COMMUNITY COLLEGE OF VERMONT
VERMONT STATE UNIVERSITY

VERMONT
STATE COLLEGES SYSTEM

OFFICE OF THE CHANCELLOR
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MEMORANDUM

TO: Executive Committee
Lynn Dickinson, Chair
Megan Cluver, Vice-Chair
Marc Mihaly, Secretary
David Silverman, Treasurer

FROM: Elizabeth Mauch, Chancellor

DATE: September 12, 2025

SUBJECT: VSC Board of Trustees Executive Committee Meeting September 15, 2025

The VSC Board of Trustees Executive Committee will meet remotely on **Monday, September 15, 2025 at 10:00 a.m.**

In preparation for the committee's discussion, in the accompanying materials please find the minutes of August 5, 2025 and a revised draft of *VSC Policy 311-A*.

Following public comment and approval of the August 5th minutes, the committee will review and vote on amending policy 311A. It will then go into executive session to discuss labor relations agreements with employees, real estate options, and the employment of a public employee. Following executive session the committee is expected to vote to ratify the new Staff Federation contract and the new CCV United Faculty contract and to consider a resolution regarding Johnson property. Following other business, the committee will adjourn.

The committee has four members. The quorum for starting the meeting and taking any action is three members of the committee.

The committee assistant can be reached at (802) 224-3021 for any questions.

Cc: VSC Board of Trustees
VSC Presidents
Vermont Department of Libraries

Vermont State Colleges Board of Trustees
Executive Committee Special Meeting
Zoom Meeting[1]/YouTube Stream[2]
Monday, September 15, 2025 at 10:00 a.m.

This is a remote meeting with the option for the public to join in-person at VTSU Williston (201 Lawrence Place, Williston, VT 05495), Room 7130, Williston Hall. The meeting will be livestreamed on YouTube at vsc.edu/live. Contact 802-224-3021 for more information.

AGENDA

1. Call to order
2. Public Comment[3]
3. Approve Minutes of August 5, 2025
4. Action: Amend Policy 311A
5. Executive session to discuss labor relations agreements with employees, real estate options, and the employment of a public employee
6. Action: Votes to ratify Staff Federation contract and CCV United Faculty contract
7. Action: Resolution regarding Grant for Johnson property
8. Other Business
9. Adjourn

MATERIALS

1. Minutes of August 5, 2025
2. VSC Policy 311-A – revised draft

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1. vsc.edu/botzoom
2. vsc.edu/live
3. Sign up to make a public comment at vsc.edu/signup. You must be present or logged in to the live session at vsc.edu/botzoom to make a comment.

Minutes of the VSC Board of Trustees Executive Committee meeting held Tuesday, August 5, 2025, at 8:00 a.m. via Zoom - UNAPPROVED

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

The Vermont State Colleges Board of Trustees Executive Committee met on Tuesday, August 5, 2025 at 8:00 a.m. via Zoom.

Committee members:	Lynn Dickinson (Chair), Megan Cluver (Vice Chair), Marc Mihaly (Secretary), David Silverman (Treasurer)
Other trustees:	David Durfee
Chancellor:	Beth Mauch
Presidents:	Joyce Judy, CCV
Other Attendees:	Sarah Chambers, IT Support Kayla Dewey, Executive Assistant Sharron Scott, Chief Financial and Operating Officer Patty Turley, General Counsel

1. Call to Order

Chair Dickinson called the meeting to order at 8:00 a.m.

2. Public Comment

There was no public comment.

3. Approve Minutes of June 24, 2025

At 8:00 a.m. Trustee Mihaly moved and Trustee Silverman seconded the motion to approve the minutes of June 24, 2025. The motion was approved unanimously.

4. Executive Session

At 8:02 a.m. Chair Dickinson moved and Trustee Silverman seconded the motion for the Executive Committee of the VSC Board of Trustees enter executive session, pursuant to 1 V.S.A. § 313(a)(1)(B) to discuss labor relations agreements with employees, 1 V.S.A. § 313(a)(2) to discuss real estate options, and 1 V.S.A. § 313(a)(3) to discuss the employment of a public employee. Along with the members of the Board present at this meeting, in its discretion, the Committee invited the VSC Chancellor, the Chief Financial and Operating Officer, General Counsel, the President of the Community College of Vermont, and the President of Vermont State University to attend. The motion passed unanimously.

UNAPPROVED

At 8:29 a.m., the board exited executive session.

At 8:29 a.m. Trustee Cluver moved and Trustee Silverman seconded the motion to ratify the Part-time Faculty Contract for the years September 1, 2025 to August 31, 2029. The motion passed unanimously.

At 8:30 a.m. the board re-entered executive session.

At 8:59 a.m., the board exited executive session.

5. Other Business

There was no other business.

Chair Dickinson adjourned the meeting at 9:00 a.m.

UNAPPROVED

PREVENTION OF SEXUAL MISCONDUCT	Number **311-A**	Page **1 of 17**
	Date **~~6/14~~9/15/2025**	

I. NOTICE OF NONDISCRIMINATION

As a recipient of federal funds, each Member Institution of the Vermont State Colleges (collectively "the VSC") is required to comply with Title IX of the Higher Education Amendments Act of 1972, and implementing regulations issued by the Department of Education in May 2020 ("Title IX"). In accordance with Title IX, as well as applicable state and federal law, the VSC prohibits discrimination on the basis of sex in its education programs and activities, admission, and employment. Prohibited sex discrimination includes sexual harassment, as defined in VSC Policy 311*, Prevention of Discrimination*. Prohibited sex discrimination also includes sexual harassment as defined in this policy.[1]

Inquiries concerning the application of Title IX may be referred to VSC's Title IX Coordinators or to the United States Department of Education Office for Civil Rights. Contact information for the Title IX Coordinators and the Office for Civil Rights is located in Appendix A to the Chancellor's Procedures for Implementation of Policy 311-A: *Prevention of Sexual Misconduct* ("Chancellor's Procedures").

II. POLICY STATEMENT

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

III. POLICY SUMMARY

[1] In the event the applicable laws change, the Board of Trustees ("the Board") recognizes the VSC Chancellor's authority to comply through revised Procedures until the Board has an opportunity to revise the relevant Policy.

It is the policy of the VSC that, upon determining that an act of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking has occurred, prompt and appropriate remedial action reasonably calculated to address the misconduct and restore or preserve equal access to VSC education programs or activities will be taken. Disciplinary sanctions for any member of the VSC community engaging in conduct prohibited under this policy may include the suspension or dismissal/expulsion of students, the suspension or termination of employment or other appropriate disciplinary action such as warnings, reprimands and educational sanctions, as well as possible referral for criminal investigation and prosecution under Vermont law.

Reporting: The VSC encourages, and in the case of its employees requires, the prompt and accurate reporting of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking ("Prohibited Conduct" defined further, below). This allows the VSC to respond quickly to allegations and offer supportive measures to individuals who may have been subjected to such misconduct. The VSC is committed to protecting the confidentiality of complainants,[2]wherever possible, and will work closely with individuals seeking confidential assistance regarding misconduct under this policy. Certain professionals are permitted by law to offer confidentiality. Those who do not have the privilege of offering confidentiality are expected to handle reports discreetly to the extent permitted or required under the law and VSC policy. All allegations will be investigated promptly and thoroughly as provided in the Chancellor's Procedures, and all parties will be afforded equal rights during the investigatory and adjudicatory process.

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

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

Amnesty: Disciplinary action is prohibited against a student reporting, or otherwise participating in a sexual misconduct resolution process, for alleged ancillary policy violation(s) related to the sexual misconduct incident at issue. However, disciplinary action may be taken if it is determined that the conduct giving rise to the alleged ancillary policy violation(s) placed, or threatened to place, the health and safety of another person at risk. This shall not be construed to

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

limit a counter-complaint made in good faith or to prohibit action as to a report made in good faith.

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

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

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

IV. SCOPE OF COVERAGE

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

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

Where: This policy covers conduct that takes place on VSC campuses and in any building or property owned or controlled by the VSC and used in direct support of, or in a manner related to, the VSC's mission. This includes public property within or immediately adjacent to and accessible from VSC property, as well as any building or property not within the same reasonably contiguous geographic area of VSC that supports or relates to VSC's educational purposes and is used frequently by students. This policy also covers conduct that takes place off-campus, or through the use of online, electronic or digital technologies, that may have a nexus to

any VSC education program or activity, for example by creating a hostile environment on campus or representing a threat to the safety of a member or members of the VSC community or to the efficient continuance of normal VSC operations.

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

V. RESOURCES FOR COMPLAINANTS

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

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

VI. CLERY ACT

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

VII. CONFIDENTIALITY AND PRIVACY

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

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

A. Confidential Off-Campus Resources

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

B. Counselors and Health Services Professionals

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

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

C. Employees

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

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

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

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

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

D. Law Enforcement

If a crime of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking appears to have occurred, the VSC encourages accurate and prompt reporting of these crimes to the Office of Public Safety and/or to state or local law enforcement. Individuals subjected to such misconduct have the option to notify law enforcement, to be assisted by VSC officials in notifying law enforcement, or to decline to notify law enforcement. Individuals may inform law enforcement of an incident of sexual harassment, sexual

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

exploitation, domestic violence, dating violence, sexual assault, or stalking without making a formal criminal complaint. Individuals may choose to pursue a criminal complaint, a complaint through the VSC's disciplinary process, or both simultaneously. Individuals who choose not to notify law enforcement immediately have the option to notify law enforcement at a later time. Completing a forensic exam is important to preserve evidence and does not require the examinee to file a police report. Reports to law enforcement are not confidential.

VIII. DEFINITIONS

A. Prohibited Conduct[4]

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

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

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

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

1. *Title IX Sexual Harassment*

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

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

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

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

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

a. ***Title IX Quid Pro Quo Sexual Harassment***

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

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

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

c. ***Title IX Sexual Assault***

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

- **Rape**:[5]
  - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be complainants under this definition);

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

- Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;

- ~~**Fondling**~~ **Sexual Contact**: The intentional touching of another person's clothed or unclothed body parts without consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition explicitly applies when the victim is incapable of giving consent due to age, mental or physical impairment (temporary or permanent).
- ~~The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (for purposes of this definition, "private body parts" includes breasts, buttocks, or genitals, whether clothed or unclothed)~~;

- **Incest**: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or

- **Statutory Rape**: Sexual intercourse with a person who is under the statutory age of consent.

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

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

d. ***Title IX Dating Violence***

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

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

(ii) For the purposes of this definition— (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence."[6]

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

e. ***Title IX Domestic Violence***

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

(A) By a current or former spouse or intimate partner of the victim;

(B) By a person with whom the victim shares a child in common;

(C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;

(D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

(E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred."[7]

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

f. ***Title IX Stalking***

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

(A) Fear for the person's safety or the safety of others; or

[6] 34 C.F.R. § 106.30(a); 34 C.F.R. § 668.46(a).
[7] 34 C.F.R. § 106.30(a); 34 C.F.R. § 668.46(a).

(B) Suffer substantial emotional distress.

(ii) For purposes of this definition—

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

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

(C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling."[8]

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

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

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

2. *Non-Title IX Sexual Misconduct*

Non-Title IX Sexual Misconduct is Prohibited Conduct that falls within the scope of this policy and the definitions below but that does not fall within the definition of Title IX Sexual Harassment, either due to the nature of the conduct or because it did not reportedly occur within

[8] 34 C.F.R. § 668.46(a).

a program or activity of VSC in the United States.[9] Such conduct is defined for purposes of this policy as:

a. ***Non-Title IX Sexual Assault***

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

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

b. ***Non-Title IX Domestic Violence***

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

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

c. ***Non-Title IX Dating Violence***

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

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

d. ***Non-Title IX Stalking***

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

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

e. ***Non-Title IX Sexual Exploitation***

Non-Title IX Sexual Exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that other person without that other person's consent, and

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

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

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

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

B. Additional Definitions Applicable to This Policy

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

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

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

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

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

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

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

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

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

Retaliation: Retaliation (that is, intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX Sexual Misconduct)) is strictly prohibited. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, may constitute retaliation, as does any adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in

any proceeding under this Policy. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility is not alone sufficient to establish that any party made a materially false statement.

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

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

IX. PROCEDURES

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

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

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

X. COOPERATION WITH INVESTIGATIONS AND PROCEEDINGS

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

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

XI. SANCTIONS

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

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

XII. OTHER POLICY VIOLATIONS

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

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

Signed by:

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Elizabeth K. Mauch, Chancellor

Date	Version	Revision	Approved By
9/24/14	1.0	Adopted	VSCS Board of Trustees

7/23/15	2.0	Updated	VSCS Board of Trustees
8/12/20	3.0	Updated per 2020 Title IX regulations	VSCS Board of Trustees
8/12/2024	4.0	Updated per 2024 TIX regulations; rescinded by operation of law	VSCS Board of Trustees
6/14/2025	5.0	Updated	VSCS Board of Trustees
9/15/2025	6.0	Updated per NIBRS	VSCS Board of Trustees

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Relevant Legal Authorities

• 20 U.S.C. § 1681 et seq., Title IX of the Higher Education Amendments of 1972

• 34 C.F.R. Part 106 (Title IX regulations)

• 20 U.S.C. § 1092(f), the Jeanne Clery Campus Safety Act, Section 485(f) of the Higher Education Act of 1965 (as amended)

• 34 C.F.R. § 668.46 (Clery Act regulations)

• 42 U.S.C. § 13925(a)(20), Violence Against Women Act of 1994 (as amended) (definition of personally identifying information)

• 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act of 1974 (FERPA)

• 34 C.F.R. Part 99 (FERPA regulations)

• 13 V.S.A. § 3251(3), Sexual Assault - Definitions

• 13 V.S.A. § 3252, Sexual Assault

• 13 V.S.A. § 1042, Domestic Assault

• 15 V.S.A. § 1101(2), Domestic Relations, Abuse Prevention - Definitions

• 13 V.S.A. § 1061, Stalking – Definitions

• 16 V.S.A. § 178, Harassment and Hazing Prevention Policies; Postsecondary Schools

• 16 V.S.A. § 14, Harassment; Notice and Response

• 16 V.S.A. § 11(a)(26), Classifications and Definitions, Harassment

• 16 V.S.A. § 184, Student Access to Confidential Sexual Misconduct Support Services

Cross Reference

- VSC Policy 311, *Prevention of Discrimination*
- *Chancellor's Procedures for Implementation of Policy 311-A: Prevention of Sexual Misconduct*