

RADFORD UNIVERSITY

Policy Title: Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy	Effective Date: 7/10/2019
Policy Number: GEN-PO-1002	Date of Last Review: 5/10/2019
Oversight Department: Office of Institutional Equity	Next Review Date: 5/1/2022

1. 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.

2. 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 camps 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 (see Section 5). 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.

3. DEFINITIONS

Discrimination: 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, gender expression, 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.

Harassment: 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.

Sexual Harassment: 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.

Hostile environment: 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 Radford University's 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.

Responsible Employee: Responsible employee includes all Radford University employees other than the following individuals who are designated as confidential sources: physicians and licensed medical personnel at the Student Health Center, and licensed counselors at the Student Counseling Services and the Substance Abuse and Violence Educational Support Services. A responsible employee must report to the Title IX Coordinator all relevant information received about an incident of conduct that potentially is in violation of this policy and without delay. If necessary, the report may be made after addressing any immediate needs of the victim.

Sexual Misconduct: 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/STI 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.

4. 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, gender expression, 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 (see Section 5). 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. Questions regarding discrimination prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-4640 (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

B. 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 (see Section 5) 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. Retaliation prohibited by this policy includes any discrimination, intimidation, threat, or coercion against the Title IX Coordinator, or staff of the Office of Institutional Equity for purpose of interfering with his or her job responsibilities.

C. 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 (see

Section 5). 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. Radford University's Title IX Coordinator's contact information is as follows:

**Title IX Coordinator
Office of Institutional Equity**

**Radford University (Radford)
615 Fairfax Street
P.O. Box 6988
Radford, VA 24142
(540) 831- 5307 (Main)**

**Radford University Carilion (Roanoke)
101 Elm Avenue, SE
Roanoke, VA 24013
(540) 224-4640**

3. **Mandatory employee reporting:** All employees, other than the confidential employees detailed in the definition of Responsible Employee in Section 3. and in Section 4.E. of this policy, who receive information regarding a complaint or report of discrimination, sexual harassment, sexual misconduct, or retaliation must report any relevant information about the alleged incident to the Title IX Coordinator without delay after addressing the needs of the victim. 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.
4. **Reports made by Students:** Students should report violations of this policy to the Title IX Coordinator. 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. Other than reports made to confidential sources in accordance with the definition of Responsible Employee in Section 3. and in Section 4.E. of this policy, reports must 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. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this policy and the Discrimination Grievance Procedures (see Section 5). Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this policy and the Discrimination Grievance Procedures is prohibited and subject to conduct charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy. This provision does not apply to reports made or information provided in good faith, even if the facts as alleged are not later substantiated by a preponderance of the evidence.

D. Criminal Reporting

If a victim is in immediate danger or needs immediate medical attention, contact 911, the Radford University Police Department (RUPD) at (540) 831-5500 (blue light emergency phones on campus connect directly to RUPD), or Carilion Clinic Police at (540) 981-7911. 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. Radford University will provide assistance to victims in notifying law enforcement if the victim so chooses. Crimes dealing with minors must be reported to law enforcement.

E. 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 licensed medical personnel at the Student Health Center, and licensed counselors at the Student Counseling Services and the Sexual Abuse and Violence Education Support Services (SAVES). These individuals will encourage victims to make a report to the 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 who 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.

Notwithstanding a complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act, 34 C.F.R. § 99.36, as detailed in the Sexual Violence Threat Assessment provisions of the Discrimination Grievance Procedures (see Section 5). 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.

F. 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.

G. 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 in Radford, contact Student Counseling Services at (540) 831-5226, the Substance Abuse and Violence Education Support Services (SAVES) at (540) 831-5709, the Center for Assessment and Psychological Services (CAPS) at (540) 831-2471, or the Women's Resource Center of the New River Valley at (540) 639-9592. Among other services, the 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 also contact the Women's Resource Center of the New River Valley.

In Roanoke, contact Sexual Assault Response and Awareness (SARA) at (540) 981-9352 at a 24-hour Hotline, or Student Counseling at (540) 985-8395.
 - d.** Employees will be assisted with available options for changing parking, work and living arrangements.
 - e.** 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 the Radford University Police Department, and confidential resources) receiving reports of a possible sexual misconduct will follow the procedures set forth under this policy and the Discrimination Grievance Procedures (see Section 5). The 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, the Substance Abuse and Violence Educational Support Services (SAVES), 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 the Women's Resource Center.
 - b. The Title IX Coordinator or designee shall advise victims of resources available with the Women's Resource Center and SARA and encourage use of these resources. Any individual who is reported to be the victim of sexual misconduct shall receive from the Title IX Coordinator or designee information on contacting the Women's Resource Center and services available through the Women's Resource Center's memorandum of understanding with Radford University.
 - 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.

H. Title IX Coordinator Oversight

The Title IX Coordinator oversees the investigation and resolution of all reports by students, visiting students, and faculty and staff of alleged discrimination, sexual harassment or sexual misconduct in accordance with the Discrimination Grievance Procedures (see Section 5). Reports of discrimination by the Title IX Coordinator should be made to the President.

I. 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. Radford University must also address the safety of the complainant or any member of the campus community, and avoid retaliation. If, in the judgment of the Title IX Coordinator or other Radford University leadership, the safety and 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 remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further violations. To the extent possible, 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 orders, bans from campus, safety 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.

J. 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 (see Section 5). 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.

K. 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 for students who receive assistance or intervention. Abuse of amnesty requests may result in a decision by the Office of the Dean of Students not to extend amnesty to the same student repeatedly. The Office of Student Standards and Conduct and the Office of the Dean of Students shall maintain records regarding the provision of amnesty for at least seven (7) years. Infractions that constitute offenses shall not be considered minor policy violations for which amnesty may be offered under this provision.

L. 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.wrcnr.v.org and the SARA website at: <https://sararoanoke.org/>.
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, risk reduction, consent and other pertinent topics. The Office of Substance Abuse and Violence Education Support Services (SAVES) provides programming on sexual misconduct issues, resources available on campus in the community, bystander intervention, and coordinates intervention programs.

M. 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.

5. PROCEDURES (Discrimination Grievance Procedures)

A. Purpose

These procedures provide a prompt and equitable resolution for complaints or reports of 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, including complaints alleging sexual harassment or sexual misconduct prohibited by Radford University policy on Discrimination, Harassment, Sexual Misconduct, and Retaliation ("Discrimination Policy"). Any person who believes he or she has been subjected to discrimination or harassment on any of these bases may file a complaint with Radford University as outlined in these procedures. These procedures also address any complaints or reports of retaliation against individuals who have filed complaints or reports of discrimination, who have opposed discriminatory practices, and those who have testified or otherwise participated in investigations or proceedings arising from complaints or reports of discrimination. Questions regarding discrimination prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-4640 (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

B. Complaints and Reporting

Complaints and reports of discrimination, sexual harassment, and sexual misconduct should be made to Radford University's Title IX Coordinator. The Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual harassment, or sexual misconduct and is trained to help individuals who file complaints find resources, to investigate reported incidents, and to respond appropriately to conduct alleged to be in violation of the Discrimination Policy. Individuals receiving reports or complaints of discrimination, sexual harassment, or sexual misconduct should immediately notify the Title IX Coordinator after addressing the immediate needs of the victim, 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.

The Radford University Title IX Coordinator's contact information is listed below:

**Title IX Coordinator
Office of Institutional Equity**

**Radford University
615 Fairfax Street
P.O. Box 6988
Radford, VA 24142
(540) 831- 5307 (Main)**

**Radford University Carilion (Roanoke)
101 Elm Avenue, SE
Roanoke, VA 24013
(540) 224-4640**

Reports of conduct in violation of the Discrimination Policy should be made without undue delay after the incident after addressing the needs of the victim, and may be made orally or in writing, including online on the [Office of Institutional Equity webpage](#) to the Title IX Coordinator. The Title IX Coordinator also will accept, without comment or need for explanation, a sealed envelope addressed to "Title IX Coordinator." The envelope, at a minimum, need only contain a piece of paper with the name and room number or phone number of the individual wishing to make a report. Individuals also can report the incidents anonymously online through the SAVES office webpage:

<https://www.radford.edu/content/saves/home/sexual-misconduct.html>

or Confidential Reporting and Silent Witness through the Radford University Police Department webpage:

<http://www.radford.edu/content/police/home/forms/witness.html>

or by leaving an anonymous message with the Radford University Police Department at 540-831-STOP (7867). As will be the case with all reports, however made, the reporting individual will be contacted promptly, but in no case more than three calendar days from the date of the report, for an interview with the Title IX Coordinator or designee.

Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of the Discrimination Policy are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s), and any witness(es), promptly after an incident.

C. The Role of the Title IX Coordinator

The Title IX Coordinator is charged with coordinating Radford University's compliance with federal civil rights laws. The Title IX Coordinator and the Office of Institutional Equity staff do not serve as an advocate for either the complainant or the respondent. The Title IX Coordinator or designee will explain to all identified parties the procedures outlined below, including confidentiality. As appropriate, the Title IX Coordinator or designee will provide all identified parties with information about obtaining medical and counseling services, making a criminal report, information about receiving advocacy services including those offered by the Office of Substance Abuse and Violence Education Support Services (SAVES) or the Women's Resource Center of the New River Valley in Radford, Sexual Assault Response and Awareness

(SARA) in Roanoke, and guidance on other Radford University and community resources. The Title IX Coordinator or designee will offer to coordinate with other Radford University leadership, when appropriate, to implement interim measures as described below. The Title IX Coordinator or designee will explain to all involved parties the process of a prompt, adequate, reliable, and impartial investigation, including the opportunity for both the complainant and respondent to identify witnesses and provide other evidence. The Title IX Coordinator or designee will explain to all identified parties the right to have a personal advisor present and to review and respond to the allegations and evidence. The Title IX Coordinator or designee will also explain to the parties and witnesses that retaliation for reporting alleged discrimination, sexual harassment or sexual misconduct, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be reported immediately and will be promptly addressed.

D. Written Explanation of Rights and Options

When a student or employee reports that he or she has been a victim of dating violence, domestic violence, sexual assault, sexual exploitation, or stalking, whether the offense occurred on or off campus, the student or employee will be provided a written explanation of rights and options, which shall include:

1. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, sexual exploitation, or stalking has occurred, including written information about:
 - a. The importance of seeking medical attention and of the collection and preservation of evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order;
 - b. How and to whom the alleged offense should be reported;
 - c. Options about the involvement of local law enforcement and the Radford University Police Department, including the victim's option to:
 - i. Notify proper law enforcement authorities, including local law enforcement, the Radford University Police Department, and/or the Carilion Clinic Police;
 - ii. Be assisted by Radford University staff in notifying law enforcement authorities, if the victim so chooses; and
 - iii. Decline to notify such authorities.
 - d. The rights of victims and Radford University's responsibilities regarding no contact orders, residential relocation, eviction orders or other orders.
2. Information about how Radford University will protect the confidentiality of victims and other parties, including how Radford University will:
 - a. Complete publicly available recordkeeping, including reporting and disclosures required by the Clery Act, without the inclusion of personally identifying information about the victim;
 - b. Maintain as confidential, any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of Radford University to provide the accommodations or protective measures; and
 - c. Ensure confidentiality of investigative files as education records protected by the Family Educational Rights and Privacy Act (FERPA), including that the process for the

Sexual Violence Threat Assessment in accordance with Virginia Code § 23.1-806 could, if the incident poses to members of the Radford University community a health or safety emergency, as defined by the FERPA regulations, lead to disclosure of personally identifying information to the law enforcement agency that would be responsible for investigating the incident and other appropriate parties whose knowledge of the information is necessary to protect the health and safety of the victim or other individuals.

3. Notification of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within Radford University and in the local community;
4. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures, regardless of whether the victim chooses to report the crime to the Radford University Police Department, Carilion Clinic Police, or local law enforcement;
5. The procedures for Title IX investigation, adjudication, appeals, and disciplinary sanctions, including the right to decline to participate in a Title IX investigation by the victim.

E. Criminal Reporting and Coordination

The Title IX Coordinator or designee will make all complainants aware of the right also to file a complaint with the Radford University Police Department or local law enforcement, and will encourage accurate and prompt reporting when the complainant elects to report. If a victim of sexual assault, dating violence, domestic violence, or stalking is physically or mentally incapacitated for at least 10 calendar days, and thereby unable to report the incident to law enforcement, the Title IX Coordinator will make such a report. Radford University will comply with all requests by the Radford University Police Department or local law enforcement for cooperation in investigations. Such cooperation may require the Title IX Coordinator or designee to temporarily suspend the fact-finding aspect of a Title IX investigation detailed in the procedures below while the Radford University Police Department or the local law enforcement agency gathers evidence. The Title IX Coordinator or designee will promptly resume its Title IX investigation as soon as notified by the Radford University Police Department or local law enforcement agency that it has completed the evidence gathering process. Otherwise, the Title IX investigation will not be altered or precluded on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

F. Confidentiality, Anonymity and Requests Not to Pursue Title IX Investigation

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 keep a report confidential, it must be made to a licensed medical provider or counselor within Student Health Center, Student Counseling Services or the SAVES Office (for students). These individuals will encourage victims to make a report to the 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 Radford University officials 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 or designee may

be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator or designee to conduct a meaningful and fair investigation.

If the complainant requests confidentiality or that an investigation not be conducted, Radford University may be limited in the actions it is able to take and its ability to respond while respecting the request. The complainant will be asked to sign a statement stating a desire for confidentiality or that an investigation not be pursued and the Title IX Coordinator or designee will take all reasonable steps to respond to the complaint consistent with the request. Notwithstanding a complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to local law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. § 99.36, and as detailed in the Sexual Violence Threat Assessment provisions, below.

G. Sexual Violence Threat Assessment

1. Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent, that is alleged to have occurred (i) against any students; or (ii) on campus, in or on a Radford University building or property, or on public property that is on campus or immediately adjacent to and accessible from campus, the Title IX Coordinator shall promptly inform a review committee of the report, including personally identifying information. The review committee shall be comprised of, at a minimum, the Title IX Coordinator, a representative of Law Enforcement, and a student affairs representative. The review committee may consult other Radford University officials depending on whether the accused individual is a student, faculty, or staff member and the circumstances of the report. The review committee shall be advised by the Office of the Attorney General.
2. Within 72 hours of receipt of the report from the Title IX Coordinator, the review committee shall meet to review the information and shall continue to meet as necessary as new information becomes available. If the criteria in Paragraph 1 are met, the review committee shall convene regardless of whether or not the victim has notified the Radford University Police Department, Carilion Clinic Police, or local law enforcement or whether or not the victim has requested that Radford University proceed with a Title IX investigation.
3. The review committee may obtain law enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records, and known facts and circumstances of the reported incident of sexual harassment or sexual misconduct and other evidence known to Radford University, including the Radford University Police Department, Carilion Clinic Police, and local law enforcement. The review committee shall be considered to be a threat assessment team established pursuant to Virginia Code § 23.1-805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act, (Virginia Code § 2.2-3700 et seq.). The review committee shall comply with the Family Educational Rights and Privacy Act in conducting its review.

4. In addition to the available information detailed in Paragraph 3, above, the review committee shall consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:
 - a. Other sexual misconduct complaints about the same individual;
 - b. Prior arrests or reports of misconduct at another institution or a history of violent behavior;
 - c. Threats of further sexual misconduct against the reporting individual or others;
 - d. A history of failing to comply with a no-contact order issued by Radford University officials;
 - e. Allegations of multiple perpetrators in the same incident;
 - f. Use of physical violence in the reported incident or a prior incident. Examples of physical violence include, but are not limited to, hitting, punching, slapping, kicking, restraining, or choking;
 - g. Reports or evidence of a pattern of perpetration, including a pattern of the accused individual using alcohol or drugs to facilitate sexual misconduct or harassment;
 - h. Use of a weapon in the reported incident or a prior incident;
 - i. A victim under the age of 18 or who is significantly younger than the accused individual.

The review committee shall also consider whether means exist to obtain evidence other than investigation by law enforcement or a Title IX investigation such as security camera footage, eyewitness reports from security or guard personnel, or physical evidence.

5. If, based on a consideration of all factors, the review committee determines that there is a significant and articulable threat to the health or safety of one or more individuals and that disclosure of the information to local law enforcement, including personally identifying information, is necessary to protect the health and safety of one or more individuals, the law enforcement representative shall immediately disclose such information to the law enforcement agency that would be responsible for investigating the incident, for the purpose of investigation and other actions by law enforcement. If the review committee cannot reach a consensus, the law enforcement representative may make the threat determination. Upon any disclosure to law enforcement under this paragraph, the Title IX Coordinator or designee shall notify the victim that such disclosure is being made. The provisions of this paragraph shall not apply if the law enforcement agency responsible for investigating the alleged incident is located outside the United States.
6. If information is disclosed to law enforcement under Paragraph 5 or if the review committee determines that sufficient factors exist to proceed with a Title IX investigation, despite the stated desires of the victim for confidentiality or not to proceed with an investigation, the Title IX Coordinator or designee shall proceed with a full investigation under these procedures. In those situations, the Title IX Coordinator or designee will notify the victim that Radford University is overriding the victim's request for confidentiality in order to meet Title IX obligations, but, other than the disclosure under

Paragraph 5, if made, the information will only be shared with individuals who are responsible for handling Radford University's response to incidents of sexual violence. Radford University will ensure that any information maintained by Radford University is maintained in a secure manner.

7. If the reported incident would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, as determined by the law enforcement member or any other member of the review committee, the law enforcement member shall inform other members of the review committee and shall notify the attorney for the Commonwealth or other prosecutor responsible for prosecuting the incident and provide information received without disclosing personally identifying information, unless such information was disclosed to a law enforcement agency pursuant to Paragraph 5.
8. At the conclusion of the Sexual Violence Threat Assessment, the Title IX Coordinator and law enforcement member shall each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review committee's determination considerations, which shall be maintained under applicable state and federal law.

H. 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. Radford University must also 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 and 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 remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further violations. To the extent possible, 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 orders, bans from campus, safety 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 demonstrate why the action should not be implemented.

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. Coordination with the Office of the Dean of Students and the Department of Human Resources

Radford University's Title IX Coordinator is responsible for overseeing all complaints of discrimination and identifying and addressing any pattern or systemic problems that arise during the review of such complaints.

Any member of the Office of the Dean of Students, the Office of Student Standards and Conduct, or the Department of Human Resources receiving a report of alleged discrimination, sexual harassment, or sexual misconduct shall report it without delay to the Title IX Coordinator. No member of the Office of the Dean of Students, the Office of Student Standards and Conduct or the Department of Human Resources shall undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator. The Title IX Coordinator's Office shall conduct all investigations of allegations of sexual misconduct in accordance with the procedures below. At the conclusion of the investigation, the Title IX Coordinator shall recommend a sanction, if any, to the Director of the Office of Student Standards and Conduct or the Department of Human Resources, as appropriate.

K. Investigation and Resolution

There are two possible methods for investigation and resolution of a complaint alleging violations of the Discrimination Policy: formal and informal resolution. For alleged violations of the Discrimination Policy other than sexual misconduct, the complainant and the respondent have the option to proceed under an informal procedure, when deemed permissible by the Title IX Coordinator. The Title IX Coordinator or designee will explain the informal and formal procedures to both the complainant and the respondent, if known. In all cases, Radford University will ensure there is no conflict of interest in the investigation and resolution of complaints and will strive to avoid the appearance of conflict of interest.

1. Informal investigation and resolution:

If the complainant, the respondent, and the Title IX Coordinator or designee all agree that an informal investigation and resolution should be pursued, the Title IX Coordinator or designee shall attempt to facilitate a resolution that is agreeable to all parties. Under this procedure, the Title IX Coordinator or designee will conduct a preliminary investigation only to the extent fact-finding is needed to resolve the conflict and to protect the interests of all parties, Radford University, and the campus community. All parties will be permitted to request witnesses to be interviewed by the Title IX Coordinator and other evidence to be considered in the preliminary investigation. Typically, a preliminary investigation will be completed within 30 calendar days of receipt of notice. If an extension of the preliminary investigation beyond 30 calendar days is necessary, all parties will be notified of the expected resolution time frame. If at any point during this informal investigation and resolution procedure, the complainant, the respondent, or the Title IX Coordinator wish to suspend the informal procedure and proceed through the formal grievance procedure, such request will be granted.

Any resolution of a complaint through the informal procedure must adequately address the concerns of the complainant, as well as the rights of the respondent and the responsibility of Radford University to prevent, address, and remedy alleged violations of the Discrimination Policy. Informal resolution remedies might include providing training, providing informal counseling to an individual whose conduct, if not ceased, could rise to

the level of discrimination or harassment, confidential briefing of the respondent's work supervisor, use of processes and sanctions set forth in the Standards of Student Conduct, or other methods. All parties will be provided written notification of the resolution of the complaint through the informal procedures, including whether the preliminary investigation substantiated discrimination or harassment by a preponderance of the evidence and a description of Radford University's response. There shall be no right of appeal afforded to the complainant or the respondent following informal investigation and resolution.

2. Formal investigation and resolution:

- a. A formal complaint may be submitted either in written format or through a verbal interview of the complainant by the Title IX Coordinator or designee regarding the events and circumstances underlying the complaint. The complainant is not required to submit a written complaint to the Title IX Coordinator to commence an investigation. In the case of a third party notification, the Title IX Coordinator will contact the alleged victim promptly, and in no case later than three calendar days from the date of the complaint. The complaint may be supplemented by additional supporting documents, evidence, or recommendations of witnesses to be interviewed during the course of the investigation. The complainant must also disclose if a formal complaint has been filed with another Radford University office, state, or federal entity for the same offense.
- b. The Title IX Coordinator or designee will discuss the complaint with the complainant, and the respondent as appropriate, including providing information about the formal investigation procedure and other resources. The Title IX Coordinator or designee will explain to the parties that each has the opportunity to provide evidence and to suggest witnesses to be interviewed during the course of the investigation.
- c. The Title IX Coordinator will consider whether interim measures and involvement of other Radford University leadership is appropriate. The Title IX Coordinator also will confirm that the matter involves an alleged violation of the Discrimination Policy, thereby conferring jurisdiction to the Title IX Coordinator's office. If the Title IX Coordinator determines that the Title IX Coordinator's office does not have jurisdiction, the Title IX Coordinator or designee will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate on-campus and off-campus resources to address the issue(s).
- d. All investigations of complaints alleging violations of the Discrimination Policy shall be overseen by the Title IX Coordinator. The Title IX Coordinator or designee will conduct a prompt, adequate, reliable, and impartial investigation of the complaint. Typically an investigation, not including the time necessary for potential appeals, will be completed within 60 calendar days of receipt of notice. If extension of the investigation beyond 60 calendar days is necessary, all parties will be notified of the expected time frame. Only the Title IX Coordinator, a trained investigator designated by the Title IX Coordinator's office shall conduct the investigation.
- e. Both complainant and respondent will have the same opportunity to review and respond to evidence obtained during an investigation and will be afforded the same opportunity to review and provide comment to the investigator about the written investigation report before it is finalized. Both the complainant and the respondent

may designate an advisor to accompany him or her at any meeting or proceeding during the formal investigation. The role of such advisors shall be limited to advise and consult. Neither the advisor for the complainant nor the advisor for the respondent shall be permitted to question witnesses, raise objections, or make statements or arguments at any meetings or proceedings during an investigation or an appeals hearing.

- f. The Title IX Coordinator or designee will determine whether there is a preponderance of the evidence to substantiate the complaint of an alleged violation of the Discrimination Policy. A respondent will not be found in violation of the Discrimination Policy absent a finding of preponderance of evidence that the violation occurred. The "preponderance of the evidence" standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that the alleged violation occurred.
- g. In determining whether alleged harassment has created a hostile environment, the Title IX Coordinator or designee shall consider whether the conduct was unwelcome to the complainant, but also whether the conduct was severe or pervasive and whether a reasonable person similarly situated to the complainant would have perceived the conduct to be objectively offensive.
- h. The Title IX Coordinator or designee shall prepare a written investigation report, which shall be provided to both the complainant and the respondent concurrently. In most cases the written investigation report shall be provided to both parties for comments within 60 calendar days of notice of the allegation. If extension of the time frame for the Title IX Coordinator to provide the investigation report beyond 60 calendar days is necessary, all parties will be notified of the revised time frame for completion of the report of investigation.
- i. If the Title IX Coordinator or designee finds by a preponderance of the evidence that a violation of the Discrimination Policy did not occur, the matter will be documented as closed. The complainant may appeal the finding to the Discrimination Appeals Committee under the procedure described below.
- j. If the Title IX Coordinator or designee finds by a preponderance of the evidence that violation of the Discrimination Policy did occur, the Title IX Coordinator's or designee's written report will contain recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, remedies for the complainant and the community. The written report also will contain the Title IX Coordinator's or designee's recommendation on sanctions. If interim measures as described above have been taken, the Title IX Coordinator shall include a recommendation regarding continuation, suspension or modification of any such interim measures. The Title IX Coordinator or designee shall provide the written report to both the complainant and respondent, in accordance with subsection h., above, including the steps the Title IX Coordinator or designee has recommended to eliminate a hostile environment, if one was found to exist, and to prevent its recurrence. Notwithstanding any other provision of these procedures, the respondent shall not be provided information about the individual remedies offered or provided to the complainant, but such information shall be provided to the complainant. The respondent and the complainant will be advised of their right to

appeal any finding or recommended sanction to the Discrimination Appeals Committee. The appeal procedure outlined below will also be explained. If the respondent does not contest the finding or recommended sanction, the respondent shall sign a statement acknowledging no contest to the finding and the recommended sanction. The sanctioning process will move forward whether or not the respondent signs the statement acknowledging no contest. The completed investigation will be provided to the appropriate individual to determine and impose appropriate sanctions, as described below.

L. Sanctions

1. Sanctions for students will be determined by the Director of the Office of Student Standards and Conduct in accordance with the Standards of Conduct and, where necessary or appropriate, in consultation with the Dean of Students. Sanctions may include, but are not limited to, warning, suspension or dismissal. Not every violation of the Discrimination Policy will result in an identical sanction. The University reserves the right to impose different sanctions depending on the severity of the incident as well as any previous proven violations by the respondent.
2. Sanctions for teaching and research faculty will be determined by the Provost, in consultation with the Deans and/or the President and in accordance with the Teaching and Research Faculty Handbook and any other applicable Radford University policy and regulations. Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings.
3. Sanctions for Administrative and Professional faculty will be determined by the employee's supervisor and Division Head, in consultation with the Assistant Vice President for Human Resources and in accordance with the Administrative and Professional Faculty Handbook and any other applicable Radford University policy and regulations. Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings according to procedures in the appropriate governing regulation or policy.
4. Sanctions for Classified or Wage employees will be determined by the employee's supervisor in consultation with the Assistant Vice President for Human Resources in accordance with the Commonwealth's Standards of Conduct Policy. Sanctions that may be imposed by Radford University include, but are not limited to verbal counseling, additional training, issuance of a Written Notice, suspension, or termination of employment.
5. Contractors shall assign for duty only employees acceptable to Radford University. Radford University reserves the right to require the Contractor to remove from campus any employee who violates the Discrimination Policy.
6. Visitors (including, but not limited to, students participating in camps or other programs at Radford University), who violate the Discrimination Policy will be directed to immediately leave campus and may be subject to a permanent ban from campus.
7. A determination regarding the imposition of sanctions shall be made within 14 calendar days of the date of the Title IX Coordinator's, or designee's final report of investigation, if neither the complainant nor the respondent requests appeal to the Discrimination Appeals Committee. If an appeal is requested, sanctions, if any, shall be imposed within

14 calendar days of the final decision of the President after consideration of the written decision of the Discrimination Appeals Committee. If extension of the time frame for sanctions to be imposed beyond 14 calendar days is necessary, all parties will be notified by the Office of Student Standards and Conduct or the Department of Human Resources, of the expected time for imposing the sanctions. The respondent shall be informed in writing of any sanctions imposed for violation of the Discrimination Policy by the individual imposing the sanctions within five (5) calendar days of the determination. The Title IX Coordinator shall be provided a copy of such written notification. The Title IX Coordinator or designee will disclose to the complainant, as simultaneously as possible to the notification provided to the respondent, information about the sanctions that directly relate to the complainant as is permitted by state and federal law including the Federal Educational Rights and Privacy Act (FERPA) and the Virginia Freedom of Information Act.

M. Discrimination Appeals Committee

1. Composition of the Committee:

The Discrimination Appeals Committee ("Committee") shall be comprised of three trained individuals: one faculty member to be nominated by the Provost, one non-faculty member of the administration to be nominated by the Vice President for Finance and Administration, and one classified employee to be nominated by the Assistant Vice President for Human Resources. The President shall appoint members of the Committee and the Committee Chair. Committee members shall serve indefinitely at the pleasure of the President. The President may appoint one or more persons to serve on the Committee temporarily to fill a vacancy due to recusal or otherwise to ensure a full three-member Committee. The President has sole discretion to permanently remove members of the Committee for cause.

2. Appeal Procedure:

- a. A complainant or respondent desiring to appeal the investigative findings of the Title IX Coordinator shall file a written request for appeal with the Title IX Coordinator within three (3) business days of receipt of the written investigation report along with information to support one or more of the following grounds for appeal:
 - i. the Title IX Coordinator or designated investigator exhibited unfair bias which influenced the results of the investigation;
 - ii. new evidence, unavailable at the time of the investigation, that could substantially impact the Title IX Coordinator's finding;
 - iii. error in the conduct of the investigation that is of such magnitude as to deny fundamental fairness;
 - iv. the sanctions recommended by the Title IX Coordinator are substantially outside the parameters or guidelines set by Radford University for this type of offense or the cumulative conduct record of the respondent.
- b. Within five (5) business days of receipt of the written request for appeal, the Title IX Coordinator will notify the parties of the time and place of hearing before the Committee. Such hearing typically will be scheduled within fifteen (15) calendar days of receipt of the request for appeal. If extension beyond fifteen (15) calendar days is necessary, both parties will be notified by the Discrimination Appeals Committee of

the revised time frame. The parties must raise within five (5) calendar days of such notification, objections to members of the Committee on the basis of conflict of interest or bias for or against the appellant or appellee. The objection shall be made to the Title IX Coordinator, who will present the objection to the President. The President shall rule on any such objections no later than three (3) business days prior to the hearing.

- c. Within five (5) calendar days of filing the request for appeal, the party appealing the Title IX Coordinator's findings (appellant) must submit a written statement that (i) identifies the names and addresses of witnesses that are requested to be called at the hearing; (ii) identifies and includes copies of any documents that will be used as evidence at the hearing; (iii) describes with specificity the portion of the Discrimination Policy allegedly violated and the grounds for appeal; and (iv) requests a specific remedy. The non-appealing party (appellee) also may submit such information for the Committee's consideration. If the appellee chooses not to participate in the Committee hearing, the Title IX Coordinator will provide to the Committee within five (5) calendar days of notification that the appellee will not participate in the hearing: (i) the written investigative report; (ii) the names and addresses of witnesses the Title IX Coordinator will call at the hearing; and (iii) identification and copies of any documents that will be submitted as evidence at the hearing. If the appellee provides notification less than five (5) calendar days prior to the scheduled hearing that he or she will not participate, the hearing shall be postponed to give the Title IX Coordinator a full five (5) business days to provide the Committee the above information.

The Title IX Coordinator shall provide the written investigation report and all witness information and documents identified pursuant to this subsection to the Committee and to all parties at least three (3) business days prior to the hearing.

- d. Both the appellant and the appellee may retain legal counsel at their own expense or designate a non-attorney advisor to accompany him or her at any meeting or proceeding in the appeal process. If either party has retained legal counsel or a non-attorney advisor, the party must immediately notify the Committee Chair of such representation. The role of counsel or the non-attorney advisor for the parties shall be limited to advice and consultation with the attorney's client and the client's witnesses. Neither counsel/advisor for the appellant nor counsel/advisor for the appellee shall be permitted to question witnesses, raise objections, or make statements or arguments to the Committee at the hearing. If either party is represented by legal counsel, Radford University may be represented at the hearing by assigned legal counsel from the Office of the Attorney General, who will ensure that the rights of Radford University and the parties are respected.
- e. The Chair of the Committee shall preside over the hearing. The hearing will be a non-adversarial proceeding and rules of evidence shall not be strictly applied. However, the Chair of the Committee may limit evidence or testimony that is not relevant to a determination of whether a violation of the Discrimination Policy occurred and whether the grounds for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. Both appellant and appellee, or the Title IX Coordinator or designee if the appellee does not participate, will address the Chair of the Committee and not each other. The Chair will be the final

decision-maker on all matters of procedure during the hearing. All hearings will be closed to the public.

- f. The past sexual history or sexual character of a party to the complaint, complainant or respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the respondent, in the form of previous findings in any Radford University or judicial proceeding will be admissible. The parties will be notified in advance of the hearing if any information addressed by this paragraph is deemed admissible.
- g. Within ten (10) calendar days of the hearing, the Committee will submit a written decision to the parties, the Title IX Coordinator, and the President. The decision shall include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or reject the findings of the Title IX Coordinator and/or the recommended sanction and the rationale for such determination; (iv) if the Title IX Coordinator's findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution.
- h. Within three (3) business days of the Committee's decision, the President shall notify the Committee, the Title IX Coordinator, and the parties, in writing, of his decision relative to the findings and recommendations of the Committee. The decision of the President is final with no further right to appeal.

N. Documentation and record-keeping

The Title IX Coordinator shall maintain, in a confidential manner, for at least ten (10) years paper or electronic files of all complaints, witness statements, documentary evidence, written investigation reports, resolutions, and appeal hearings and associated documents. The Title IX Coordinator will prepare a monthly summary of pending complaints that will be presented to the President and also will be retained for at least ten (10) years. Such summary will contain sufficient information to permit the Title IX Coordinator and the President to assess Radford University compliance with the requirements of Title IX.

O. Training

Individuals who conduct these Discrimination Grievance Procedures (see Section 5), from the initial investigation to the final resolution, will at a minimum receive annual training on issues related to dating violence, domestic violence, sexual assault, sexual exploitation, and stalking, and how to conduct an investigation and appeal process that protects the safety of victims and promotes accountability.

6. EXCLUSIONS

None

7. APPENDICES

None

8. REFERENCES

[Title VII of the Civil Rights Act of 1964](#)

[Title IX of the Educational Amendment Acts of 1972](#)

[U.S. Equal Opportunity Commission - Laws, Regulations, Guidance & MOUs](#)

[Campus Sexual Violence Elimination Act of 2013](#)

[Violence Against Women Reauthorization Act of 2013](#)

[Dear Colleague Letter from the Office of Civil Rights, U.S. Department of Education dated April 4, 2011](#)

[U.S. Department of Education - Family Educational Rights and Privacy Act \(FERPA\)](#)

[Code of Virginia § 2.2-3700 et seq. \(Chapter 37\)](#), “Virginia Freedom of Information Act”

[Code of Virginia § 18.2-61 et seq. \(Article 7\)](#), “Criminal Sexual Assault.”

[Code of Virginia § 19.2-389](#), “Dissemination of criminal history record information.”

[Code of Virginia § 19.2-389.1](#), “Dissemination of juvenile record information.”

[Code of Virginia § 23.1-805](#), “Violence prevention committee; threat assessment team.”

[Code of Virginia § 23.1-806](#), “Reporting of acts of sexual violence.”

[Code of Virginia § 32.1-127.1:03](#), “Health records privacy.”

9. INTERPRETATION

The authority to interpret this policy rests with the President of the University and is generally delegated to the Title IX Coordinator.

10. APPROVAL AND REVISIONS

The President of the University and the President’s Cabinet have approval authority over this policy and all subsequent revisions.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was adopted by the Radford University Board of Visitors on November 21, 2014.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 18, 2015.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 15, 2017.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on May 10, 2019.

For general information concerning University policies, contact the [Office of Policy and Tax Compliance](#) – (540) 831-5794. For questions or guidance on a specific policy, contact the Oversight Department referenced in the policy.