Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy

A. Policy. Radford University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law. In pursuit of this goal, any question of impermissible discrimination on these bases will be addressed with efficiency and energy and in accordance with this policy and the Radford University Discrimination Grievance Procedures. (Appendix A) This policy and the Discrimination Grievance Procedures also address complaints or reports of retaliation against those who have opposed practices prohibited by this policy, those who have filed complaints or reports under this policy, and those who have testified or otherwise participated in enforcement of this policy.

B. Purpose. The purpose of this policy is to establish clearly and unequivocally that Radford University prohibits discrimination, harassment, sexual misconduct, and retaliation by individuals subject to its control or supervision and to set forth procedures by which such allegations shall be filed, investigated and adjudicated.

C. Applicability. This policy applies to on-campus conduct involving students, employees, faculty and staff, visitors to campus (including, but not limited to, students participating in camp and programs, non-degree seeking students, exchange students, and other students taking courses or participating in programs at Radford University, and contractors working on campus who are not Radford University employees), and to students, visiting students, employees, faculty and staff participating in Radford University - sponsored activities off campus. This policy also is applicable to any conduct that occurs off campus that has continuing effects that create a hostile environment on campus. Allegations of on-campus or off-campus violations of this policy should be reported to the Title IX Coordinator in accordance with the guidance below and the Discrimination Grievance Procedures. This Policy replaces and supersedes the Radford University Sexual Harassment Policy and Nondiscrimination Statement, as well as any and all references related to discrimination, harassment, sexual misconduct and retaliation that may be contained in other Radford University policies, including the Standards of Student Conduct.

D. Definitions

1. **Discrimination** is inequitable and unlawful treatment based on an individual's protected characteristics or statuses -- race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, disability, or any other status protected by law -- that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living
environment or participation in an educational program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

2. **Harassment** is a form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of his or her protected characteristics or statuses, by any member of the campus community. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Harassment violates this policy when it creates a hostile environment, as defined below.

3. **Sexual harassment** is a form of discrimination based on sex. It is defined as unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature including: verbal (e.g., specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures); or physical (e.g., touching, pinching, brushing the body, any unwelcome or coerced sexual activity, including sexual assault). Sexual harassment, including sexual assault, can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes.

This policy prohibits the following types of sexual harassment:

   a. Term or condition of employment or education. This type of sexual harassment (often referred to as "quid pro quo" harassment) occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a Radford University activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a Radford University program or activity.

   b. Hostile environment. Acts that create a hostile environment, as defined below.

4. **Hostile environment** may be created by oral, written, graphic or physical conduct that is sufficiently severe, persistent or pervasive and objectively offensive that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs, services, opportunities, or activities or the individual's employment access, benefits or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a “reasonable person” in the same situation as the person subjected to the conduct, and (e) the nature of higher education.

5. **Sexual misconduct** includes sexual assault or sexual violence, sexual exploitation, dating violence, domestic violence, and stalking.
a. **Sexual assault** or **sexual violence** is non-consensual contact of a sexual nature. It includes any sexual contact when the victim does not or is unable to consent through the use of force, fear, intimidation, physical helplessness, ruse, impairment or incapacity (including impairment or incapacitation as a result of the use of drugs or alcohol, knowingly or unknowingly); intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch, a person's genital area, groin, inner thigh, buttocks or breast; and non-consensual sexual intercourse, defined as anal, oral or vaginal penetration with any object.

b. **Consent** is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.

c. **Sexual exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or an STD to another, or exposing one's genitals to another in non-consensual circumstances.

d. **Dating violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. A social relationship of a romantic or intimate nature means a relationship which is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse. Dating violence does not include acts covered under the definition of domestic violence.

e. **Domestic violence** is a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the law of the Commonwealth of Virginia; or (v) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family laws of the Commonwealth of Virginia or the applicable jurisdiction. Domestic violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse.

f. **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly,
or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

E. Retaliation

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, sexual harassment, or sexual misconduct or any person cooperating in the investigation of allegations of discrimination, sexual harassment, or sexual misconduct to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Discrimination Grievance Procedures is strictly prohibited by this policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, sexual harassment or sexual misconduct.

F. Reporting

1. Conduct in violation of this policy shall be reported promptly by all students, employees, visitors, or contractors. Radford University’s Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual harassment, or sexual misconduct in accordance with the Discrimination Grievance Procedures. Employees receiving such reports or complaints should immediately notify the Title IX Coordinator and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator.

2. The Radford University Title IX Coordinator is W. Brooke Chang, J.D.

The Title IX Coordinator’s contact information is as follows:

W. Brooke Chang, J.D.
Title IX Coordinator
Office of Diversity and Equity
Radford University
314B Tyler Place, 2nd Floor
P.O. Box 6988
Radford, VA 24142
(540) 831-5307 (Office)
(540) 831-7122 (Direct)
wchang6@radford.edu (email)

3. Employees must report violations of this policy to the Title IX Coordinator. In the alternative, reports of violations may be made to an employee's immediate supervisor or the President. Supervisors are required to forward reports of violation to the Title IX Coordinator without delay.

4. Reports made by Students: Students should report violations of this policy to the Title IX Coordinator or the Dean Students Office or the Office for Student Standards and Conduct. Note: Students are not restricted to reporting to student contacts and may report to anyone listed in this policy or any supervising staff or faculty member. Reports are required to be forwarded to the Title IX Coordinator.
5. Reports made by visitors or contractors: Visitors, including visiting students, and employees of contractors working on campus should report violations of this policy to the Title IX Coordinator.

6. Mandatory employee reporting: All Radford University employees in receipt of a complaint or report of discrimination, sexual harassment, or sexual misconduct, must report any information regarding the alleged incident to the Title IX Coordinator without delay. No Radford University employee shall undertake any independent efforts to determine whether or not the report or complaint has merit or can be substantiated before reporting it to the Title IX Coordinator. Radford University employees who are statutorily privileged, including licensed health-care professionals, are exempt from this requirement (See Section H for a listing of confidential reporting contacts.)

G. Criminal Reporting

If a victim is in immediate danger or needs immediate medical attention, contact 911 or the Radford University Police Department (RUPD) at (540) 831-5500 (blue light emergency phones on campus connect directly to RUPD). Some conduct in violation of this policy may also be a crime under Virginia law. Individuals are encouraged to report incidents of sexual misconduct to law enforcement, even if the reporting individual is not certain if the conduct constitutes a crime. Crimes dealing with minors must be reported to law enforcement.

H. Confidentiality and Anonymous Reporting.

Radford University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to make a confidential report, it must be made to physicians and other medical personnel at Student Health Center, the Student Counseling Services staff or the Sexual Abuse and Violence Education Support (SAVES) Coordinator. Radford University employees should contact the nearest medical facility. These individuals will encourage victims to make a report to Radford University Police Department, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above that are able to maintain confidentiality of reports. Other faculty and staff receiving reports of conduct in violation of this policy are mandated reporters but will maintain privacy to every extent possible without compromising Radford University’s ability to investigate and respond in accordance with applicable law and regulations. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation. If the complainant requests confidentiality or that the complaint not be pursued, Radford University may also be limited in the actions it is able to take and its ability to respond.

I. Timely Warnings

Radford University is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Radford University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.
J. Sexual Misconduct Survivor/Victim Procedures and Services

1. Radford University will assist sexual misconduct survivors/victims in a supportive manner, implementing the procedures set out herein. Because of the potential seriousness and sensitivity of the investigations involved, it is important to undertake these investigations properly. Preserving the evidence is often a key step of successful investigation of alleged sexual misconduct.

2. Recommended procedure for anyone who has experienced sexual misconduct:
   a. Go to a safe place.
   b. For your safety and confidential care, report promptly to the Student Health Center or the nearest medical facility/emergency room. You may request a Sexual Assault Advocate if one is not provided. Physical evidence may be usable if proper procedures are followed for evidence collection within 96 hours of the assault.
   c. Contact a trusted friend or family member. For professional and confidential counseling support, contact Student Counseling Services (540) 831-5226, the Substance Abuse and Violence Education Support Coordinator (SAVES) (540) 831-5709 or the Women’s Resource Center of the New River Valley (540) 639-9592. Among other services, Women’s Resource Center of the New River Valley offers survivors a 24-hour Hotline at (800) 788-1123 or TTY for Deaf and Hard of Hearing Individuals at (540) 639-2197, emergency shelter, crisis intervention, counseling, applicable referrals, and court advocacy. Radford University employees can contact the Women's Resource Center of the New River Valley.
   d. It is your right to have evidence collected and retained anonymously by law enforcement while you consider whether to pursue criminal charges. Evidence preservation is enhanced in the following ways:
      i. Do not wash your hands, bathe, or douche. Do not urinate, if possible.
      ii. Do not eat, blow your nose, drink liquids, smoke, or brush your teeth if oral contact took place.
      iii. Keep the clothing worn when the assault took place. If you change clothing, place the worn clothing in a paper bag (evidence deteriorates in plastic).
      iv. Do not destroy any physical evidence that may be found in the vicinity of the assault by cleaning or straightening the location of the crime. The victim should not clean or straighten the location of the crime until law enforcement officials have had an opportunity to collect evidence.
      v. Tell someone all the details you remember or write them down as soon as possible.
      vi. Maintain text messages, pictures, online postings, video and other documentary or electronic evidence that may corroborate a complaint.
3. There is no time limit for filing a complaint of sexual misconduct. However, complainants should report as soon as possible to maximize Radford University’s ability to respond. Failure to report promptly could result in the loss of relevant evidence and impair Radford University’s ability to adequately respond to the allegations.

4. The victim shall have the right to file a complaint with law enforcement and the option to be assisted by the Title IX Coordinator and other Radford University authorities in notifying the proper law enforcement authorities of the alleged sexual misconduct.

5. Radford University officials (excluding Radford University Police Department) receiving reports of a possible sexual misconduct will follow the procedures set forth under this policy and the Discrimination Grievance Procedures. Radford University Police Department will follow departmental procedures.

6. Resources for Victims of Sexual Misconduct

   a. Any student or visiting student who reports sexual misconduct to the Title IX Coordinator, Substance Abuse and Violence Educational Support Services (SAVES) Coordinator, Student Health Center, and Student Counseling Services will receive an information pamphlet(s) outlining resources and options. Radford University Police Department protocol includes coordination with SAVES Coordinator.

   b. Any employee who reports sexual misconduct to the Title IX Coordinator will receive an information pamphlet(s) outlining resources and options. Radford University Police Department protocol includes coordination with the Title IX Coordinator.

   c. Radford University employees shall advise victims of the resources available with the SAVES Office (for students) and the Women’s Resource Center of the New River Valley (for students and employees) and encourage use of these resources.

   c. Students and visiting students will be assisted with available options for changing academic, transportation, parking, work and living arrangements after alleged sexual misconduct. Safety arrangements such as no-contact orders and escorts are also available as needed.

   d. Employees will be assisted with available options for changing parking, work and living arrangements after alleged sexual misconduct.

K. Title IX Coordinator Oversight

The Title IX Coordinator oversees the investigation and resolution of all reports by students, visiting students, faculty and staff of alleged discrimination, sexual harassment or sexual misconduct in accordance with the Discrimination Grievance Procedures. For complaints involving alleged violations of this policy by a student or students, the Title IX Coordinator may delegate certain investigative responsibilities to the Office of Student Standards and Conduct while maintaining oversight of the investigation. See the Discrimination Grievance Procedures for further information regarding coordination with the Title IX Coordinator. Reports of discrimination by the Title IX Coordinator should be made to the President.
L. Interim Measures

Radford University may take interim measures, as necessary to assist or protect the complainant during the investigation and resolution of complaints of discrimination and any law enforcement investigation, to address the safety of the complainant or any member of the campus community, and to avoid retaliation. If, in the judgment of the Title IX Coordinator or other Radford University leadership, the safety or well-being of any member of the campus community may be jeopardized by the presence on campus of the accused individual, the Title IX Coordinator may provide interim remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further violations. Radford University will seek the consent of the complainant before taking interim measures to the greatest degree possible. Interim measures may include, but are not necessarily limited to, changes in classroom or work schedules or housing arrangements, no-contact order, ban from campus, escorts on campus, referral and coordination of counseling and health services, and modification of work or academic requirements. Radford University may temporarily reassign or place on administrative leave an employee alleged to have violated this policy. In such a situation the employee will be given the opportunity to meet with the Title IX Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented.

M. Sanctions

If it is determined that conduct in violation of this policy has occurred, sanctions will be determined in accordance with the Discrimination Grievance Procedures. Consequences for violating this policy will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, and any history of past conduct in violation of this policy.

Sanctions may include penalties up to and including dismissal for students and termination for employees. In addition to sanctions that may be imposed on an individual found in violation of this policy, Radford University will take steps to prevent recurrence of any sexual misconduct, including sexual assault and sexual violence, and to remedy discriminatory effects on the complainant and others, if appropriate.

N. Student Amnesty

Ensuring the safety of students who report violations of this policy is Radford University’s primary concern. In order to facilitate reporting, Radford University will, with the following limited exceptions, provide amnesty to a student who reports an incident in violation of this policy, directed toward that student or another student, for minor disciplinary infractions, such as underage drinking, at the time of the incident. Amnesty may not be offered if (1) the minor disciplinary infraction places or placed the health or safety of any other person at risk or (2) the student who committed the disciplinary infraction previously has been found to have committed the same disciplinary infraction. If amnesty is provided, no conduct proceedings or conduct record will result for minor disciplinary infractions. Amnesty for minor disciplinary infractions also may be offered to students who intervene to help others before a violation of this policy occurs and students who receive assistance or intervention. Abuse of amnesty requests may result in a decision by the Dean of Students Office not to extend amnesty to the same student repeatedly. The Office of Student Standards and Conduct and the Dean of Students Office shall maintain records regarding the provision of amnesty for at least five (5) years. Infractions that constitute honor offenses shall not be considered minor policy violations for which amnesty may be offered under this provision.
O. Education and Awareness

1. For more information about sexual misconduct and resources available in the local community, please visit the Women’s Resource Center of the New River Valley website at: www.wrcnrv.org/helpingYou/eh.shtml.

2. The Title IX Coordinator coordinates an education, training and awareness program on discrimination, sexual harassment, and sexual misconduct for students and employees, including training on primary prevention, bystander intervention, risk reduction, consent and other pertinent topics. The Substance Abuse and Violence Education Support (SAVES) Coordinator provides programming on sexual misconduct issues, resources available on campus in the community, and coordinates intervention programs.

P. Academic Freedom and Free Speech

This policy does not allow curtailment or censorship of constitutionally protected expression, which is valued in higher education and by Radford University. In addressing all complaints and reports of alleged violations of this policy, Radford University will take all permissible actions to ensure the safety of students and employees while complying with any and all applicable guidance regarding free speech rights of students and employees. This policy does not in any way apply to curriculum and curriculum decisions or abridge the use of particular textbooks or curricular materials.