



# Sexual Misconduct and Interpersonal Violence Policy

*Applies to all forms of sexual and gender-based harassment,  
sexual assault, intimate partner violence, stalking,  
sexual exploitation, complicity and retaliation*

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OFFICE OF COMPLIANCE & INCLUSION  
THE UNIVERSITY OF VIRGINIA'S COLLEGE AT WISE

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**CAMPUS SECURITY-CLERY ACT:** *UVA-Wise is committed to helping the campus community provide for their own safety and security. The Annual Security Report and Fire Safety Report containing information on campus security and personal safety, including alerts, fire safety, crime prevention tips, and crime statistics is available at [www.uvawise.edu/ASR](http://www.uvawise.edu/ASR). A copy is available upon request by calling 276-328-0190 or 276-376-3451.*

*The University of Virginia's College at Wise is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award the baccalaureate degree. Contact the Commission on Colleges at 1866 Southern Lane, Decatur, Georgia 30033-4097 or call 404-679-4500 for questions about the accreditation of The University of Virginia's College at Wise.*

# INTRODUCTION

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UVa-Wise (the “College”) is committed to maintaining a respectful, professional and nondiscriminatory academic, living and working environment for students, faculty, staff, and visitors. This includes having an environment free from sexual and gender-based harassment, sexual assault, intimate partner violence, stalking, sexual exploitation, complicity and retaliation (“Prohibited Conduct”). The College will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

To foster a climate of respect and security on campus as it relates to preventing and responding to acts of Prohibited Conduct, this policy has been created and serves to demonstrate the College’s commitment to:

- Identifying the forms of Prohibited Conduct that violate this policy;
- Disseminating clear policies and procedures for responding to Prohibited Conduct reported to the College;
- Delivering primary prevention and awareness programs and ongoing training and education campaigns to students and employees so they may identify what behavior constitutes Prohibited Conduct; understand how to report such misconduct; recognize warning signs of potentially abusive behavior and ways to reduce risks; and learn about safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of Prohibited Conduct against a person other than such individual;
- Engaging in investigative inquiry and resolution of reports that are adequate, reliable, impartial, prompt, fair, and equitable;
- Supporting Complainants and Respondents and holding persons accountable for established violations of this policy; and
- Providing a written explanation of the rights and options available to every student or employee that has been the victim of Prohibited Conduct, regardless of when or where the conduct occurred.

In addition, this policy:

1. Identifies the College’s Title IX Coordinator, Deputy Title IX Coordinator, and Title IX Investigators, and describes their roles in compliance with Title IX, the Clery Act and VAWA.
2. Identifies how students and employees can report Prohibited Conduct to the College confidentially and what resources are available both on and off campus to aid them, including employees’ and students’ rights to notify local law enforcement and their right also to decline to notify such authorities.
3. Provides information about how reports are assessed, investigated, and resolved.
4. Provides the College with a means to take all reasonable steps to identify Prohibited Conduct, prevent recurrence, and to correct its discriminatory effects on the Complainant and others, if appropriate

This policy supersedes any conflicting information contained in other College policy with respect to the definitions or procedures relating to conduct prohibited by this policy.

# JURISDICTION

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This policy applies to students, College employees, contractors, vendors, visitors, guests or other third parties when:

1. the conduct occurs on College property or other property owned or controlled by the College;
2. the conduct occurs in the context of a College employment or education program or activity, including, but not limited to, College-sponsored study abroad, research, on-line, or internship programs; or

3. the conduct occurs outside the context of a College employment or education program or activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third Parties while on College property or other property owned or controlled by the College or in any College employment or education program or activity.

## NOTICE OF NON-DISCRIMINATION & NOTICE OF COORDINATION WITH NON-DISCRIMINATION POLICY

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The University of Virginia's College at Wise does not discriminate on the basis of age, color, disability, gender identity and/or expression, marital status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status, and family medical or genetic information, in its programs and activities as required by Title IX of the Education Amendments of 1972, the Americans with Disabilities Act of 1990, as amended, Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Governor's Executive Order Number One (2018), and other applicable statutes and University policies. The College prohibits sexual and gender-based harassment, including sexual assault, and other forms of interpersonal violence.

The College recognizes that it is important to coordinate this Policy with other existing policies related to harassment and discrimination knowing that harassment related to an individual's sex, sexual orientation, gender identity or gender expression can occur in conjunction with misconduct and harassment related to a person's race, ethnicity, national origin, religion, age, pregnancy or parenting status, disability, or other protected status. Other acts can also be forms of sex-based discrimination and are prohibited whether sexually-based or not and include dating violence, domestic violence, stalking and sexual assault. Therefore, when a report is made of harassment or discrimination based on sex as well as harassment or discrimination based on some other protected status, the College's response will be governed by the procedures referenced in this policy. Questions about which policy applies in a specific instance should be directed to the Title IX Coordinator.

Employees should seek further information regarding equal opportunity, disability, harassment, discrimination and retaliation that **is not based on sex or gender** with:

Stephanie Perry, Director of Human Resources  
UVa-Wise- Resource Center  
1 College Avenue, Wise VA 24293  
Office: 276-328-0240 | Email: stephanie.perry@uvawise.edu

Equal Opportunity and Civil Rights (EOCR) Main Office  
Washington Hall (Hotel B) - East Range  
P.O. Box 400219  
Charlottesville, VA 22904  
Phone: 434-924-3200 |Email: uvaeocr@virginia.edu

## TITLE IX COORDINATOR & DEPUTY TITLE IX COORDINATOR/INVESTIGATORS

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The College has designated a Title IX Coordinator who is responsible for the oversight of this policy and any procedures related to it. The Title IX Coordinator is responsible for overseeing and resolving all Title IX reports and identifying and addressing any patterns or systemic concerns that arise during the review of such reports. The Coordinator's responsibilities include oversight of a prompt, fair, equitable investigation and resolution process for reports of Prohibited Conduct at the College. The Title IX Coordinator also evaluates trends on campus by using

information reported to her and makes recommendations for campus wide training and education programs and other remedial actions designed to eliminate Prohibited Conduct, prevent its recurrence and address its effects.

The Deputy Title IX Coordinator serves as designee for the Title IX Coordinator in any case where there is a conflict of interest that would prohibit the Title IX Coordinator from providing fair and impartial oversight.

The Title IX Investigator conducts thorough and impartial investigations into the facts of a case including interviewing the Complainant, Respondent, witnesses or others who may have relevant information, and collecting any other evidence deemed relevant to a case.

**Tabitha Smith, Title IX Coordinator & Director of Compliance & Inclusion**  
Office of Compliance & Inclusion  
Office: 276-328-0131 | Cell: 276-870-5065 | Email: tabitha.smith@uvawise.edu

**Kendall Rainey, Deputy Title IX Coordinator & Investigator**  
Office of Athletics  
Office: 276-376-4584 | Email: kendall.rainey@uvawise.edu

**Molly Land, Title IX Investigator**  
Office of Compliance & Inclusion  
Office: 276-328-0131 | Cell: 276-870-5065 | Email: mal7te@uvawise.edu

**Narda Porter, Title IX Investigator**  
Office of the Registrar  
Office: 276-328-0116 | Email: narda.porter@uvawise.edu

**Josh Justice, Title IX Investigator**  
Office of Housing & Residence Life  
1 College Avenue, Wise VA 24293  
Office: 276-376-4517 | Email: jjustice@uvawise.edu

## PROHIBITED CONDUCT

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Conduct under this policy is prohibited regardless of the sex, sexual orientation and/or gender identity/expression of the Complainant or Respondent. Prohibited Conduct includes the following specifically defined forms of behavior: Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual or Gender-Based Harassment, Complicity, and Retaliation.<sup>1</sup>

### A. SEXUAL ASSAULT

Sexual Assault consists of (1) Sexual Contact and/or (2) Sexual Intercourse that occurs without (3) Affirmative Consent.

#### 1. *Sexual Contact* is:

- Any intentional sexual touching

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<sup>1</sup> NOTE: The definitions in this policy may differ from those used in the civil or criminal laws of the Commonwealth of Virginia. In some cases, the definitions include behaviors that, while not torts or crimes under Virginia law, still violate the College's standards of conduct for faculty, staff, and students. In addition, certain conduct may be punishable under Virginia or federal criminal statutes, civil law, and College policy. These processes are separate and distinct from one another, however, but can run concurrently. The codification of Criminal Sexual Assault is located in Virginia Code §§ 18.2-61 through -67.10 and can be accessed on the Code of Virginia web site at <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC>.

- However slight
- With any object or body part (as described below)
- Performed by a person upon another person

Sexual Contact includes (a) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; and (b) making another touch you or themselves with or on any of these body parts.

**2. *Sexual Intercourse* is:**

- Any penetration
- However slight
- With any object or body part (as described below)
- Performed by a person upon another person

Sexual Intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

**3. *Affirmative Consent* is:**

- Informed (knowing)
- Voluntary (freely given)
- Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity

Affirmative Consent cannot be obtained by Force. Force includes (a) the use of physical violence, (b) threats, (c) intimidation, and/or (d) coercion.

- 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.
- 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.
- 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).
- 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 have sex. When a person makes clear a decision not to participate in a particular form of Sexual Contact or Sexual Intercourse, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion was used, the College 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.

Affirmative Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated. Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity.

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

A person who is incapacitated is unable, temporarily or permanently, to give Affirmative Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

**The College offers the following guidance on Affirmative Consent and assessing incapacitation:**

A person who wants to engage in a specific sexual activity is responsible for obtaining Affirmative Consent for that activity. Lack of protest does not constitute Affirmative Consent. Lack of resistance does not constitute Affirmative Consent. Silence and/or passivity also do not constitute Affirmative Consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this Policy. It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

Affirmative Consent to one form of sexual activity does not, by itself, constitute Affirmative Consent to another form of sexual activity. For example, one should not presume that Affirmative Consent to oral-genital contact constitutes Affirmative Consent to vaginal or anal penetration. Affirmative Consent to sexual activity on a prior occasion does not, by itself, constitute Affirmative 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 Affirmative Consent.

In evaluating Affirmative Consent in cases of alleged incapacitation, the College asks two questions: (1) *Did the person initiating sexual activity know that the other party was incapacitated? and if not,* (2) *Should a sober, reasonable person in the same situation have known that the other party was incapacitated?* If the answer to either of these questions is “YES,” Affirmative Consent was absent and the conduct is likely a violation of this policy.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: “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?”

One should be cautious before engaging in Sexual Contact or Sexual Intercourse when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs may create ambiguity for either party as to whether Affirmative Consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forego all sexual activity.

**Being impaired by alcohol or other drugs is no defense to any violation of this policy.**

Examples of behavior that may constitute sexual assault include the following:

- Engaging in sexual activity with an unconscious or semi-conscious person;
- Engaging in sexual activity with someone who is asleep or passed out;
- Engaging in sexual activity with someone who has said “no”;
- Engaging in sexual activity with someone who is vomiting, unable to stand without assistance, or has to be carried to bed;
- Allowing another person to engage in sexual activity with your partner without his or her consent;
- Requiring any person to perform any sexual activity as a condition of acceptance into a fraternity, sorority, athletic, or any other organization affiliated with the College;
- Telling someone you will “out” them if they don’t engage in sexual activity (e.g., threatening to disclose the person’s sexual orientation without their consent);
- Telling someone you will fail them or give them a grade different from what they deserve if they don’t agree to engage in sexual activity; or
- Facilitating or assisting in a sexual assault including purchasing or providing alcohol or drugs to further a sexual assault.

## **B. SEXUAL EXPLOITATION**

Sexual Exploitation is purposely or knowingly doing any of the following:

- Causing the incapacitation of another person (through alcohol, 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);
- 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;
- Prostituting another person; or
- Exposing another person to a sexually transmitted infection or virus without the other’s knowledge.

## **C. INTIMATE PARTNER VIOLENCE**

Intimate Partner Violence includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship.<sup>2</sup> Intimate Partner Violence may include any form of Prohibited Conduct under this policy, including Sexual Assault, Stalking, and Physical Assault (as defined below).

**Physical Assault** is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Intimate Partner Violence includes the use or threat of physical force or restraint carried out with the intent of causing pain or injury to another. Physical Assault will be addressed under this policy if it involves Sexual or Gender-Based Harassment, Intimate Partner Violence, or is part of a course of conduct under the Stalking definition.

Examples of behavior that may constitute Intimate Partner Violence include the following:

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<sup>2</sup> Intimate Partner Violence includes “dating violence” and “domestic violence,” as defined by VAWA. Consistent with VAWA, the College will evaluate the existence of an intimate relationship based upon the Complainant’s statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.



- Taking away a person’s cell phone during an argument so the person cannot call a friend or the police for help.
- Threatening to commit self-harm if another does not do what is asked.
- Threatening to physically assault someone the individual is dating if the person does not do what is asked.
- Hitting, punching, pinching, slapping, or choking someone with whom the person is intimately involved.
- Violating a protective order.
- Harming a person’s animals or children while in an intimate relationship.

#### D. STALKING

Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.

Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes “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 or forms of contact.

#### E. SEXUAL OR GENDER-BASED HARASSMENT

1. **Sexual Harassment** is any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in (1) and/or (2), below, are present.
2. **Gender-Based Harassment** includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (1) and/or (2), below, are present.

(1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person’s employment, academic standing, or participation in any College programs and/or activities or is used as the basis for College decisions affecting the individual (often referred to as “*quid pro quo*” harassment); or

(2) Such conduct creates a hostile environment. A “hostile environment” exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the College’s education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the College will consider the totality of known circumstances, including, but not limited to:

- The frequency, nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant’s mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant’s educational or work performance and/or College programs or activities; and

- Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

Examples of behavior that may constitute sexual harassment, if sufficiently severe, persistent or pervasive, include the following:

- Calling someone by a sexually-oriented or demeaning name;
- Giving someone unwanted gifts of a sexual nature;
- Displaying sexually-suggestive materials or sending notes, email, or jokes to a person that are sexually explicit;
- Touching someone sexually without their consent;
- Massaging someone without permission;
- Brushing up against someone repeatedly;
- Continuing to ask out a person who already has said he or she is not interested; or
- Exposing your private parts to another person.

#### **F. RETALIATION**

Retaliation means 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 includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of Prohibited Conduct. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct.

#### **G. COMPLICITY**

Complicity is any act taken with the purpose of aiding, facilitating, promoting or encouraging the commission of an act of Prohibited Conduct by another person.

## **CONSENSUAL RELATIONSHIPS**

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As stated in the UVa-Wise Faculty Handbook, the College strongly discourages romantic or sexual relationships between an employee and his or her manager, between junior and senior faculty members, between faculty members and students, and between administrators/staff and students. In these circumstances, even when both parties have consented, the relationship can give rise to problems that compromise the professional integrity of staff and faculty, and may generate charges of unfair treatment or of sexual harassment.

Sexual or romantic relationships with students are particularly problematic. The College agrees with the American Association of University Professors statement:

*Sexual relations between students and faculty members with whom they also have an academic or evaluative relationship are fraught with the potential for exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic or evaluative role, make voluntary consent by the*

*student suspect. Even when both parties initially have consented, the development of a sexual relationship renders both the faculty member and the institution vulnerable to possible later allegations of sexual harassment in light of the significant power differential that exists between faculty members and students.*

The College views romantic or sexual relationships between employees and their managers, between faculty members, and between administrators and students in the same light; these relationships are also characterized by significant power differentials and are subject to the same liabilities.

If you are engaged in a romantic or sexual relationship with someone whom you instruct, supervise, evaluate, or advise, it is your professional responsibility to advise your Provost or Human Resources of that relationship so that your Provost or Human Resources can discuss and assess the situation with you to determine whether it is appropriate to make changes to the instructional, advisory, evaluative, or supervisory relationship. Information disclosed in these discussions shall be treated as confidential, and disclosure to others shall be made only on a need-to-know basis.

Please note: In the event you are the subject of a report of sexual harassment and if the facts show that you were engaged in a romantic or sexual relationship with someone whom you instructed, supervised, evaluated or advised, and you did not advise your Provost or HR of the existence of that relationship so that steps could have been taken to change, if appropriate or necessary, the instructional, advisory, evaluative, or supervisory relationship, the College may decline to assist you in your legal defense against the allegation(s), and you, not the College, may bear any litigation costs or fees associated with your legal defense. In addition, you may face disciplinary action, up to and including termination, for any substantiated misconduct resulting from such relationship.

## DEFINITIONS

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Additional terms used in this policy are defined below.

**COMPLAINANT:** The person reporting Prohibited Conduct, who can be either the victim or a third party.

**EMPLOYEE:** Categories of individuals employed at UVa-Wise include:

- **Classified Staff:** A salaried non-faculty employee hired before July 1, 2006 and covered by the Virginia Personnel Act and State Human Resource policies.
- **University Staff:** A salaried non-faculty employee, including transfers from other state agencies, hired on or after July 1, 2006 and covered by University Human Resources policies.
- **Academic Faculty:** Members elected initially in positions whose major emphasis is on teaching and research. In addition, members employed initially in academic administrative positions with some responsibilities for teaching and research and who possess suitable academic qualifications may be designated members of the Academic Faculty, if deemed appropriate by the Chancellor, the Provost, and the Academic Dean.
- **General Faculty:** Members employed, usually before July 1, 2006, in administrative positions with minimal responsibilities for teaching and research.

**FERPA:** The Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99.

**GENDER:** Used synonymously with sex to denote whether a person anatomically is male or female at birth, e.g., “he’s a boy” or “she’s a girl.”

**GENDER BIAS:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

**GENDER IDENTITY:** A person's internal sense of being male, female, or a combination of both; that internal sense of a person's gender may be different from the person's gender at birth. *Note: A transgender person may express their gender identity through gender characteristics, such as clothing, hair, voice, mannerisms, or behaviors that do not conform to the gender-based expectations of society.*

**GENDER IDENTITY BIAS:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.

**GENDER NON-CONFORMING:** A person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing, or a man wearing makeup.

**PREPONDERANCE OF THE EVIDENCE:** A standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it; given the totality of information the version of events that is more likely than not. Preponderance of the evidence is understood to require more than 50 percent certainty to determine guilt (51% or greater).

**PROTECTED CHARACTERISTICS/STATUSES:** Age, color, disability, gender identity and/or expression, marital status, national or ethnic origin, political affiliation, race, religion, sex (including pregnancy), sexual orientation, veteran status, and family medical or genetic information.

**PROHIBITED CONDUCT:** A broad term that includes sexual or gender-based harassment, sexual assault, sexual exploitation, intimate partner violence, stalking, complicity and retaliation.

**RESPONDENT:** The person reported to have engaged in Prohibited Conduct is the "Respondent".

**STUDENT:** A new or re-admitted student will be considered enrolled if the following conditions are met:

- 1) the student is pre-registered for courses in any term (fall, spring or summer); and
- 2) the student's attendance in at least one class has been verified.

After classes begin, students need to be attending classes in order to continue their enrollment status. Students are considered continuously enrolled when they are registered for consecutive fall and spring terms. Please note that those who arrive to campus prior the start of classes for official College functions including, but not limited to student employment, trainings, athletics, band, Expedition are considered UVa-Wise students.

## PRIVACY AND CONFIDENTIALITY

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The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under this policy. The College also is committed to providing assistance to help students, employees and third parties make informed choices. With respect to any report under this policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under this policy.

**Privacy:** Privacy means that information related to a report of Prohibited Conduct will be shared with a limited circle of College employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All Employees who are involved in the College's response to reports of Prohibited Conduct receive

specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

Further, the College will maintain as private, any accommodations or protective measures provided to the Complainant to the extent that maintaining such confidentiality would not impair the College's ability to provide the accommodations or protective measures.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"). All documentation related to a student's report, investigation, and resolution are protected by FERPA and will not be released, except as required by law. Non-identifying information about a report may be shared with the Campus Police Chief or designee to comply with the Clery Act. A Complainant's name will never be published in connection with the College's obligations under the Clery Act. In addition, the College does not publish identifiable information regarding victims in the College's Daily Crime Log or online. In addition, any person including a victim of Prohibited Conduct, may request that her or his directory information on file be removed from public sources. Complainants may request that directory information on file be removed from public sources by contacting the Title IX Coordinator at [tabitha.smith@uvawise.edu](mailto:tabitha.smith@uvawise.edu) or 276-870-5065.

The privacy of an individual's medical and related records generally is protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA and by Virginia's Health Records Privacy Act, Va. Code § 32.1-127.1:03. Access to an employee's personnel records may be restricted in accordance with the Virginia Freedom of Information Act, and, where applicable, Department of Human Resources Management ("DHRM") Policy 6.05 Personnel Records Disclosure and DHRM Policy 6.10 Records Management.

**Confidentiality:** Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under Virginia law. The College has designated individuals who have the ability to have privileged communications as "Confidential Employees." When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.

The following classifications of individuals are Confidential Employees under College policy:

**Licensed Professional Counselors** with the Commonwealth of Virginia whose official College responsibilities include providing mental health counseling to members of the campus community are not required by Title IX to report any information regarding an incident of Prohibited Conduct to the Title IX Coordinator or other College officials.

**Registered Nurses/Family Nurse Practitioners** who are registered with the Commonwealth of Virginia and whose official College responsibilities include providing health services to members of the campus community are not required by Title IX to report any information regarding an incident of Prohibited Conduct to the Title IX Coordinator or other College officials.

**Athletic Trainers** with NATABOC certification and who are licensed by the Commonwealth of Virginia and whose official College responsibilities include the evaluation and treatment of student athletes; determining the appropriate application of emergency procedures; and providing first aid as needed are

not required by Title IX to report any information regarding an incident of sexual violence to the Title IX Coordinator or other College official.

In order to identify patterns or systemic issues related to Prohibited Conduct, the College will collect non-identifying aggregate data on an annual basis about incidents of Prohibited Conduct from the College's LPCs, athletic trainers and health care providers, as well as the local advocacy center; personally identifiable information will remain confidential.

**Employee Reporting Responsibilities:** Title IX uses the concept of notice, and imposes obligations for a "prompt and effective remedy" on colleges and universities when notice of a sex/gender discrimination or harassment is given to a "responsible employee." A school has notice if a reasonable employee knew, or in the exercise of reasonable care should have known, about the harassment. Every faculty, staff, and volunteer on campus who works with students or minors, and every person identified as a Campus Security Authority (CSA) under the Clery Act must immediately report to the Title IX Coordinator any Prohibited Conduct reported to them or observed by them, including the name of the Complainant and Respondent, if known, and all known details as a "Responsible Employee". The only College members that are exempt from reporting Prohibited Conduct are licensed counselors, registered nurses/family nurse practitioners and athletic trainers employed in such capacities (Confidential Employees). The College requires everyone in the campus community, including Confidential Employees, to report the suspected abuse of children (those under the age of 18).

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs," or other forums in which students, staff, or faculty members disclose incidents of Prohibited Conduct, are not considered a report of Prohibited Conduct or notice to the College of Prohibited Conduct for purposes of triggering the College's obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about Title IX and Clery rights at these events. Similarly, information disclosed during a student's participation as a subject in an Institutional Review Board-approved human subjects research protocol ("IRB Research") not considered a report of Prohibited Conduct or notice to the College of Prohibited Conduct for purposes of triggering the College's obligation to investigate any particular incident(s). Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all Student subjects of IRB Research.

**Request for Anonymity by a Complainant:** Where the Complainant requests that their identity not be shared with the Respondent or that the College not pursue an investigation, the College must balance this request with the College's responsibility to provide a safe and non-discriminatory environment for all College community members. The College, through the Title IX Coordinator, will take all reasonable steps to investigate and respond to the complaint consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited by the request. Under these circumstances, the Complainant's request will be balanced against the following factors:

- The seriousness of the conduct;
- The respective ages and roles of the Complainant and Respondent;
- Whether there have been other reports of Prohibited Conduct under this policy involving the Respondent;
- Whether the circumstances suggest there is a risk of the Respondent committing additional acts of Prohibited Conduct;
- Whether the Respondent has a history of arrests or records indicating a history of violence;
- Whether the report indicates the Respondent threatened further sexual violence or other violence against the Complainant and other individuals involved;
- Whether the reported conduct was committed by multiple individuals;
- Whether the circumstances suggest there is an risk of future acts of Prohibited Conduct under similar circumstances;
- Whether the reported conduct was perpetrated with a weapon;

- Whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and,
- The Respondent's right to receive information if such information is maintained in an "education record" under FERPA.

The College will take all reasonable steps to investigate and respond to the report consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. Where the College is unable to take action consistent with the request of the Complainant, the Title IX Coordinator will inform the Complainant about the chosen course of action, which may include the College seeking disciplinary action against a Respondent. Alternatively, the course of action may also include steps to eliminate the effects of the Prohibited Conduct and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

Where the College determines that it must move forward with an investigation despite a Complainant's request for anonymity, the College will notify the Complainant and will make reasonable efforts to protect the privacy of the Complainant to the extent possible. However, certain actions that may be required as part of the College's response, including an investigation and disciplinary resolution, will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the College will notify the Complainant that it intends to move forward with an investigation, but in no event will the Complainant be required to participate in any such actions undertaken by the College.

## REPORTING

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Any person who experiences Prohibited Conduct or who is aware of a member of the College community who has been subject to Prohibited Conduct is strongly encouraged to contact the Title IX Coordinator and the Campus Chief of Police or designee:

**Tabitha Smith, Title IX Coordinator & Director of Compliance & Inclusion**  
 Office of Compliance & Inclusion - Cantrell Hall  
 1 College Avenue, Wise VA 24293  
 Office: 276-328-0131 | Cell: 276-870-5065 | Email: tabitha.smith@uvawise.edu

**Ronnie Shortt, Chief of Police and Director of Public Safety**  
 UVa-Wise Campus Police Department – Cantrell Hall  
 1 College Avenue, Wise VA 24293  
 Office: 276-328-0190 | Afterhours non emergencies: 276-328-3756 | Emergencies: 911

In addition, an individual does not have to be a member of the College community to file a report under this policy. The College will also take action to respond to allegations of Prohibited Conduct *when the College knows or reasonably should know* based on any available information that Prohibited Conduct has occurred.

Complainants may simultaneously pursue criminal and College disciplinary action. The College will support Complainants in understanding and assessing their reporting options. Upon receipt of a report, the College will inform individuals of their right to file (or decline to file) criminal charges as well as the availability of medical, counseling and support services, and additional interim measures to prevent contact between a Complainant and a Respondent, such as housing, academic, transportation and working accommodations, if reasonably available (see Interim Measures). Making a report to the College does not require participation in any subsequent College proceedings, nor is a report required in order for a Complainant to receive support or remedial measures.

Although the College strongly encourages all members of its community to report violations of this policy to law enforcement, it is the Complainant's choice whether to make such a report and victims have the right to decline

involvement with the police.<sup>3</sup> The College's Chief of Police and Director of Public Safety or designee will assist any victim with notifying local police if they so desire. The Virginia State Police also may be reached directly by calling the Virginia State Police number, which is referenced in the "Off Campus" resources section of this policy.

If the Complainant would like to contact campus police and/or local authorities either of the following processes may be used:

*A Complainant may choose NOT to have law enforcement contacted and no report filed BUT still may have a PERK kit collected. (Note: The Complainant later may file a report and may pursue criminal charges.) Kits from victims who elect not to report are known as "anonymous physical evidence recovery kits" and will be stored at the Division of Consolidated Laboratory Services (the Division) for two years, although the Division, the victim, or the law-enforcement agency may elect for the kits to be retained for a longer period of time. If the victim later elects to report the sexual assault, the victim's kit will be released to law enforcement.*

*A Complainant may file a report and ask that the investigation and charges be pursued immediately. While the prosecuting attorney is still the decision-maker in whether the perpetrator is charged criminally, the Complainant can cooperate and provide as much timely cooperation and information as may be possible.*

**IMPORTANT:** Victims under the age of 18 that file a report with campus police will be deemed a child in need and the appropriate authorities will make a decision of whether to pursue charges. *Please see Virginia Code § 16.1-278.4 for further information.* **Physical evidence recovery kit examination; minors.** Provides that if a parent or guardian of a minor refuses to consent to a physical evidence recovery kit examination of the minor, the minor may consent.

To the extent of the Complainant's cooperation and consent, College offices, including, but not limited to, The Office of Compliance, Conduct and Inclusion, Counseling Center, The UVA Student and Employee Health Wise Clinic and Campus Police will work cooperatively to ensure that the Complainant's health, physical safety, work and academic status are protected, including taking interim measures before the final outcome of an investigation.

The College will provide resources to any person who has been a victim of Prohibited Conduct, and will apply appropriate disciplinary procedures to those who violate this policy. The procedures set forth below afford a prompt and equitable response to reports of Prohibited Conduct, maintain privacy and fairness consistent with applicable legal requirements, and impose appropriate sanctions on violators of this policy. The College will provide due process to both parties involved; however, the College must ensure that steps are taken to accord due process rights to the Respondent do not restrict or unnecessarily delay the Title IX protections of the Complainant.

Anonymous reports also are accepted and should be directed to the Title IX Coordinator. The College will respond promptly and equitably to anonymous reports, but the response may be limited if the report does not include identifying information and/or a description of the facts and circumstances. Anonymous reports that provide enough information to constitute a criminal offense will be reported to the Campus Police Chief or designee for purposes of inclusion in the College's Annual Security Report. Also, enough information is desirable for the Office of Compliance & Inclusion or designee to determine whether the College should have a Timely Warning Notice disseminated.

### **THREAT ASSESSMENT**

Following the initial assessment of a report regarding "sexual violence", which means *physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent*, the Title IX Coordinator will promptly forward such a report to the College's Sexual Violence Evaluation Team all information then known about the incident of

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<sup>3</sup> The Title IX Coordinator is a "Responsible Employee" under Title IX and also a "Campus Security Authority" under the Clery Act. Statistical information not including the victim's identifying information will be provided to the College official responsible for compiling the College's crime statistics for the annual security report, even if the victim chooses not to report the incident to campus public safety.



sexual violence<sup>4</sup>. Such information includes, if known, the names and/or any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident.

#### **A. SEXUAL VIOLENCE EVALUTION TEAM (SVET)**

The Sexual Violence Evaluation Team will evaluate every report of Sexual Violence. SVET will convene (in person, by telephone, or by videoconference) within 72 hours after receiving information from the Title IX Coordinator, as described above, and will convene again, as necessary, to review new information as it becomes available. SVET is a sub-committee of the College's Threat Assessment Team which shall include: (1) the Title IX Coordinator, (2) a representative of the Campus Police Department (the "Law Enforcement Representative"), and (3) The Director of Housing (the "Student Life Representative").

The College's Sexual Violence Evaluation Team operates pursuant to Va. Code §23-9.2:15 and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records, criminal history record information, as provided in Va. Code §19.2-389 and §19.2-389.1; health records, as provided in Va. Code §32.1-127.1:03; College disciplinary, academic and/or personnel records; and any other information or evidence known to the College or to law enforcement. SVET may seek additional information about the reported incident through any other legally permissible means.

#### **B. HEALTH AND SAFETY THREAT ASSESSMENT**

**1. Risk Factors.** SVET will determine whether the reported information and any other available information provides a rational basis for concluding that there is a threat to the health or safety of the Complainant or to any other member of the College community. The team will make this determination based upon a review of the totality of the known circumstances, and will be guided by a consideration of the following factors (the "Risk Factors"):

- Whether the Respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- Whether the Respondent has a history of failing to comply with any College No-Contact Directive, other College protective measures, and/or any judicial protective order;
- Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;
- Whether the Prohibited Conduct involved multiple Respondents;
- Whether the Prohibited Conduct involved physical violence. "Physical violence" means 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;
- Whether the report reveals a pattern of Sexual Violence (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the Prohibited Conduct was facilitated through the use of "date-rape" or similar drugs or intoxicants;
- Whether the Prohibited Conduct occurred while the Complainant was unconscious, physically helpless or unaware that the Prohibited Conduct was occurring;
- Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

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<sup>4</sup> "Sexual violence" means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.

**2. Disclosure(s) of Information to Law Enforcement.** Pursuant to Virginia law, SVET is *required* to disclose information about alleged Prohibited Conduct to law enforcement in the following circumstances:

- a) If SVET (or, in the absence of consensus within the team, the Law Enforcement Representatives) concludes that there is a significant and articulable threat to the health or safety of the Complainant or to any other member of the College community and that disclosure of available information (including the names and any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident) is necessary to protect the health or safety of the Complainant or other individuals, the Law Enforcement Representative will immediately disclose the information to the law enforcement agency that would be responsible for investigating the alleged act of Sexual Violence.<sup>5</sup> SVET will make this determination based upon a review of the totality of the known circumstances and consideration of the list of Risk Factors. The Title IX Coordinator will promptly notify the Complainant whenever such disclosure has been made.
- b) If the alleged act of Prohibited Conduct constitutes a felony violation of the Code of Virginia, the Law Enforcement Representative will so inform the other members of the SVET and will, within 24 hours, (i) consult with the appropriate Commonwealth’s Attorney or other prosecutor who would be responsible for prosecuting the alleged act of Prohibited Conduct (the “Prosecuting Authority”), and (ii) disclose to the Prosecuting Authority the information then known to SVET. This disclosure is required by Virginia law where the alleged act of Prohibited Conduct would violate Article 7 (§18.2-61 et seq.) of Chapter 4 of title 18.2 of the Code of Virginia. Such disclosure will exclude the names and any other information that personally identifies the Complainant, the Respondent, any witnesses, and/or any other third parties with knowledge of the reported incident (the “Identifying Information”), unless the Identifying Information was disclosed to law enforcement under the health and safety exception described in paragraph (a), above, in which case the Identifying Information also will be disclosed to the Prosecuting Authority. If the Law Enforcement Representative declines to so consult with the Prosecuting Authority, any member of the SVET who individually concludes that the alleged act of Prohibited Conduct would constitute such a felony violation may consult with the Prosecuting Authority and make the required disclosure(s) in the manner and within the timeframe set forth above.

SVET will reconvene as necessary to continue to evaluate whether any new or additional information received triggers any further obligation(s) under the Clery Act or with respect to any child protective service agency, and will direct the Title IX Coordinator to take such further actions, as necessary.

## REPORTING TIMEFRAMES

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The College encourages prompt reporting of Prohibited Conduct so that the College can respond promptly and equitably; however, the College does not limit the timeframe for reporting. If the Respondent is no longer affiliated with the College at the time the report is made, the College will provide reasonably appropriate remedial measures, assist the Complainant in identifying external reporting options, and take other reasonable steps to respond under Title IX. The College may continue to investigate for purposes of complying with Title IX and take steps to prevent the recurrence of such conduct and remedy the effects, if appropriate.

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<sup>5</sup> Where the law enforcement agency that would be responsible for investigating the alleged act of Prohibited Conduct is located outside of the United States, this disclosure is not required by Virginia law.

## PRESERVATION OF EVIDENCE & MEDICAL ATTENTION

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After an incident of Prohibited Conduct, the victim should consider seeking medical attention as soon as possible. Victims who agree to have forensic evidence collection conducted as part of their care can locate hospitals with such emergency rooms in the *Resources* section of this policy or by calling Campus Police, available 24 hours a day, at 276-328-COPS or 911. Norton Community Hospital or Mountain View Regional Medical Center Hospital have the ability to complete a Physical Evidence Recovery Kit (PERK) to preserve evidence in case the Complainant decides to file a police report. Also, the UVA Student and Employee Health-Wise Clinic may be able to provide the completion of a PERK on campus by the Campus Registered Nurse, who is a Sexual Assault Nurse Examiner (SANE), if available. (Campus Police and , The UVA Student and Employee Health-Wise Clinic also have PERK kits on site to send to local hospital with victim).

### ***What is a Physical Evidence Recovery Kit (PERK)?***

A PERK is a special medical exam performed by a Sexual Assault Nurse Examiner (SANE) to collect evidence that may be helpful in a criminal prosecution or investigation of a sexual assault. The PERK gathers forensic evidence and initial testing and treatment for pregnancy and sexually transmitted infections. SANEs have received special training in the identification, collection and documentation of forensic evidence that may be found on a victim's body or clothing, and they have received specialized education in the care of patients who have experienced sexual assault or abuse.

In Virginia, a victim may request the collection of evidence even if the victim chooses not to make a report to law enforcement. If the victim discloses that she or he was assaulted on campus, Campus Police will be contacted by health care provider and will retrieve and retain the PERK Kit in the Campus Police evidence area until any criminal case is concluded and a destruction order is issued by a circuit court. A victim does not have to make a criminal complaint or decide whether to file criminal charges to have a PERK kit collected. If a victim does want to report the crime, the police will take custody of the PERK and send it to the forensic lab within 60 days for testing. The victim has the right to request the status and results of the testing. Victims should make sure to keep their contact information up to date with the investigator and/or Commonwealth's Attorney assigned to their case.

It is important that a victim of sexual assault not bathe, douche, smoke, change clothes or clean the bed/linen/area where the victim was assaulted if the offense occurred within the past 96 hours, so that evidence may be preserved. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers still can treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Victims of Prohibited Conduct also are encouraged to preserve evidence including saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any that may be useful to College investigators or Campus or local police.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a report regarding an incident, he or she nevertheless should consider speaking with the Director of Public Safety/Chief of Police or local law enforcement to preserve evidence in the event that she or he changes her/his mind at a later time.

## COLLEGE ALCOHOL & DRUGS AMNESTY

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Alcohol and other drugs amnesty is intended to encourage students to seek assistance for themselves or someone else by reducing fear of facing the College's Student Code of Conduct for other misconduct. It is an attempt to remove barriers that prevent students from seeking the medical attention or other assistance that they need when Prohibited Conduct has occurred.

This policy does not necessarily grant amnesty for criminal, civil or legal consequences for violations of federal, state or local laws. Campus Police are sworn police officers with full arrest authority and, in some circumstances, they have discretion to exercise that authority as circumstances dictate according to their training and professional experience.

However, the health and safety of the College community is a primary concern and this policy may provide amnesty for students from violations of the College's Student Code of Conduct where alcohol and/or other drug use is evidenced if granted by the Associate Vice Chancellor for Compliance and Conduct.

## PROTECTION ORDERS & NO CONTACT ORDERS

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### ***What are Protective Orders?***

Protective Orders are judicial orders issued by a judge or magistrate to protect the health and safety of a person who reports being the victim of any act involving violence, force or threat that results in bodily injury or places that person in fear of death, sexual assault or other bodily injury.

In Virginia, there are three kinds of Protective Orders that can protect you and others in your family or home:

1. Emergency Protective Order (expires at the end of the third day following issuance or the next day court is in session, whichever is later). These may be obtained by a Complainant or by the police when they respond to a call where violence has occurred or may imminently occur.
2. Preliminary Protective Order (lasts 15 days or until a full hearing).
3. Protective Order (may last up to 2 years).

### ***How will I know when the Emergency Protective Order ends?***

You should look on the Protective Order for the date and time it expires. If you need protection for a longer period of time, you must ask the court for a Preliminary Protective Order.

### ***Where do I go to request a Preliminary Protective Order?***

If the person from whom you want protection is a family or household member or a juvenile, or if you are a juvenile, you should go to the juvenile and domestic relations district court. Otherwise, you should go to the general district court in the jurisdiction in which you reside.

### ***How do I get a Preliminary Protective Order?***

An Emergency Protection Order may be available through a law enforcement officer or the victim may request one from the Wise County Magistrate's Office located at the Wise County Justice Center, 5617 Patriot Drive, Wise, Va. 24293 (Phone: 276-328-8947). The College cannot apply for a legal order of protection, no contact order, or restraining order for a Complainant or on their behalf. The victim is required to apply directly for these orders and may be assisted by Campus Police or local law enforcement.

The victim must fill out court forms. If this matter will be in the juvenile and domestic relations district court, you file the forms with the Court Services Unit. If it will be in the general district court, you file the forms in the general district court clerk's office. You then may go into a courtroom where a judge may ask you questions to decide whether to issue a Preliminary Protective Order.

For assistance filling out protective order petition forms online, you can go to [www.courts.state.va.us](http://www.courts.state.va.us) and select "Online Services" then "Assistance with Protective Orders (I-CAN!)" or you may go directly to:

<http://www.ican.courts.state.va.us> .

### ***How much does it cost to file for a Protective Order?***

There is no cost.

### ***What should I bring with me?***

You should bring the name, address and identifying information of the person from whom you are seeking protection and a full description of the event(s) that led you to seek a protective order. The address should be the place where the person lives and not a P.O. Box. You also should bring your copy of the Emergency Protective Order and information about the warrant or petition alleging an act of violence, force or threat, if either was issued.

### ***How can the Campus Police assist me?***

The Campus Police Chief or designee is available to assist individuals seeking a protective order and will coordinate safety plans in collaboration with Student Life or Human Resources, when appropriate. The College complies with Virginia's law in recognizing orders of protection and encourages any person who obtains an order of protection from Virginia or any other state to provide a copy to Campus Police and the Title IX Coordinator. A Complainant may then meet with Campus Police to develop a Safety Action Plan, which is a plan for Campus Police and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location, etc.

### ***What is a No Contact from the College?***

No Contacts from the College can serve as an interim measure from the College's Title IX Coordinator or designee. This prohibition of contact is between a Respondent and a Complainant including, but not limited to, in person and/or via third party, phone, text, or any form of social media.

Regardless of whether a Complainant elects to pursue a criminal report, the College will assist a Complainant and will provide each Complainant with a written explanation of his/her rights. If a No Contact is placed the Title IX Coordinator will also assess any other interim measures with both parties that may include, but is not limited to: escorts, special parking arrangements, changing classroom location, etc.

## **INTERIM MEASURES**

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The College may take interim measures at any point during an investigation. These measures may be both remedial (designed to address a Complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a Respondent). Interim measures are designed to eliminate the Prohibited Conduct, prevent its recurrence and remedy its effects. These measures may include, but are not limited to, no contact orders, changes in housing assignment for the Respondent and/or Complainant, academic accommodations, changes in supervisor or work location, removal from campus housing or grounds, social restrictions, changes in parking locations, increased security, and/or emotional and other support. An Interim Suspension, i.e. suspension from classes, work and other privileges or activities, or from the College, may also be instituted until resolution of a case.

Remedial measures are available regardless of whether a Complainant pursues a complaint or investigation under this policy. The College will maintain the privacy of any remedial and protective measures provided under this policy to the extent practicable and will promptly address any violation of the protective measures. The Title IX Coordinator has the discretion to impose and/or modify any interim measure based on all available information, and is available to meet with a Complainant or Respondent to address any concerns about the provision of interim measures.

## **INVESTIGATION & RESOLUTION**

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The Vice Chancellor for Student Affairs, Title IX Coordinator, Deputy Title IX Coordinator, and Title IX Investigators are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking and

instructed on how to conduct effective investigations and administer a conduct process that protects the safety of victims and promotes accountability. In proceedings under this policy, the standard of proof used to determine whether a violation of this policy has occurred is a preponderance of evidence, which means it is more likely than not the Prohibited Conduct occurred.

The College reserves the right to bring reports forward against a student or employee and to act as the Complainant for purposes of this policy.

### **INITIAL PROCESS**

- Upon receiving a report (either verbally or in writing), the Title IX Coordinator will conduct an initial assessment of the available information, the Complainant's immediate and ongoing safety and well-being; the incident or conduct at issue; give the Notice of Complainant's Rights, any risk of harm to the parties, any other individuals, or the broader campus community; the existence of severe, persistent or pervasive conduct, including evidence of a pattern, use of a weapon or other predatory conduct; and the necessity for any interim measures or accommodations.
- As outlined above, the Title IX Coordinator will also consider the interest of the Complainant and the Complainant's expressed preference for manner of resolution, which may include Informal Resolution or the initiation of an investigation to determine if disciplinary action is warranted.

### **INFORMAL RESOLUTION**

Informal Resolution is a voluntary and alternative approach designed to address Prohibited Conduct. Where the Title IX Coordinator concludes that Informal Resolution may be appropriate, and both parties agree, the College will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational, extracurricular and employment activities at the College and to eliminate a hostile environment while providing due process. Examples of potential remedies are provided in the section on Interim Measures and/or Sanctions. Other remedies may include targeted or broad-based educational programming or training. Depending on the form of Informal Resolution used, it may be possible for a Complainant to maintain anonymity.

A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome that is also acceptable to the College or Title IX Coordinator. Participation in Informal Resolution is voluntary, and either party can request to end Informal Resolution and pursue an investigation at any time before the outcome of the case. Pursuing Informal Resolution does not preclude an investigation if the Informal Resolution fails to achieve a resolution acceptable to the parties and the College. The College may pursue an investigation at any time and retains the discretion to determine the type of Informal Resolution that may be appropriate in a specific case.

The Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution. There are no appeals available for Informal Resolution.

### **FORMAL RESOLUTION**

- If the report and/or intake appear upon initial assessment to be a possible violation of this policy, and a formal resolution is requested, the Title IX Coordinator will assign the case for investigation. (Private information may also be disclosed to appropriate personnel if deemed necessary by the Title IX Coordinator including, but not limited to, the Provost, a Department Chair, ROTC, Athletics, Registrar, etc.). The Title IX Coordinator may also share the information with the Sexual Violence Evaluation Team as described above in the "Threat Assessment" section.
- The College, through a trained investigator, will conduct an adequate, reliable and impartial investigation into the facts of the case and will interview the Complainant, Respondent, witnesses or others who may have relevant information, and collect any other evidence deemed relevant to the case including electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).

- Absent consent of the applicable party, medical and counseling records are privileged and confidential documents that students will never be required to disclose during the course of the resolution of a report under this policy. However, a party may choose to share medical and counseling records as part of the investigation.
- The sexual history of a Complainant or Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of a policy violation and will be considered only in limited circumstances. For example, if the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.
- Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct.
- The College will provide the Complainant and Respondent timely and equal access to information that will be used during any informal and formal process.
- The College will provide the Complainant and Respondent an equal opportunity to participate in any process, present evidence and/or witnesses.
- At the conclusion of the investigation, the investigator will deliver the report to the Title IX Coordinator, including a recommendation as to whether, using the preponderance of the evidence standard, Prohibited Conduct occurred
- The Title IX Coordinator will review the investigator's report and, if necessary, direct the investigator to conduct further investigation
- At the conclusion of the investigation, the Title IX Coordinator will provide, in writing, to both parties that the conclusion of the investigation is complete and the fact-finding information related to the case. In preparing the letter, the Title IX Coordinator will review all facts gathered to determine what information is relevant to include in the fact-finding section. In general, the Title IX Coordinator may choose to not include information that is irrelevant, more prejudicial than probative, immaterial, statements of personal opinion, statements as to general reputation for any character trait, including honesty and any information that may interfere with the given confidentiality of the Complainant.
- The Complainant and Respondent may offer any additional comment or evidence to the Title IX Coordinator at this time.
- Upon receipt of any additional information by the Complainant and Respondent, or no comments, the Title IX Coordinator will proceed to make a determination. The final investigative report will include all investigative materials that will be used by the Title IX Coordinator to determine responsibility by a preponderance of the evidence.
- The Title IX Coordinator will review the final investigative report and determine, by preponderance of the evidence, whether a policy violation occurred.
- The Title IX Coordinator then will present the Vice Chancellor of Student Affairs with a determination of whether the Respondent is responsible or not responsible for Prohibited Conduct under this policy.
- The Vice Chancellor of Student Affairs will review the case and determine any sanctions for students, faculty, and staff in consultation with the appropriate Vice Chancellor.

*If the report is against an employee, the Vice Chancellor of Student Affairs will consult with either the Provost (if a faculty member is the Respondent) or designee or the Vice Chancellor for Finance and Administration or designee (if a staff member is the Respondent) before determining any sanctions. (See Sanctions)*

- The Title IX Coordinator, together with the Vice Chancellor of Student Affairs, will communicate decisions regarding responsibility and any sanction(s) to students. The Title IX Coordinator, together with the appropriate Vice Chancellor, will communicate decisions regarding responsibility and any sanction(s) to faculty and staff members.
- The outcome of the investigation, the rationale for the findings, and any sanction(s) imposed shall be simultaneously conveyed to the Complainant and Respondent in writing by email, U.S. Mail or face-to-face by the Title IX Coordinator. (Private information may also be disclosed to appropriate personnel if deemed necessary by the Title IX Coordinator including, but not limited to, the Provost, a Department Chair, ROTC, Athletics, Registrar, etc.).
- The Complainant and the Respondent have the right to appeal determinations regarding responsibility to the Chancellor (See Appeal).

### **TRANSCRIPT NOTATION/HOLD**

Pursuant to Virginia law, the Vice Chancellor of Student Affairs will request the College Registrar to place a hold and/or a prominent notation on the academic transcript of any Student who has been (1) suspended, (2) expelled (i.e., permanently dismissed), or (3) who has withdrawn from the College while under investigation, for Prohibited Conduct pursuant to the Policy. Such notation will reflect, as appropriate, the following language: “[Suspended, Expelled, or Withdrew While Under Investigation] for a Violation of the College’s Sexual Misconduct and Interpersonal Violence Policy.”

The Vice Chancellor of Student Affairs or designee will direct the College Registrar to remove any such notation where (a) a Student is subsequently found not to have committed an act of Prohibited Conduct pursuant to the Policy, and/or (b) a Student who has been suspended for Prohibited Conduct pursuant to the Policy, has (i) completed the term of such suspension and any conditions thereof, and (ii) has been determined by the College to be in good standing pursuant to all applicable College academic and non-academic standards. The College will notify each student that any such suspension, permanent dismissal, or withdrawal will be documented on the student’s academic transcript.

### **ADVISORS**

The Complainant and the Respondent each have the opportunity to be advised by an advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing in which the Complainant or the Respondent is required to be present. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting nor may the advisor direct questions to any administrator, party, or witness in the process. Should the advisor become disruptive during any meeting, the Coordinator or investigator may ask them to leave. *No advisor (or party) will be given the opportunity to cross-examine or to directly question a Complainant/Respondent.*

The advisor, on behalf of the Complainant or Respondent, may submit written questions to the Title IX Coordinator for consideration in the investigation. Upon review, those questions deemed appropriate will be forwarded to the Title IX Investigator for inclusion in the information-gathering process.

### **TIMELINE**

Typically, the investigation, resolution, and any appeal under this policy will conclude around 60 days, however this timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. The investigator will notify the Coordinator who will then notify the parties



in writing of any extension of this timeframe and the reason for such extension. The Complainant and Respondent will be notified, in writing, throughout the process by the Title IX Coordinator in regards to; the start of an investigation, any delay in the investigation, the conclusion of the investigation, and determination of the outcome resolution and any related appeals. *(Note: The College will take all reasonable steps to respect the request for confidentiality which may impact what will be disclosed throughout the process).*

### **COORDINATION WITH LAW ENFORCEMENT**

The Coordinator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a College investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the College in its investigation. At the request of law enforcement, the investigator may delay the College investigation temporarily while an external law enforcement agency is gathering evidence. The Coordinator will promptly advise the resuming of the College investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

### **OBLIGATION TO PROVIDE TRUTHFUL INFORMATION**

The University of Virginia's College at Wise adopted an Honor System in 1956 under which all students pledge to cooperate in acting honestly and honorably. The primary focus of the Honor System is to address instances of dishonorable conduct within the academic setting. Lying, cheating, and stealing relative to academic work are issues to which the Honor System applies. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions under the College's Honor Code and disciplinary action under the appropriate Employee disciplinary policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

### **APPEAL**

Both the Complainant and the Respondent have a right to appeal the finding of responsibility. The appeal is decided by an impartial decision-maker with appropriate training or experience. Appealing the finding of responsibility must be based on an alleged procedural error, (i.e., not merely that the party does not agree that the finding or sanction is appropriate) or the discovery of new evidence that was not reasonably available at the time of the investigation.

Both parties will have **five (5) business days from notification** to appeal in writing to the Chancellor at the following address:

**Donna Price Henry, Chancellor**  
1 College Avenue, Wise VA 24293  
Office: 276-328-0122 | E-mail: [dhenry@uvawise.edu](mailto:dhenry@uvawise.edu)

The decision of the Chancellor on any appeal will be final. Both individuals will be informed simultaneously in writing of the outcome of any appeal and any change(s) to the results that occur prior to the time that such results become final and when such results become final.

## **SANCTIONS**

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Any of the following sanction(s), or combinations of sanction(s), may be imposed for any Prohibited Conduct violation. Failure to abide by the imposed sanction(s) will result in additional sanctions. This includes failure to comply with the reasonable directions of a College official including, but not limited to, the Title IX Coordinator and Campus Police officers, acting in performance of their duties. Disciplinary action other than those outlined below may be taken as the situation warrants.

### **SANCTION(S) FOR PROHIBITED CONDUCT (EXCLUDING SEXUAL ASSAULT):**

1. **Oral Reprimand:** An oral statement that he or she is violating or has violated institutional rules.
2. **Written Reprimand:** Notice in writing that continuation or repetition of inappropriate conduct will be cause for more severe disciplinary action.
3. **No Contact:** Prohibition of contact between a Respondent and Complainant including, but not limited to, in person and/or via third party, phone, text, or any form of social media.
4. **Forced Change of Campus Residence/Office Area:** Requires the movement of a student or employee from one residence hall or office area to another.
5. **Removal from Campus Housing:** Requires the student or employee to vacate campus housing by a designated time.
6. **Trespass Notice:** The student or employee is prohibited from visiting or returning to a part or all of any designated area of campus and functions/activities. If the individual returns, he/she is subject to arrest.
7. **Evaluation by Health or Mental Health Professional:** A requirement that the Respondent student or employee be evaluated by a health or mental health professional and comply with any treatment recommendations prior to returning to the College (if a period of suspension is imposed) or as a condition of continued enrollment/employment at the College (if a period of suspension is not imposed);
8. **Fines:** An appropriate fine may be levied for policy violations or damages incurred.
9. **Education:** Health and wellness education from a College Health Professional and/or Gender-based educational training to be completed with the College's Title IX Coordinator.
10. **Community Restitution:** The assignment of imposed service hours and/or participation in educational programs or projects.
11. **Loss of Privileges:** Restricting use of or loss of campus privileges including, but not limited to, parking, athletic events, fitness/wellness programs and facilities, etc.
12. **Disciplinary Probation:** Indicates a student or employee is not in "good standing" with the College for a period not exceeding one academic year. *Note: This may result in exclusion from participation in privileged or extracurricular College activities.*
13. **Suspension:** Suspension from all classes, including on-line, work and other privileges or activities, or from the College for a designated period of time.
14. **Expulsion/Termination of Employment:** Termination of student status (expulsion) or employee status (termination of employment) with the College.

#### **MINIMUM SANCTION(S) FOR SEXUAL ASSAULT OR SEXUAL INTERCOURSE WITHOUT CONSENT:**

1. **Suspension:** Suspension from all classes, including on-line, work and other privileges or activities, or from the College for a designated period of time.
2. **Expulsion/Termination of Employment:** Termination of student status (expulsion) or employee status (termination of employment) with the College.

*Note: Athletes who are suspended or expelled also need to contact the UVa-Wise Assistant Director of Athletics for Internal Operations for Compliance and Student Athlete Service 276-376-3436 for NCAA eligibility advisement.*

## **RECORDKEEPING**

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The College will retain all records related to reports of Prohibited Conduct under this policy in a locked storage area in the Office of Compliance and Conduct for a period of seven (7) years, regardless of case outcome. The College will destroy all case records after the applicable retention period.

## **NON-RETALIATION**

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It is unlawful under Title IX and a violation of College policy to retaliate against any individual who has brought a good-faith report of Prohibited Conduct or who has assisted in the investigation of a report of Prohibited Conduct. Retaliation, whether actual or threatened, destroys the sense of community and trust that is critical to a learning and work environment. The College considers acts or threats of retaliation in response to such disclosures or participation to constitute a serious violation of College policy, which may result in disciplinary action, up to and including dismissal, against the individual responsible for retaliation.

For purposes of this policy and procedures, retaliation means 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 includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of prohibited conduct. Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct.

Retaliation may include the following forms of behavior:

- employment actions such as termination, refusal to hire, or denial of promotion;
- other actions affecting a person’s employment or academic or school-related activities such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance; and
- any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

*NOTE: Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, “snubbing” a colleague, not talking to a student, or negative comments that are justified by a student or employee’s poor academic or work performance or history.*

If you believe that you are being retaliated against because of making a report or assisting in an investigation in violation of this policy, you should promptly report your concerns to the Title IX Coordinator or Campus Safety.

Any other allegation of retaliation **not related to this policy** should be reported immediately to Human Resources at 276-328-0240.

## RISK REDUCTION

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Experiencing Prohibited Conduct is never the victim’s fault. Only abusers are responsible for the abuse they perpetrate. However, the following are some strategies to reduce risk of victimization. The [Rape, Abuse, & Incest National Network](#) (RAINN) encourage individuals to:

1. **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. **Avoid isolated areas.** It is more difficult to get help if no one is around.
3. **Walk with purpose.** Even if you don’t know where you are going, act like you do.
4. **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
5. **Make sure your cell phone is with you** and charged and that you have money.
6. **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
7. **When you go to a social gathering, go with a group of friends.** Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
8. **Trust your instincts.** If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the

U.S.).

9. **Don't leave your drink unattended** while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
10. **Don't accept drinks from people you don't know or trust.** If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
11. **Watch out for your friends, and vice versa.** If a friend seems out of it, is too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
12. **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).** Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
13. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
  - a. **Remember that being in this situation is not your fault.** You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
  - b. **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
  - c. **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
  - d. **Lie.** If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
14. **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
15. **If you and/or the other person have been drinking,** you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

## ANNUAL REVIEW

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This policy is maintained by the Office of Compliance, Conduct and Inclusion. The College will review and update this policy, as appropriate, by October 31 of each year. The College will evaluate, among other things, any changes in legal requirements, existing College resources, and the resolution of cases from the preceding year (including, but not limited to, timeframes for completion and sanctions and remedies imposed). The Title IX Coordinator shall certify to the State Council of Higher Education for Virginia that this policy has been reviewed and updated, as appropriate, in accordance with Virginia law.

## PREVENTION AND EDUCATION

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The College engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to reduce and eliminate Prohibited Conduct which:

- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and employees that:

- a. Identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
- b. Defines using definitions provided both by the Department of Education as well as state law what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;

- c. Defines what behavior and actions constitute consent to sexual activity in Virginia and/or using the definition of consent found in this policy;
- d. Provides a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- e. Delivers information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence; and
- f. Provides an overview of information contained in the Annual Security Report in compliance with the Clery Act.

### **FACULTY, STAFF AND STUDENT TRAINING**

In addition to the Title IX Coordinator's core responsibilities, additional services to the College community will include, working with campus resources to provide ongoing training to new/current students, faculty, and staff on Title IX issues and procedures. The College will ensure that Responsible Employees with the authority to address sexual violence, including sexual harassment, know how to respond appropriately to reports of prohibited conduct, that they are obligated to report prohibited conduct to the Title IX Coordinator, and that all employees understand how to respond to such reports. Employees are required to receive training each academic year on their responsibilities as a Responsible Employee. *Please see Compliance with Policy section Pg. 29.*

The College also has established a Clery Compliance Committee that meets regularly and is responsible for developing, reviewing, and revising protocols, policies and procedures for addressing overall Clery Compliance. The team consists of the Vice Chancellor for Student Affairs, the Assistant Director of Compliance, the Title IX Coordinator, and representatives from the offices of Campus Police, Campus Housing, Media Relations, Athletics, and College Services. The Office of Compliance & Inclusion is responsible for overall annual training to Campus Security Authorities and Responsible Employees.

### **BEING AN ACTIVE BYSTANDER**

Bystanders play a critical role in the prevention of sexual and relationship violence. Bystanders are "individuals who observe violence or witness the conditions that perpetuate violence. These individuals are not directly involved but have the choice to intervene, speak up, or do something about it."<sup>6</sup> The College promotes a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. Individuals may not always know what to do even if they want to help. Below is a list<sup>7</sup> of some ways to be an active bystander. If you or someone else is in immediate danger, dial 911, if a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like he or she could be in trouble or need help, ask if he or she is ok.
2. Confront people who seclude, hit on, attempt to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this policy for support in health, counseling, or with legal assistance.

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<sup>6</sup> Burn, S.M. A situational model of sexual assault prevention through bystander intervention. *Sex Roles*, 60, 779-792.

<sup>7</sup> Bystander intervention strategies adapted from Stanford University's Office of Sexual Assault & Relationship Abuse.2013

## COMPLIANCE WITH POLICY

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- Failure to comply with the requirements of this policy by faculty, staff and/or students may result in disciplinary action up to and including termination/suspension in accordance with relevant College policies.
- Failure to comply with this policy by unpaid volunteers, interns, and visiting faculty/scholars may result in an end of the assignment.
- Failure to comply with this policy by third party covered program staff may result in disciplinary action that requires immediate removal from campus community members, and/or College property and facilities.

## RESOURCE DIRECTORY

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The College provides any Complainant (student or employee who reports an incident involving sexual misconduct and/or interpersonal violence either on or off-campus) with a copy of the Notice of Complainant's Rights and the College will also provide the Complainant and Respondent with a copy of this Policy. The information listed below is available to all parties.

### On-Campus

- Title IX Coordinator | Cantrell Hall | 276-870-5065
- Campus Police | Cantrell Hall | 276-328-COPS (2677) or 911
- Counseling | Cantrell Hall | 276-376-1005
- Disability Services | Zehmer Hall | 276-328-0265
- Office of Financial Aid | Crockett Hall | 276-328-0139
- Health Clinic | Cantrell Hall | 276-376-3475
- Housing | Cantrell Hall | 276-376-4517

### Off-Campus

- Norton Community Hospital | 100 15<sup>th</sup> Street NW, Norton VA 24273 | 276-679-9600
- Mountain View Regional Medical Center | 310 3<sup>rd</sup> Street NE, Norton VA 24273 | 276-679-9100
- Town of Wise Police Department | 501 W Main Street, Wise VA 24293 | 276-328-9369
- Wise County Sheriff's Department | Wise County Justice Center 5605 Patriot Drive, Wise, VA 24293  
276- 328-9647 or 276- 328-3566
- Family Crisis Support Services | 701 Kentucky Avenue SE, Norton VA 24273 | 276-679-7240 or  
1-877-348-3416 (Sexual Assault 24-hour Crisis Hotline)
- Virginia State Police | 1207 Norton Road, Wise, Virginia 24293|276-328-0198
- Victim Witness Program | 206 E Main Street #245, Wise VA 24293 | 276-328-4421
- Wise County Magistrate | 5617 Patriot Drive, Wise, Va. 24293 | 276-328-8947
- Wise County Behavioral Health Services | 3169 2<sup>nd</sup> Avenue East, Big Stone Gap VA 24219 |276-523-8300
- Legal Aid Society | 16932 W Hills Drive, Castlewood VA 24224 | 276-762-9354
- U.S. Department of State – Bureau of Consular Affairs | Nonimmigrant Visa inquiries: 202-485-7600 or  
Immigrant Visa inquiries: 603-334-0700

### State and National

- The Virginia Sexual & Domestic Violence Action Alliance - [www.vsdvalliance.org](http://www.vsdvalliance.org)
- Rape, Abuse and Incest National Network - [www.rainn.org](http://www.rainn.org)
- Department of Justice - [www.justice.gov/ovw/sexual-assault](http://www.justice.gov/ovw/sexual-assault)

### Department of Education Office for Civil Rights

U.S. Department of Education Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Telephone: 800-421-3481 | FAX: 202-453-6012 | TDD: 800-877-8339 | Email: [OCR@ed.gov](mailto:OCR@ed.gov)

### **Sex Offender Registration**

The Federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers' services or is a student.

In Virginia, convicted sex offenders must register with the Virginia State Police. This information can be assessed at <http://sex-offender.vsp.virginia.gov/sor/>

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## OFFICE OF COMPLIANCE & INCLUSION

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*Cantrell Hall  
276-376-3451 Main Office*

*1 College Avenue  
Wise, VA 24293*

**Molly Land**  
**Assistant Director of Compliance**  
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