Title IX Policy

PURPOSE: To make clear the University's role and authority in conducting claims related to sexual misconduct, harassment, discrimination under Title IX.

MONITOR: Title IX Coordinator

AUTHORIZATION: CEO and Board of Directors

AUTHORIZATION DATE: 2015

REVIEWED BY: CEO, Vice President of Academic Affairs, Dean of Student Services and Vice President of Enrollment Management

REVISION DATE: November 2026

EFFECTIVE DATE: November 2026

NEXT REVIEW DATE: March 2027

POLICY APPLIES TO: All members of the University community, including but not limited to staff, students, faculty, guests, patients, practitioners.

INTRODUCTION

As an institution of higher education that promotes the rights and safety of all members of the campus community, Virginia University of Integrative Medicine ("VUIM" or "University") requires that individuals treat one another with respect, dignity, and fairness. In an intimate relationship, these values are of paramount importance. Sexual misconduct, which is prohibited under this policy, includes a broad range of behavior such as inappropriate touching, sexual exploitation, sexual intercourse without consent and other forms of sexual violence. Some forms of prohibited conduct may be a crime. Sexual misconduct, as defined in this policy, may violate Title IX of the Education Amendments of 1972 and/or the Violence Against Women Act (VAWA) and Virginia State Education Law. Such violations will not be tolerated by the University.

This policy provides procedures for reporting, investigating and adjudicating claims of sexual misconduct, harassment, and discrimination in the context of Title IX regulations. It applies to all members of the University community, including the University's students, faculty, and staff, and applies regardless of one's sexual orientation, gender, gender identity, or gender expression. Non-community members (e.g. alumni, family or friends of students, vendors, etc.) visiting campus or participating in any University program or activity are expected to abide by the behavioral expectations of this policy.

This policy is in coordination with the Student Code of Conduct, Non-Discrimination, Anti-Harassment, and Grievance Policy, and FERPA.

SCOPE

This policy applies to VUIM students, employees, employees of contractors, visitors, guests, and other third parties.

This policy applies to acts of Prohibited Conduct when:

(1) the conduct occurs on campus or other property owned or controlled by the University;

(2) the conduct occurs in the context of a University employment or education program or activity, including, but not limited to, University-sponsored research, on-line, or internship programs; or

(3) the conduct occurs outside the context of University employment or a University educational program or activity, but has continuing adverse effects on or creates a hostile environment for an individual while on the University's campus or other property owned or controlled by the University or in any University employment or educational program or activity.

The above-defined scope of this policy encompasses incidents of Prohibited Conduct falling within and outside the Title IX regulations.[1]

While formal complaints of conduct falling outside the Title IX regulations will be dismissed for Title IX purposes, where such conduct otherwise falls within the scope and definitions of this policy, the conduct will be addressed as outlined in the applicable procedures referenced below.

This policy does not cover or apply to other misconduct or discrimination, including discrimination based on race, religion, disability, and other forms of sex-based discrimination or harassment that do not meet one of the definitions of Prohibited Conduct. Such conduct and corresponding complaints procedures are addressed in the Non-Discrimination, Anti-Harassment, and Grievance Policy.

NOTICE OF NON-DISCRIMINATION

[1] With respect to VUIM, Title IX regulations apply to conduct occurring in the United States and within a VUIM education program or activity, which includes (i) all of VUIM's operations, including locations, events, or circumstances over which VUIM exercises substantial control over both the Respondent and the context in which the conduct occurs; and (ii) any building owned or controlled by a student organization that is officially recognized by VUIM.

VUIM does not discriminate on the basis of sex in the education program or activity that it operates, and it is required by Title IX of the Education Amendments of 1972 and its implementing regulations not to discriminate in such a manner. This requirement extends to admission and employment.

Inquiries about the application of Title IX and its implementing regulations to VUIM may be referred to VUIM's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

> Title IX Coordinator: Beth Howlett, Title IX Coordinator, (703) 323-5690, ehowlett@vuim.edu.

Any person may report sex discrimination, including sexual harassment, at any time, including during non-business hours, in person, by mail, by telephone, or by email using this contact information.

ZERO TOLERANCE STATEMENT

VUIM has a zero-tolerance policy for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior at all care provider facilities, including on campus clinics, off campus clinic sites, and events, perpetrated on anyone and will make every effort to prevent, detect, and respond to such conduct. The Title IX Policy provides an outline for and guidance on VUIM's approach to preventing, detecting, and responding to such conduct.

STUDENTS RIGHTS

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused or the respondent, their friends, family and acquaintances within the authority of the institution;
9. Access to at least one level of appeal of a determination;

10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and

11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

POLICY

It is a violation of University policy to engage in Sexual Assault, Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence and Stalking, and Complicity in the commission of any act prohibited by this policy, and Retaliation against a person for the good faith reporting of any of these forms of conduct or participation in any investigation or proceeding under this policy (collectively, "Prohibited Conduct"). Prohibited Conduct is prohibited regardless of the sex, sexual orientation, and/or gender identity/expression of the Complainant or Respondent.

Individuals found in violation of this policy will be subject to appropriate disciplinary action, up to and including termination of employment of employees and suspension or dismissal of students.

CONFIDENTIALITY

A Responsible Administrator is not a confidential resource.

Complaints can be made to any of the Responsible Administrators by those who allege to have been the victim of a violation of this policy, by a third party on a victim's behalf or anonymously. While certain other employees may also have a reporting obligation, if a complaint is made to anyone other than one of the Responsible Administrators, the complainant risks the possibility that it will not come to the attention of the proper University officials and may, therefore, not be acted upon. For purposes of this policy, faculty and academic advisors are not considered Responsible Administrators. In addition, unless a report is made to someone listed as a Confidential Resource, confidentiality cannot be assured. The decision to file a Formal Complaint with the University in no way restricts you from also filing criminal charges.

VUIM Responsible Administrators: All VUIM staff, except faculty, academic advisors and student employees.

A Responsible Administrator will discuss with the Complainant available avenues and options. A Complainant may be able to take advantage of multiple options simultaneously. Options include contacting law enforcement (if the incident involves a crime) and/or pursuing disciplinary action against the accused and/or mediation. In situations where either party's well-being requires, other options may include supportive measures, such as no-contact orders between the parties, changes in class assignments, or work assignments to assist in avoiding contact, or other measures to enhance either party's safety, such as increased monitoring of an area.

If an individual makes a report to a Responsible Administrator, one still has the right to make an anonymous report; to request that the University maintain the report as confidential (i.e., not reveal his/her identity); and/or to request that the University not conduct an investigation or that action not be taken against an alleged perpetrator. Even VUIM Offices and employees who cannot guarantee confidentiality will maintain one's privacy to the greatest extent possible. The information one provides to a non-confidential resource will be relayed only as necessary to the

Title IX Coordinator to investigate and/or seek a resolution. If a Complainant requests that his/her name be kept confidential (or if the Complainant makes an anonymous complaint), the University's ability to respond to the complaint may be limited. While the University endeavors to comply with the Complainant's wishes, it is not required to honor these requests. Depending on the circumstances, this may or may not be possible. The University may, in appropriate circumstances, decide it must move forward with an investigation and/or disciplinary processes. In making such a determination the University must consider its obligation to provide a safe, non-discriminatory environment for all students and employees. The University has designated the Title IX Coordinator as the individual who will evaluate any requests for confidentiality.

The University will aim to seek consent from the Complainant prior to investigating. To determine whether to investigate despite the Complainant's request not to do so, the University will consider a range of factors, including, but not limited to:

- The severity and impact of the sexual misconduct;
- The respective ages of the parties;
- Whether the Complainant is a minor under the age of 18;
- Whether the Respondent has admitted to the sexual misconduct;
- Whether there have been other sexual violence or harassment complaints about the respondent;
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the Respondent threatened further sexual violence or other violence against the victim or others;
- Whether the sexual violence was committed by multiple respondents;
- Whether the sexual violence was perpetrated with a weapon; and
- The overall safety of the campus community (including the Complainant).

If the University determines that an investigation is required, it will promptly notify the reporting individuals and take action as necessary to protect them.

Conduct Matters

Student conduct records are confidential and are available only to persons who have permission from the students. Limited conduct information may be shared with other VUIM administrators and faculty members who have a legitimate need to know.

The university requires administrative staff to maintain confidentiality regarding conduct matters. Individual(s) who report the alleged violation(s) may be informed of the official decision and assigned sanctions, as deemed appropriate by the Title IX Coordinator (or designee). In matters resolved under the Title IX Grievance Process, the written determination, including any sanctions, will be provided to both parties simultaneously. The Title IX Coordinator may share information about conduct charges, findings and sanctions with university personnel who, at the discretion of the Title IX Coordinator, have a legitimate need to know.

Clery Act Compliance

The University is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs. The University will issue timely warnings concerning crimes described in 34 C.F.R. § 668.46(e) that are reported to campus security authorities or local police and are considered by the University to represent a threat to students and employees. Warnings will withhold victims' names and other identifying information while providing information sufficient to help prevent similar occurrences.

PROCESS

Community members are encouraged to report sexual misconduct, harassment and discrimination when it occurs, whether observed or as a result of an activity they were directly a part of.

Reports of Prohibited Conduct

The process begins when a report is submitted to a Responsible Administrator, or the Title IX Coordinator. There is no time limit for reporting Prohibited Conduct to the University under this policy. Reports may be made at any time, including during non-business hours, in person, by telephone, by mail, or by email using the contact information below.

- Dr. Beth Howlett, DAOM, Title IX Coordinator, (703) 323-5690, ehowlett@vuim.edu
- Dr. Jessica Ledford, PhD, Academic Advisor, (703) 323-5690, jledford@vuim.edu

If a report alleges a plausible violation of this policy, the University will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence and remedy its effects. The University's obligations under 34 C.F.R. § 106.44(a), including the supportive-measures obligations below, arise upon actual knowledge of alleged sexual harassment within that provision and do not depend on a preliminary determination that the allegations are substantiated.

Upon receipt of a report, the Title IX Coordinator shall promptly contact the reporting party and, if known and different from the reporting party, the Complainant. The Title IX Coordinator shall discuss with the Complainant the options available to the Complainant under the University grievance procedures, including the option to submit a Formal Complaint, and the supportive measures that are available. The Title IX Coordinator may provide supportive measures, as determined appropriate by the Title IX Coordinator, to any individual involved in a report of Prohibited Conduct, regardless of whether the Complainant requests that the University initiate an investigation of the Prohibited Conduct. The Title IX Coordinator may also impose emergency measures as necessary to protect the physical health and safety of the Complainant, Respondent, or other individuals.

In order to initiate a formal investigation of Prohibited Conduct by the University, a Complainant must submit a Formal Complaint to the Title IX Coordinator, or the Title IX Coordinator must sign a Formal Complaint. Formal Complaints should be submitted using the Grievance Submission Form. Upon receipt of a Formal Complaint requesting that the University investigate an allegation of Prohibited Conduct, the University shall follow the procedures described in Title IX Grievance Process below.

This policy applies campus-wide and sets forth behavioral expectations for all. Formal Complaints of Prohibited Conduct against any respondent, including students, faculty, and staff, will be resolved under the Title IX Grievance Process described below before any disciplinary sanction is imposed. However, the identity of the investigator and decisionmaker in a particular case depends on whether the accused is a student, a faculty member, an employee, or a non-community member. If a complaint is made under this policy, the following will apply:

- A complaint against a student will be referred to the Title IX Coordinator or Vice President of Academic Affairs and processed in accordance with the Student Conduct Code Policy, provided that Formal Complaints of Title IX Sexual Harassment must be resolved under the Title IX Grievance Process below, which controls over any inconsistent disciplinary procedures.
- A complaint against a faculty and/or staff member will be referred to the Vice President of Enrollment Management.
- A complaint against a non-community member (e.g., a visitor to campus, an alumnus, a vendor, a parent, etc.) will be investigated and the Title IX Coordinator will identify the appropriate procedures to apply based on the role of the non-community member, the nature of any contractual relationship with VUIM, and any disciplinary authority or substantial control VUIM may have over the Respondent.

In cases where the individual has more than one status with the University (such as a student who is also employed with the University, or any employee who takes courses at the University), the University will determine in its discretion which status is primary; in such a situation, sanctions imposed may include both sanctions related to each status. A non-member of the University community may make a report that a University community member has violated this policy. A non-community member's complaint will be processed in accordance with the applicable disciplinary procedure (above).

Title IX Grievance Process

The following procedures apply to Formal Complaints of Prohibited Conduct against any Respondent. Any provisions, rules, or practices the University adopts as part of this process will apply equally to both parties.

Notice of allegations

Upon receipt of a Formal Complaint, the University will provide written notice to the known parties of (a) this grievance process, including any informal resolution process; and (b) the allegations, including (if known) the identities of the parties, the conduct alleged, and the date and location of the alleged incident. The Respondent is presumed not responsible and a determination regarding responsibility will be made at the conclusion of the grievance process. If the University decides to investigate additional allegations, it will provide notice of them to the known parties.

Investigation

An investigation may occur because a Complainant wishes to proceed with a complaint, or because the University determines that this is necessary despite the wishes of the Complainant. The University endeavors to ensure that complaints are responded to in a prompt, fair and impartial manner. The investigation is usually performed by one or more of the Responsible Administrators

listed above, but the University may appoint any appropriate person(s) to conduct the investigation. The Complainant and the Respondent will be given an equal opportunity to present information in the context of the investigation. An investigation usually involves interviews of witnesses and reviewing relevant documentation. The University may proceed with a complaint, including an investigation and through to a disciplinary outcome, even if the Complainant and/or Respondent elect not to participate.

Advisors

The Complainant and Respondent may be accompanied by an advisor of choice (at the party's own expense, if the advisor is a paid advisor) during any investigatory meeting, disciplinary hearing or other proceeding held pursuant to this policy. The advisor may be, but is not required to be, an attorney. The advisor cannot be a witness in the proceedings. Except when conducting cross-examination at a live hearing as described below, advisors may consult with and support their party but may not speak on the party's behalf. These restrictions apply equally to both parties. The advisor may not disrupt or distract from the meeting or proceeding. An advisor who does not abide by this role may be precluded from further participation in any meetings, hearings or proceedings, and the University will proceed in the advisor's absence.

Evidence review and investigative report

The University will send each party and the party's advisor, if any, all evidence directly related to the allegations, and the parties will have at least 10 days to submit a written response, which the investigator will consider. The investigator will then prepare an investigative report that fairly summarizes the relevant evidence and send it to each party and advisor at least 10 days before the hearing for their review and written response.

Live hearing

The University will hold a live hearing, which may be conducted with all participants physically present or, at the University's discretion, with any or all participants appearing virtually by technology that allows participants to see and hear one another. At the request of either party, the parties will be in separate rooms. The decision-maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility, directly, orally, and in real time. If a party does not have an advisor present at the live hearing, the University will provide, without fee or charge, an advisor of the University's choice, to conduct cross-examination on that party's behalf. Before a question is answered, the decision-maker will determine whether it is relevant and explain any decision to exclude it. Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, except when offered to prove that someone other than the Respondent committed the alleged conduct, or when concerning specific incidents of the Complainant’s prior sexual behavior with the Respondent and offered to prove consent.

The University will create an audio or audiovisual recording, or transcript, of the live hearing and make it available to the parties for inspection and review. All hearings are closed to the general public.

Determination regarding responsibility

The responsibility decision-maker shall not be the Title IX Coordinator or an investigator in the matter. The University shall use the preponderance of the evidence standard in determining responsibility for a violation of this policy for all cases, meaning that it is more likely than not a violation of this policy occurred. Being impaired by alcohol and/or other drugs is no defense to violating this policy.

Both parties will simultaneously receive the written determination of outcomes of all disciplinary proceedings. The Title IX Coordinator is responsible for effective implementation of any remedies.

The University endeavors to complete the investigatory phase and disciplinary proceeding within 60 days, but this timeframe may be temporarily delayed or extended for good cause, with written notice to the Complainant and the Respondent of the delay or extension and the reasons for it. Good cause may include the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

Other Actions

Informal resolution

After a Formal Complaint is filed, and at any time before a determination regarding responsibility, the University may offer an informal resolution process, such as mediation, with each party's voluntary, written consent. Should the parties choose to engage in an informal resolution process, the University will provide the parties with written notice of the allegations, the requirements of the process, and any consequences of participating, including the records that will be maintained or could be shared. Before agreeing to a resolution, either party may withdraw from informal resolution and resume the formal grievance process. The University will not require participation in informal resolution or waiver of the formal grievance process as a condition of enrollment, continued enrollment, employment, continued employment, or enjoyment of any other right.

Informal resolution will not be offered or used to resolve allegations that an employee sexually harassed a student.

Emergency removal and administrative leave

The University may remove a Respondent from its education program or activity on an emergency basis only after an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual, arising from the allegations, justifies removal. The Respondent will receive notice and an opportunity to challenge the decision immediately following the removal. The University may place a non-student employee Respondent on administrative leave while the grievance process is pending.

Dismissal of Formal Complaint

The University will dismiss a Formal Complaint, for Title IX purposes, with regard to conduct that would not constitute Title IX Sexual Harassment even if proved, did not occur in the University's education program or activity, or did not occur against a person in the United States. Such a dismissal does not preclude action under another provision of this policy or another University policy. The University may also dismiss a Formal Complaint, or any allegations in it, if the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or allegations; the Respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence

sufficient to reach a determination. The University will promptly send written notice of any dismissal, and the reasons for it, simultaneously to the parties.

Appeal Process

Either party may appeal a determination regarding responsibility, or a dismissal of a Formal Complaint or any allegations in it, on the following bases:

1. insufficient information that a policy was violated or new evidence that was not reasonably available when the determination or dismissal was made and that could affect the outcome;
2. a procedural error that affected the outcome;
3. a sanction inappropriate for the violation; and/or
4. a conflict of interest or bias on the part of the Title IX Coordinator (or designee), investigator, or decision-maker that affected the outcome.

A request for an appeal to the Appellate Officer must be made in writing within 72 hours of receipt of the original written decision. The Appellate Officer shall be the Vice President of Enrollment Management (or designee) for cases involving a complaint against a student or non-community member and the CEO (or designee) for a complaint against a member of the staff or faculty. The Appellate Officer must be impartial and must not have served as the Title IX Coordinator, investigator, or decision-maker responsible for the determination or dismissal being appealed.

The University will notify the other party in writing when an appeal is filed; give both parties a reasonable, equal opportunity to submit a written statement; and issue a written decision simultaneously to both parties describing the result and rationale. Typically, an appeal decision will be rendered within 10 business days. After review, the Appellate Officer may:

1. affirm the finding(s) of the original hearing authority;
2. reverse the finding(s) of the original hearing authority;
3. alter the sanction(s) of the original hearing authority (and, if altered, sanctions may be made more or less severe); or
4. refer the case to an appeal hearing.

A subsequent appeal, which is permitted only in cases in which suspension or dismissal are assigned, must be submitted in writing to the CEO (or designee) within 48 hours of receipt of the appeal decision. CEO (or designee) may:

1. affirm the finding(s) of the original hearing authority;
2. reverse the finding(s) of the original hearing authority;
3. alter the sanction(s) of the original hearing authority (and, if altered, sanctions may be made more or less severe); or
4. uphold the prior appeal decision.

The decision of the CEO (or designee) on all hearing appeals resulting in suspension or dismissal is the final decision for VUIM. The decision of the CEO (or designee) on all other appeals is the final decision for VUIM.

Conduct Findings

- Found Responsible: The accused student is responsible for a violation of this policy as charged.
- Found Not Responsible: The accused student is not responsible for a violation of this policy.

Conduct Sanctions

Reasons for Sanctioning

A sanction is a consequence placed upon a student for violating this policy. The purposes of imposing sanctions are twofold: to protect the university community from behavior that is detrimental to its health, safety and educational mission; and to assist students in understanding what it means to be accountable for their actions and/or what the consequences may be for future behavior.

All students who are sanctioned will be treated with fair consideration, and all circumstances involved in an incident will be considered in sanctioning as each individual case is unique. A student charged as an accessory may be subject to the same sanction(s) as the primary violator.

Repeat Violations

VUIM employs a progressive discipline system in which succeeding violations entail more serious consequences, including suspension and dismissal from the university.

Sanctions

A student may be sanctioned to one or more of the following depending on the seriousness of the violation. Sanctions are determined by the Title IX Coordinator, except that in matters resolved under the Title IX Grievance Process sanctions are determined by the decision-maker.

- Restriction of activities or privileges: participation in any and/or all organized university activities other than required academic endeavors are restricted for a designated period.
- Written warning: official record that a student has been warned about behavior.
- Fines: monetary sanctions.
- No-contact order: student is prohibited from having any direct or indirect contact or contact via a third-party with a particular person. Violation may result in suspension or dismissal.
- Referral: requires the student seek appropriate guidance or resources for his/her success.
- Removal of property: required removal of property.
- Restitution: reimbursement by the student to cover the cost of repair or replacement of damaged or misappropriated property.

- Conduct probation: period of self-reflection during which a student is on official warning that subsequent violations of university rules, regulations or policies are likely to result in more severe sanctions, including suspension or dismissal from the university. In most cases, when a student is placed on conduct probation, parental notification will be part of the process to discuss a student's success plan.

- Conduct suspension: a temporary cancellation of a student's enrollment at VUIM with approval from the Title IX Coordinator (or designee). Once assigned this sanction, a student is immediately removed from classes and banned from university property. A student cannot enter university property during his/her term of suspension without prior permission from the Title IX Coordinator (or designee) nor graduate. Any classes taken at another institution while suspended cannot be transferred to VUIM.

- Campus ban: student is banned from being present on either the entire campus or specified areas of the campus.

- Dismissal from the university: a permanent cancellation of a student's enrollment at VUIM with approval from the Title IX Coordinator (or designee). Once assigned this sanction, students are immediately removed from classes and banned from university property. A student cannot enter university property once dismissed without prior permission from the Title IX Coordinator (or designee) nor re-enroll or graduate from VUIM.

Retaining Records

See records retention schedule.

Release of Records

External release of records will occur in accordance with federal law.

DEFINITIONS

Prohibited Conduct: Prohibited Conduct is defined as the following:

A. **Title IX Sexual Harassment**: The following is defined as sexual harassment under the Title IX Regulations and prohibited under this policy:

a. **Sexual Assault**: Any sexual act directed against another person, without the Consent of the Complainant including instances where the Complainant is incapable of giving Consent.

1. **Rape**— Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

2. **Sodomy**—Oral or anal sexual intercourse with another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.

3. **Sexual Assault with An Object**—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of age or because of temporary or permanent mental or physical

incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.

4. **Fondling**— The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of age or because of temporary or permanent mental or physical incapacity.

b. **Sexual Assault**: Nonforcible sexual intercourse

1. **Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

c. **Quid Pro Quo Sexual Harassment as Defined in Title IX Regulations ("Title IX Quid Pro Quo Sexual Harassment")**: An employee of the University conditioning the provision of aid, benefit, or service on another individual's participation in unwelcome sexual conduct.

d. **Hostile Environment Sexual Harassment as Defined in Title IX Regulation ("Title IX Hostile Environment Sexual Harassment")**: Unwelcome conduct based on sex that would be determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

e. **Dating Violence**: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant'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. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

f. **Domestic Violence**: Violence committed by a current or former spouse or intimate partner of the Complainant; a person with whom the Complainant shares a child in common; a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Virginia; by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Virginia. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

g. **Stalking**: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Stalking may include the concept of "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion. When allegations of stalking are unrelated to sex and/or

gender-based harassment, cases may be referred to the appropriate office and governed by either the Code of Student Conduct or the Staff and Faculty Handbook.

B. The following is not defined as sexual harassment under the Title IX Regulations but is otherwise prohibited under this policy and subject to the Title IX Grievance Procedures:

a. **Sexual Exploitation**: Purposely or knowingly doing one or more of the following without Consent:

• Taking sexual advantage of another person.

• Taking advantage of another's sexuality.

• Exceeding the boundaries of consensual Sexual Contact without the knowledge of the other individual.

Sexual Exploitation may be committed for any purpose, including sexual arousal or gratification, financial gain, or other personal benefit. Examples include, but are not limited to, purposefully or knowingly:

• Causing the incapacitation of another person through alcohol and/or drugs (or any other means) for the purpose of compromising that person's ability to give Affirmative Consent to sexual activity;

• Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or livestreaming of images) without consent of all parties;

• Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person's intimate parts (including genitalia, groin, breasts or buttocks) in a place where that person would have a reasonable expectation of privacy);

• Recording or photographing private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent;

• Disseminating or posting images of private sexual activity and/or a person's intimate parts (including genitalia, groin, breasts or buttocks) without consent;

• Maliciously threatening to disclose or disclosing an individual's Sexual Orientation, Gender Identity, or Gender Expression;

• Prostituting another person;

• Possessing, creating, or distributing child pornography;

• Exposing another person to a sexually transmitted infection or virus without the other's knowledge; or

• Failing to use contraception, or deliberately removing or compromising contraception without the other party's knowledge.

c. **Complicity**: Complicity is any act taken with the purpose of aiding, facilitating, promoting, or encouraging the commission of an act of prohibited conduct under this Policy by another person. Examples of complicity include, but are not limited to, restraining another individual during a

sexual assault, encouraging someone to commit dating violence or sexual assault, or intentionally not intervening for the purpose of facilitating another person committing prohibited conduct

Retaliation: No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or this policy.

Consent: Consent means affirmative agreement to engage in conduct. To be affirmative, the agreement must be demonstrated through clear words or actions and must be informed and voluntary. A person who wants to engage in a specific sexual activity is responsible for obtaining Consent for that activity. Lack of protest does not constitute Consent. Lack of resistance does not constitute Consent. Silence and/or passivity also do not constitute Consent. Consent to one form of sexual activity does not, by itself, constitute Consent to another form of sexual activity. Consent to sexual activity on a prior occasion does not, by itself, constitute Consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of Consent.

Consent may be withdrawn at any time. An individual who seeks to withdraw Consent must communicate, through clear words or actions, a decision to cease the sexual activity. Once Consent is withdrawn, the sexual activity must cease immediately.

Consent cannot be obtained through physical violence, threats, intimidation, or coercion.

a) Physical violence means that a person is exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.

b) Threats are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person physically, to reveal private information, to harm a person's reputation, or to cause a person academic or economic harm.

c) Intimidation is an implied threat that menaces or causes reasonable fear in another person. A person's size, alone, does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g., blocking access to an exit).

d) Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear a decision not to participate in a particular activity, a decision to stop a particular activity, or a decision not to go beyond a certain activity, continued pressure can be coercive. In evaluating whether coercion was used, the University will consider: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

Consent also cannot be obtained by taking advantage of the Incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other person was Incapacitated. In evaluating Consent in cases of alleged Incapacitation, the University asks two

questions: (1) Did the person initiating sexual activity know that the other party was Incapacitated? And if not, (2) Would a sober, reasonable, lay (i.e., non-medical professional) person in the same situation have known that the other party was Incapacitated? If the answer to either of these questions is "YES," Consent was absent.

Vulnerable Persons: A child or person who is elderly, disabled or otherwise unable to protect and care for themselves due to age, physical or mental disability.

Child: A young person, especially between infancy and puberty.

Incapacitation: Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in an activity. A person may be Incapacitated as a result of the consumption of alcohol and/or other drugs, mental or physical helplessness, sleep, unconsciousness, lack of awareness that an activity is taking place or due to a temporary or permanent physical or mental health condition. Incapacitation as a result of consumption of alcohol and/or drugs is a state beyond drunkenness or intoxication. A person is not necessarily Incapacitated merely as a result of drinking or using drugs.

Evaluating Incapacitation requires an assessment of an individual's abilities to:

- Communicate a choice
- Understand relevant information
- Reason about choices; and/or
- Appreciate the consequences of a situation.

Potential indicators of Incapacitation include (1) an inability to understand or answer questions such as: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know whom you are with?"; (2) slurred or incomprehensible speech; (3) unsteady gait; (4) combativeness; (5) emotional volatility; (6) vomiting, or (7) incontinence.

Title IX Coordinator: The Title IX Coordinator is the University employee responsible for coordinating the University's compliance with and enforcement of Title IX and this policy.

Complainant: An individual who is alleged to be the victim of prohibited conduct.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct.

Confidential Employee: Faculty member or formal Academic Advisor

Non-Confidential Employee: Any employee who is not a Confidential Employee. This includes students who are serving as Graduate Teaching Assistants, and all other student-employees, when disclosures are made to any of them in their capacities as employees.

Formal Complaint (Grievance): A document or electronic submission (e.g., email, or online form) filed by a Complainant with the Title IX Coordinator or signed by the Title IX Coordinator alleging prohibited conduct against a Respondent and requesting that the University investigate the allegation of prohibited conduct. A Formal Complaint filed by a Complainant must contain a physical or digital signature or otherwise indicate that the complainant is the person filing the

Formal Complaint. At the time of filing, the Complainant must be participating in or attempting to participate in the University's education program or activity.

Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available without fee or charge to a Complainant or Respondent that (1) restore or preserve equal access to the University employment or education programs and activities, without unreasonably burdening the other party, (2) protect the safety of the parties or the University community, or (3) deter prohibited conduct.

The University is required by the Title IX Regulations to use these definitions for sexual harassment under Title IX.