that the policy was violated. The final investigative report will be reviewed by the Title IX Coordinator before it is issued. Final investigative reports will be provided simultaneously to the parties and their advisors, if any, and a copy will also be provided to the VSC's general counsel.

2. Final Investigative Report Provisions Applicable Only to Title IX Sexual Harassment Matters

The following provisions regarding the final investigative report will apply in Title IX Sexual Harassment matters:

- The final investigative report created by the investigator will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the investigator;

- At least 10 calendar days prior to the hearing referenced below, VSC will send to each party and the party's advisor, if any, the final investigative report and exhibits in an electronic format or a hard copy, for their review and written response;
- Any written response a party wishes to provide must be submitted to the Title IX Coordinator or designee within 10 calendar days of receiving the final investigative report and exhibits; and
- The final investigative report and the parties' written responses, if any, will be provided to the hearing officer in advance of the hearing.

VIII. HEARINGS

A. Hearing and Resolution Provisions Applicable Only to Title IX Sexual Harassment Matters

1. Hearings

Live hearings will be provided in Title IX Sexual Harassment matters, as required by May 2020 Title IX regulations.

2. Hearing Officers

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the respondent violated the policy provisions at issue. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted.

Hearing officers will be appointed by the Title IX Coordinator. In selecting a hearing officer for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. VSC will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within three calendar days of sending such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

3. Advisors

Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors may be, but are not required to be, attorneys. If a party does not have an advisor of their choice present at a hearing, VSC will

without fee or charge to the party provide an advisor of VSC's choice, again for the limited purpose of conducting cross-examination on behalf of that party. No later than 10 calendar days before the hearing, parties should inform the Title IX Coordinator of the identity of any advisor of choice who will accompany them to the hearing, so that VSC will know whether or not it needs to arrange for the presence of a VSC-provided advisor.

At a time and manner deemed appropriate by the hearing officer, the advisor for each party will be permitted to ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. Except for that limited role, advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. VSC reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate VSC-provided advisor and, in extreme cases, exclusion of the advisor from future hearings.

4. Requests for Appearance of Witnesses

If a Party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator or designee at least 10 calendar days before the date of the hearing. The Title IX Coordinator or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator or designee will inform the witness that their presence at the hearing is required (to the extent that VSC has jurisdiction to require the presence of the witness) or requested.

5. Conduct of Hearings and Relevance

At or before the hearing, the hearing officer will receive a copy of the final investigative report, any attachments thereto, and copies of the parties' written responses to the final investigative report, if any, which will be part of the information of record to be considered by the hearing officer.

Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer, followed by opening statements from any party who wishes to provide one, followed by the hearing officer's asking relevant initial questions of the parties as deemed appropriate by the hearing officer. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

Revised effective August 20, 2021

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party's advisor to ask the other party all relevant questions and follow-up questions, including those challenging credibility.

Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties' advisors will be permitted to ask relevant questions of witnesses.

In accordance with May 2020 Title IX regulations, such cross-examination by advisors will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Advisors are not permitted to object to hearing officer decisions regarding relevance during a hearing.

Regarding the evidence subject to inspection and review that was provided to the parties and their advisors under the Title IX Sexual Harassment matter-specific investigation procedures outlined above, a copy of such evidence will be made available at the hearing, and each party and/or their advisor (as applicable) will have an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege.

At the request of either party, VSC will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at VSC's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

If a party or witness does not submit to cross-examination at the live hearing, the hearing officer has discretion, upon evaluation consistent with applicable legal principles, to rely on any

statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

At the discretion of the hearing officer, parties (but not their advisors) will usually be given an opportunity to make a closing statement at the conclusion of the hearing.

6. Record of Hearings

VSC will create an audio or audiovisual recording and/or transcript (at its discretion), of any live hearing, and will make it available to the parties for inspection and review.

7. Determinations Regarding Responsibility

Within 30 calendar days after the hearing, the hearing officer (and, if necessary, the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include:

- Identification of the section(s) of VSC's Policy 311-A alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of definitions of sexual harassment in VSC's Policy 311-A to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor; and
- Identification of VSC's procedures and permissible bases for the Complainant and Respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that VSC provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

The determination will also notify the parties whether remedies designed to restore or preserve equal access to the VSC's education program or activity will be provided by the VSC to the complainant, but will not provide details about any such remedies.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination regarding responsibility and, if necessary, any sanctions as determined through the procedures outlined below.

B. Resolution and Other Provisions Applicable Only to Non-Title IX Sexual Misconduct Matters

1. Hearings

Live hearings will be provided in Non-Title IX Sexual Misconduct matters.

2. Hearing Officers

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the respondent violated the policy provisions at issue. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and the nature and substance of any questions asked of parties and/or witnesses.

Hearing officers will be appointed by the Title IX Coordinator. In selecting a hearing officer for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. VSC will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within 3 calendar days of such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

3. Advisors

Each party may have an advisor of their choice present at a hearing. Advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. VSC reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the alternate appointment of a VSC-provided advisor and, in extreme cases, exclusion of the advisor from future hearings

4. Requests for Appearance of Witnesses

If a party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator or designee at least 10 calendar days before the date of the hearing. The Title IX Coordinator or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator or designee will inform the witness that their presence at the hearing is required (to the extent that VSC has jurisdiction to require the presence of the witness) or requested.

5. Conduct of Hearings

At or before the hearing, the hearing officer will receive a copy of the final investigative report, any attachments thereto, and copies of the parties' written responses to the final investigative report, if any, which will be part of the information of record to be considered by the hearing officer.

Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer, followed by opening statements from any party who wishes to provide one, followed by the hearing officer's asking relevant initial questions of the parties as deemed appropriate by the hearing officer. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party to submit to the hearing officer proposed questions that they would like the hearing officer to pose to the other party. The hearing officer may at their discretion pose, rephrase, or decline to pose any and all such proposed questions. Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties may submit to the hearing officer proposed questions that they would like the hearing officer to pose to each witness. The hearing officer may at their discretion pose, rephrase, or decline to pose any and all such proposed questions. No direct cross-examination of parties or witnesses by parties or their advisors will be permitted.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged

communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege.

At the request of either party, VSC will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at VSC's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Formal rules of evidence do not apply to hearings under these procedures. The hearing officer will accept, consider and give weight to information as deemed appropriate at the discretion of the hearing officer.

At the discretion of the hearing officer, parties (but not their advisors) will usually be given an opportunity to make a closing statement at the conclusion of the hearing.

6. Record of Hearings

VSC will create an audio or audiovisual recording, and/or transcript (at its discretion), of any live hearing and make it available to the parties for inspection and review.

7. Determinations Regarding Responsibility

Within 30 calendar days after the hearing, the hearing officer (and, if necessary, the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include:

- Identification of the section(s) of VSC's Policy 311-A alleged to have been violated;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of definitions of sexual harassment in VSC's Policy 311-A to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor; and
- Identification of VSC's procedures, timelines and permissible bases for the complainant and respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that VSC provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination and, if necessary, any sanctions as determined through the procedures outlined below.

IX. SANCTIONS

(A) Student Respondents

(1) Disciplinary Action

If the hearing officer determines that a student has engaged in conduct that violates Policy 311-A (or other VSC policies, if applicable), information about the matter will be provided to the RCA, and the RCA will impose disciplinary sanctions on the student. The RCA shall consider what sanctions are: (1) fair and appropriate given the facts of the particular case, including whether the respondent has accepted responsibility for their actions, and the impact of separating a student from their education; (2) necessary to restore or preserve the complainant's equal access to the education programs or activities of the VSC; and (3) adequate to protect the safety of the complainant and the VSC community.

Possible disciplinary sanctions include verbal and written warnings, written reprimands, education, 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. The sanctions of probation, removal from campus housing, and suspension will be for a particular period of time, ranging from a number of days to a number of semesters, as determined on a case-by-case basis.

Regardless of the finding, other non-disciplinary action may be taken as appropriate under the circumstances, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of no contact orders, and other actions to restore or preserve the complainant's equal access to the education programs or activities of the VSC.

To the extent permitted by law, the complainant and respondent will be notified, simultaneously and in writing, of: (1) the hearing officer's determination (as described above); (2) the disciplinary sanctions, if any, to be imposed by the RCA; and (3) the VSC's procedures for complainants and respondents to appeal the determination and disciplinary sanctions. Again, the notification will include the rationale for the determination and for any sanctions. A copy of the hearing officer's and RCA's determination will be sent to the Title IX Coordinator and to VSC's general counsel.

(2) Time-frame

Absent extenuating circumstances, the RCA will endeavor to issue a determination as to any sanctions (or other action) within fourteen (14) calendar days after receiving notice of the hearing officer's decision regarding responsibility. This period is included within the 30-day period for the hearing officer to issue a final determination, detailed above, and may be extended for good cause, with written notification to the parties.

(B) Employee Respondents

(1) Disciplinary Action

If the hearing officer determines that an employee has engaged in conduct that violates Policy 311-A (or other VSC policies, if applicable), information about the matter will be provided to the RCA, and the RCA will impose disciplinary sanctions on the employee, consistent with the applicable terms of any collective bargaining agreement.

Disciplinary action under existing policies and/or contracts may include verbal warnings, written warnings, written reprimands, probation, suspension, termination of employment, non-renewal of a contract, referral to a separate process (for determination of employment-status sanctions only) as defined by or provided in the applicable collective bargaining agreement, or other action determined to be appropriate under the circumstances. The sanctions of probation and suspension will be for a particular period of time, ranging from a number of days to a number of semesters, as determined on a case-by-case basis.

Regardless of the finding, other non-disciplinary action may be taken as appropriate under the circumstances, including, but not limited to, extending and modifying no contact orders, room changes, class changes, work schedule changes, building restrictions, and other actions to preserve the rights of the complainant to a safe environment.

(2) Time-frame

Absent extenuating circumstances, the RCA will endeavor to issue a determination regarding sanctions within fourteen (14) days of receiving notice of the hearing officer's decision regarding responsibility. This period is included within the 30-day period for the hearing officer to issue a final determination, detailed above, and may be shorter or longer depending on the circumstances, including any contractual rights of the parties. The parties will be notified if changes are made to the time-frame. A copy of the written determination will be sent to the Title IX Coordinator and to VSC's general counsel.

IX. APPEAL

(A) Student Respondents

In cases in which the respondent is a student, both the complainant and respondent have the right to appeal:

- the Title IX Coordinator's dismissal of a formal complaint for Title IX purposes based on the Title IX Coordinator's determination that it did not fall within the definition of Title IX Sexual Harassment; or
- the result of a hearing and/or sanctioning process, on the following grounds:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or
- the sanction is substantially disproportionate to the findings.

Within seven (7) calendar days of receiving notice of the Title IX Coordinator's dismissal for Title IX purposes or the final determination and notification of any discipline or sanctions to be imposed, the parties may appeal to the President of the Institution (or the President's designee) by delivering a written statement of appeal to the President and to the Title IX Coordinator. The Title IX Coordinator will notify the other party of the appeal and the other party will be given seven (7) calendar days in which to submit a written response to the appeal to the President (or the President's designee), with a copy to the Title IX Coordinator. Both parties will be informed simultaneously and in writing, of (1) any change to the discipline and/or sanctions imposed while the appeal is pending, and (2) the final decision, to the extent permitted by law. The decision of the President (or the President's designee) is final. A copy of the President's decision will be sent to the Title IX Coordinator and to VSC's general counsel.

(B) Employee Respondents

1. Appeals From Initial Determinations

In cases in which the respondent is an employee, both the complainant and respondent have the right to appeal the Title IX Coordinator's dismissal of a formal complaint for Title IX purposes based on the Title IX Coordinator's determination that it did not fall within the definition of Title IX Sexual Harassment. Within seven (7) calendar days of receiving the notification of such a decision by the Title IX Coordinator, the parties may appeal to the President of the Institution (or the President's designee), or to the Chancellor (or the Chancellor's designee) as appropriate, by delivering a written statement of appeal to the President or Chancellor and to the Title IX Coordinator. The Title IX Coordinator will notify the other party of the appeal and the other party will be given seven (7) calendar days in which to submit a written response to the appeal to the President (or the President's designee) or to the Chancellor (or the Chancellor's designee) as appropriate, with a copy to the Title IX Coordinator. Both parties will be informed simultaneously and in writing, of the President's or Chancellor's decision. The decision of the President (or the President's designee) or the Chancellor (or the Chancellor's designee) as appropriate, is final.

2. Appeals in Title IX Sexual Harassment Cases

In Title IX Sexual Harassment cases where the respondent is an employee, both the complainant and respondent have the right to appeal the result of a hearing and/or sanctioning process, on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Within seven (7) calendar days of receiving the final determination and notification of any discipline or sanctions to be imposed, the parties may appeal to the President of the Institution (or the President's designee), or to the Chancellor (or the Chancellor's designee) as appropriate, by delivering a written statement of appeal to the President or the Chancellor and to the Title IX Coordinator. The Title IX Coordinator will notify the other party of the appeal and the other party will be given seven (7) calendar days in which to submit a written response to the appeal to the President (or the President's designee), or to the Chancellor (or the Chancellor's designee) as appropriate, with a copy to the Title IX Coordinator. Both parties will be informed simultaneously and in writing, of (1) any change to the discipline and/or sanctions imposed while the appeal is pending, and (2) the final decision, to the extent permitted by law. The decision of the President (or the President's designee) or the Chancellor (or the Chancellor's designee) as appropriate, is final. A copy of the President's or Chancellor's decision will be sent to the Title IX Coordinator and to VSC's general counsel.

3. Appeals in Non-Title IX Sexual Misconduct Cases

In Non-Title IX Sexual Misconduct cases where the respondent is an employee, the respondent's right to appeal shall be governed by the relevant employee collective bargaining agreement or the VSC personnel handbook for those employees not covered by a collective bargaining agreement. Both parties will be informed simultaneously and in writing, of (1) any change to the discipline and/or sanctions imposed while the appeal is pending, and (2) the final decision, to the extent permitted by law. A copy of the decision shall be sent to the Title IX Coordinator and to VSC's general counsel.

X. INFORMAL RESOLUTION

Informal resolution is a voluntary resolution option that does not involve formal hearing-based resolution procedures. Informal resolution may be used in Title IX Sexual Harassment matters in which a formal complaint has been filed by a Complainant or signed by the Title IX Coordinator, and in Non-Title IX Sexual Misconduct matters when deemed appropriate by the Title IX Coordinator. The VSC will not offer to facilitate an informal resolution process in any matter that involves allegations that an employee sexually harassed a student.

At any time prior to reaching a determination regarding responsibility, VSC may facilitate an informal resolution process (e.g., mediation or restorative justice) where requested by a party and agreed to by both parties. If a party requests the initiation of an informal resolution process and the Title IX Coordinator agrees that the matter is appropriate for informal resolution, VSC will provide to each party a written notice that discloses:

- The allegations;
- The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations-
 - As noted below, VSC generally permits parties to withdraw from the informal resolution process and initiate or re-initiate a formal investigation and hearing process at any time before the informal resolution process is completed and any informal resolution is agreed to in writing by the parties; and
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

All parties and the Title IX Coordinator must agree to informal resolution for this option to be used. The Title IX Coordinator will assess the request for informal resolution in light of factors such as, but not limited to, the severity of the alleged violation and the potential risks to campus community members posed by the reported misconduct. VSC will only proceed with an informal resolution process if both parties provide their voluntary, written consent to having the matter resolved through the informal resolution process.

The matter will be deemed resolved if and when the parties expressly agree in writing to an outcome that is acceptable to them and which is approved by the Title IX Coordinator (in consultation with other VSC administrators as deemed necessary). A party may withdraw from the informal resolution process at any time prior to their execution of a written informal resolution agreement, consistent with the procedure developed by VSC. After an informal resolution is agreed to in writing between the parties, neither party may initiate a formal resolution process regarding the same factual allegations.

At any time before a matter is resolved through informal resolution, the Title IX Coordinator may terminate an informal resolution process and initiate or re-initiate a formal investigation and resolution process at any time, as they deem appropriate in their discretion.

XI. NOTICES

For purposes of this policy, written notifications to the parties and written responses from the parties may be hand-delivered, mailed, and/or sent to or from the parties' official VSC e-mail addresses and/or other e-mail addresses if known to the VSC, and/or sent via the VSC's secure file-sharing service. The same method of communication will be used where practicable for both the complainant and the respondent.

XII. RECORD-KEEPING

The Title IX Coordinator and designated College officials will treat reports of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking and related complaints, investigative reports, and final determinations as confidential, to the extent allowed by law. The Title IX Coordinator will track these reports for statistical and reporting purposes. The Title IX Coordinator will also maintain records and post information as required by the May 2020 Title IX regulations.

XIII. EDUCATIONAL PROGRAMMING

The VSC will provide educational programming for students and employees addressing the issues of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, and stalking, which will include: (1) primary prevention and awareness programs for incoming students and new employees; (2) safe and positive options for bystander intervention; (3) information on risk reduction to recognize warning signs of abusive behavior; and (4) ongoing prevention and awareness programs for students and employees. The VSC shall take the following steps:

- Include VSC Policy 311-A: *Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault, and Stalking* and its implementing procedures on the VSC's Policies and Procedures page of its website (<http://www.vsc.edu/about-vsc/Pages/Policies-and-Procedures.aspx>) and on the websites of member institutions, including at <https://resolve.vsc.edu/>;
- Include links to Policy 311-A and its implementing procedures in appropriate publications provided to students and employees;

Revised effective August 20, 2021

- Provide educational materials on sexual harassment, sexual exploitation, dating violence, domestic violence, sexual assault, stalking, and bystander intervention;
- Identify those individuals responsible for overseeing the development and implementation of prevention and awareness programs;
- Develop primary and ongoing prevention and awareness programs for students and employees;
- Select and train Title IX Coordinators;
- Select and train designated contact persons;
- Select and train investigators regularly regarding the issues related to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, and stalking, and how to conduct investigations that are prompt, fair, and impartial; and
- Regularly train Responsible College Administrators and any others responsible for adjudicating complaints and considering appeals regarding the issues related to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, and stalking, and how to conduct an adjudication process that is prompt, fair, and impartial.

The member institutions and the Office of the Chancellor shall continue to support, monitor and revise the educational prevention and awareness programs and informational materials as they work toward the goals of eliminating sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, and stalking and of enhancing mutual trust and respect.

XIX. OTHER REMEDIES

Individuals who believe that their rights under Title IX have been violated may file a claim with the United States Department of Education's Office for Civil Rights:

Regional Office
Office for Civil Rights
8th Floor
5 Post Office Square
Boston, MA 02109-3921

Telephone: 617-289-0111
FAX: 617-289-0150
TDD: 800-877-8339
Email: OCR.Boston@ed.gov

National Headquarters
Office for Civil Rights
Lyndon Baines Johnson Dep't of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012
TDD: 800-877-8339
Email: OCR@ed.gov

Revised effective August 20, 2021.

**Appendix A to Chancellor's Procedures for Implementation of Policy 311-A:
Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual
Assault, and Stalking**

- Office of the Chancellor:** Sarah Potter, Chief Human Resources Officer
Sarah.Potter@vsc.edu
(802) 279-9622
- Community College of Vermont:** Angie Albeck, Associate Dean of Students (Policy 311/Title IX Coordinator)
Angela.Albeck@ccv.edu
(802) 654-0690
- Bo Finnegan, Director of Human Resources (Equity Officer/Title IX Coordinator)
Robert.Finnegan@ccv.edu
(802) 828-2816
- Additional designated contacts by region at
[Contacts – Title IX – Vermont State Colleges \(vsc.edu\)](#)
- Vermont State University:** Amy Daviarz, Title IX and Protected Rights Coordinator (University wide)
Amy.Daviarz@vermontstate.edu
802-279-2808
- Castleton: Amy Daviarz, Title IX and Protected Rights Coordinator
Amy.Daviarz@vermontstate.edu
802-279-2808
- Jen Jones, AVP, Academic Support & Educational Opportunity (Deputy Policy 311/Title IX Coordinator)
Jen.Jones@vermontstate.edu
802-468-6404
- Johnson: Amy Daviarz, Title IX and Protected Rights Coordinator
Amy.Daviarz@vermontstate.edu
802-279-2808
- Michele Whitmore, Associate Dean of Students (Deputy Policy 311/Title IX Coordinator)
Michele.Whitmore@vermontstate.edu
(802) 635-1452

Lyndon: Amy Daviarz, Title IX and Protected Rights Coordinator
Amy.Daviarz@vermontstate.edu
802-279-2808

Denise Bourbeau-Moses, Director of Academic Support
and Disability Services (Deputy Title IX/Policy 311
Coordinator)
Denise.Bourbeau-Moses@vermontstate.edu
(802) 626-6424

Randolph: Amy Daviarz, Title IX and Protected Rights Coordinator
Amy.Daviarz@vermontstate.edu
802-279-2808

Williston: Amy Daviarz, Title IX and Protected Rights Coordinator
Amy.Daviarz@vermontstate.edu
802-279-2808

Inquiries regarding the application of Title IX and other laws, regulations and policies prohibiting discrimination may also be directed to the United States Department of Education's Office for Civil Rights at 5 Post Office Square, 8th Floor, Boston, MA 02109-3921; Tel: (617) 289-0111; Fax: (617) 289-0150; Email: OCR.Boston@ed.gov

**Appendix B to Chancellor’s Procedures for Implementation of Policy 311-A:
Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual
Assault, and Stalking**

**DEFINITIONS OF CONSENT, DATING VIOLENCE, DOMESTIC VIOLENCE,
SEXUAL ASSAULT AND STALKING UNDER VERMONT LAW**

Dating and Domestic Violence

15 V.S.A. § 1101. Definitions

“The following words as used in this chapter shall have the following meanings: . . .

(2) ‘Household members’ means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. "Dating" means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists or existed include:

- (A) the nature of the relationship;
- (B) the length of time the relationship has existed;
- (C) the frequency of interaction between the parties;
- (D) the length of time since the relationship was terminated, if applicable.”

13 V.S.A. § 1041. Definition

“As used in this subchapter, ‘family or household members’ means persons who are eligible for relief from abuse under chapter 21 of Title 15.”

13 V.S.A. § 1042. Domestic assault

“Any person who attempts to cause or wilfully or recklessly causes bodily injury to a family or household member, or wilfully causes a family or household member to fear imminent serious bodily injury shall be imprisoned not more than 18 months or fined not more than \$5,000.00, or both.”

13 V.S.A. § 1043. First degree aggravated domestic assault

“(a) A person commits the crime of first degree aggravated domestic assault if the person:

- (1) attempts to cause or wilfully or recklessly causes serious bodily injury to a family or household member; or
- (2) uses, attempts to use or is armed with a deadly weapon and threatens to use the deadly weapon on a family or household member; or
- (3) commits the crime of domestic assault and has been previously convicted of aggravated domestic assault.”

13 V.S.A. § 1044. Second degree aggravated domestic assault

“(a) A person commits the crime of second degree aggravated domestic assault if the person:

- (1) commits the crime of domestic assault and such conduct violates:
 - (A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;
 - (B) a final abuse prevention order issued under 15 V.S.A. § 1103 or a similar order issued in another jurisdiction;
 - (C) a final order against stalking or sexual assault issued under 12 V.S.A. § 5133 or a similar order issued in another jurisdiction; or
 - (D) a final order against abuse of a vulnerable adult issued under 33 V.S.A. § 6935 or a similar order issued in another jurisdiction.
- (2) commits the crime of domestic assault; and
 - (A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or
 - (B) has a prior conviction for domestic assault under section 1042 of this title.”

Consent and Sexual Assault

13 V.S.A. § 3251. Definitions

“As used in this chapter:

- (1) A ‘sexual act’ means conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.
- (2) ‘Sexual conduct’ means any conduct or behavior relating to sexual activities of the complaining witness, including but not limited to prior experience of sexual acts, use of contraceptives, living arrangement and mode of living.
- (3) ‘Consent’ means the affirmative, unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time.

(4) ‘Serious bodily injury’ shall have the same meaning as in subdivision 1021(2) of this title.

(5) ‘Bodily injury’ means physical pain, illness or any impairment of physical condition.

(6) ‘Actor’ means a person charged with sexual assault or aggravated sexual assault.

(7) ‘Deadly force’ means physical force which a person uses with the intent of causing, or which the person knows or should have known would create a substantial risk of causing, death or serious bodily injury.

(8) ‘Deadly weapon’ means:

(A) any firearm; or

(B) any weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury.”

(9) “Law enforcement officer” means a person certified as a law enforcement officer under the provisions of 20 V.S.A chapter 151.

(10) “Incapable of consenting” means the person: (A) is incapable of understanding the nature of the conduct at issue; (B) is physically incapable of resisting, declining participation in, or communicating unwillingness to engage in the conduct at issue; or (C) lacks the mental ability to make or communicate a decision about whether to engage in the conduct at issue.

13 V.S.A. § 3252. Sexual assault

“(a) No person shall engage in a sexual act with another person:

(1) without the consent of the other person;

(2) by threatening or coercing the other person;

(3) by placing the other person in fear that any person will suffer imminent bodily injury;
or

(4) when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring.

(b)(1) No person shall administer any alcohol, drugs, or other intoxicants to another person without the person’s knowledge or against the person’s will and, while the person is impaired by the alcohol, drugs, or intoxicants, engage in a sexual act with that person.

(2) No person shall engage in a sexual act with another person when the other person is incapable of consenting to the sexual act due to substantial impairment by alcohol, drugs, or other intoxicants and that condition is known or reasonably should be known by the person.

(c) No person shall engage in a sexual act with a child who is under the age of 16, except:

- (1) where the persons are married to each other and the sexual act is consensual; or
- (2) where the person is less than 19 years old, the child is at least 15 years old, and the sexual act is consensual.

(d) No person shall engage in a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild.

(e) No person shall engage in a sexual act with a child under the age of 16 if:

- (1) the victim is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild; or
- (2) the actor is at least 18 years of age, resides in the victim's household, and serves in a parental role with respect to the victim.”

(f)(1) A person who violates subsection (a), (b), (d), or (e) of this section shall be imprisoned not less than three years and for a maximum term of life, and, in addition, may be fined not more than \$25,000.00.

(2) A person who violates subsection (c) of this section shall be imprisoned for not more than 20 years, and, in addition, may be fined not more than \$10,000.

(g) A person convicted of violating subsection (a), (b), (d), or (e) of this section shall be sentenced under section 3271 of this title.

13 V.S.A. § 3253. Aggravated sexual assault

“(a) A person commits the crime of aggravated sexual assault if the person commits sexual assault under any one of the following circumstances:

- (1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.
- (2) The actor is joined or assisted by one or more persons in physically restraining, assaulting or sexually assaulting the victim.
- (3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping.
- (4) The actor has previously been convicted in this state of sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault or has been convicted in any jurisdiction in the United States or territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault if committed in this state.
- (5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.
- (6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another and the victim reasonably believes that the actor has the present ability to carry out the threat.

- (7) At the time of the sexual assault, the actor applies deadly force to the victim.
- (8) The victim is under the age of 13 and the actor is at least 18 years of age.
- (9) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.”

Stalking

13 V.S.A. § 1061. Definitions

“As used in this subchapter:

- (1) (A) ‘Course of conduct’ means two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of ‘course of conduct.’
(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.
- (2) ‘Emotional distress’ means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
- (3) ‘Reasonable person’ means a reasonable person in the victim’s circumstances.
- (4) ‘Stalk’ means to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should know would cause a reasonable person to fear for his or her safety or the safety of another or would cause a reasonable person substantial emotional distress.

13 V.S.A. § 1062. Stalking

“Any person who intentionally stalks another person shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.”

13 V.S.A. § 1063. Aggravated stalking

“(a) A person commits the crime of aggravated stalking if the person intentionally stalks another person, and:

- (1) such conduct violates a court order that prohibits stalking and is in effect at the time of the offense;
- (2) has been previously convicted of stalking or aggravated stalking;
- (3) has been previously convicted of an offense an element of which involves an act of violence against the same person;
- (4) the person being stalked is under 16 years of age; or
- (5) had a deadly weapon, as defined in section 1021 of this title, in his or her possession while engaged in the act of stalking.

(b) A person who commits the crime of aggravated stalking shall be imprisoned not more than five years or be fined not more than \$25,000.00, or both.

(c) Conduct constituting the offense of aggravated stalking shall be considered a violent act for the purposes of determining bail.”

13 V.S.A. § 1064. Defenses

“In a prosecution under this subchapter, it shall not be a defense that the defendant was not provided actual notice that the course of conduct was unwanted.”

Orders against Stalking or Sexual Assault

12 V.S.A. § 5131. Definitions

“As used in this chapter:

- (1) (A) ‘Course of conduct’ means two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of ‘course of conduct.’
(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.
- (2) [Repealed.]
- (3) ‘Nonphysical contact’ includes telephone calls, mail, e-mail, social media commentary or comment, or other electronic communication, fax, and written notes.
- (4) ‘Reasonable person’ means a reasonable person in the victim’s circumstances.
- (5) ‘Sexually assaulted the plaintiff’ means that the defendant engaged in conduct that meets elements of lewd and lascivious conduct as defined in 13 V.S.A. § 2601, lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602, sexual assault as defined in 13 V.S.A. § 3252, aggravated sexual assault as defined in 13 V.S.A. § 3253, use of a child in a sexual performance as defined in 13 V.S.A. § 2822, or consenting to a sexual performance as defined in 13 V.S.A. § 2823 and that the plaintiff was the victim of the offense.
- (6) ‘Stalk’ means to engage purposefully in a course of conduct that the person engaging in the conduct knows or should know would cause a reasonable person to:
 - (A) fear for his or her safety or the safety of a family member; or
 - (B) suffer substantial emotional distress as evidenced by:
 - (i) a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death; or
 - (ii) significant modifications in the person’s actions or routines, including moving from an established residence, changes to established daily routes to and from work that cause a serious disruption in the person’s life, changes to the person’s employment or work schedule, or the loss of a job or time from work.
- (7) ‘Stay away’ means to refrain from knowingly:
 - (A) initiating or maintaining a physical presence near the plaintiff;
 - (B) engaging in nonphysical contact with the plaintiff directly or indirectly; or

(C) engaging in nonphysical contact with the plaintiff through third parties who may or may not know of the order.

(8) [Repealed.]”

12 V.S.A. § 5132. Jurisdiction and venue

“(a) The Superior Court shall have jurisdiction over proceedings under this chapter.

(b) Proceedings under this chapter may be commenced in the county in which the plaintiff resides. If the plaintiff has left his or her residence to avoid being stalked or sexually assaulted, the plaintiff shall have the option to bring an action in the county of the previous residence or the county of the new residence.”

12 V.S.A. § 5133. Requests for an Order against Stalking or Sexual Assault

“(a) A person, other than a family or household member as defined in 15 V.S.A. § 1101(2), may seek an order against stalking or sexual assault on behalf of him- or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 5134 of this title, the court shall grant the order only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff.

(c) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff’s sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit any of the following:

- (1) evidence of the plaintiff’s past sexual conduct with the defendant;
- (2) evidence of specific instances of the plaintiff’s sexual conduct showing the source of origin of semen, pregnancy, or disease; or
- (3) evidence of specific instances of the plaintiff’s past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(d) If the court finds by a preponderance of evidence that the defendant has stalked or sexually assaulted the plaintiff, or has been convicted of stalking or sexually assaulting the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff’s children, or both, and may make any other order it deems necessary to protect the plaintiff or the plaintiff’s children, or both.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff or the plaintiff’s children, or both. It is not necessary for the court to find that the defendant stalked or sexually assaulted the plaintiff during the pendency of the order to

extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge.

(h) Form complaints and form orders for an ‘Order Against Stalking or Sexual Assault’ shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: ‘VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.’

(k) Affidavit forms required pursuant to this section shall bear the following language: ‘MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.’

(l) A finding by the court pursuant to this chapter that the defendant stalked or sexually assaulted the plaintiff shall not be admissible in any subsequent civil proceedings for the purpose of establishing liability.”

12 V.S.A. § 5134. Emergency relief

“(a) In accordance with the Vermont Rules of Civil Procedure, a person other than a family or household member as defined in 15 V.S.A. § 1001(2) may file a complaint for a temporary order against stalking or sexual assault. Such complaint shall be filed during regular court hours. The plaintiff shall submit an affidavit in support of the order. The court may issue a temporary order under this chapter ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has stalked or sexually assaulted the plaintiff. The court may order the defendant to stay away from the plaintiff or the plaintiff’s children, or both, and may make any other such order it deems necessary to protect the plaintiff or the plaintiff’s children, or both.

(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall state upon its face a date, time, and place that the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff. If the court finds that the plaintiff has met his or her burden, it

Revised effective August 20, 2021

shall continue the order in effect and make such other orders as it deems necessary to protect the plaintiff or the plaintiff's children, or both.

(c) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(d) Every order issued under this chapter shall bear the following language: 'VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.'

(e) Affidavit forms required pursuant to this section shall bear the following language: 'MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.'

**Appendix C to Chancellor’s Procedures for Implementation of Policy 311-A:
Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault and Stalking
CONTACT INFORMATION FOR VERMONT’S SPECIAL INVESTIGATION UNITS**

<p><u>Addison County</u> Addison County Unit for Special Investigations Carolyn Mellish Executive Director 35 Court Street Middlebury, VT 05753 (802) 274-5724 Carolyn.mellish@vermont.gov</p>	<p><u>Bennington County</u> Bennington County Child Advocacy Center/ SIU Jenna Caslin Executive Director P.O. Box 163 129 Elm Street Bennington VT 05201 (802) 442-5107 Jenna.Caslin@partner.vermont.gov</p>	<p><u>Caledonia and Southern Essex Counties</u> Caledonia Children’s Advocacy Center/SIU Christopher St. Cyr Executive Director PO Box 272 Saint Johnsbury, VT 05819 (802) 424-1227 Christopher.StCyr@partner.vermont.gov</p>
<p><u>Chittenden County</u> Chittenden Children’s Advocacy Center/CUSI Tara Gonthier Executive Director 50 Cherry Street, Suite 102 Burlington, VT 05401 (802) 652-0991 tgonthier@bpdvt.org</p>	<p><u>Franklin & Grand Isle Counties</u> Northwest Unit for Special Investigations NUSI/CAC Betty Lavoie Executive Director 5 Lemnah Drive St. Albans, VT 05478 (802) 524-7961 Betty.Lavoie@partner.vermont.gov</p>	<p><u>Lamoille County</u> Lamoille County Special Investigation Unit/CAC Tracy Patnoe Executive Director P.O. Box 16 Hyde Park, VT 05655 (802)-851-8116 tpatnoe@lamoillesiu.org</p>
<p><u>Orange County</u> Orange County SIU/CAC Wendy Loomis Interim Executive Director 354 VT Route 110 PO Box 254 Chelsea, VT 05038 (802) 685-4712 Wendy.Loomis@partner.vermont.gov</p>	<p><u>Orleans & Northern Essex Co.</u> The Orleans County Child Advocacy Center/SIU Ryan Bjerke, Executive Director 55 Seymour Lane, Suite 2 PO Box 1133 Newport, VT 05855 (802) 334-6002 Ryan.Bjerke@partner.vermont.gov</p>	<p><u>Rutland County</u> Child First Advocacy Center/ Rutland Unit for Special Inv. Wendy Loomis, Exec. Dir. 80 West Street P.O. Box 6822 Rutland, VT 05702 (802) 747-0200 Wendy.Loomis@partner.vermont.gov</p>
<p><u>Washington County</u> OUR House of Central Vermont, Inc. CAC/SIU Rebecca Duranleau Executive Director 38 Summer Street Barre, Vermont 05641 (802) 476-8825 ourhousebarredirector@gmail.com</p>	<p><u>Windham County</u> Windham County Safe Place CAC/ SUSI Samantha Prince Executive Director 112 Hardwood Way Brattleboro, VT 05301 (802) 579-1358 Samantha.Prince@partner.vermont.gov</p>	<p><u>Windsor County</u> The CACs of the Family Place/ Windsor County SIU Julie Gaudette, Director 319 US Route 5, South Norwich, VT 05055 (802) 295-3882 julie@the-family-place.org Julie.Gaudette@partner.vermont.gov</p>