

# Harassment and Discrimination Prevention and Complaint Handling:

## A Guide for Supervisors, Managers, Faculty And Administrators

### Virginia Tech Office for Equal Opportunity

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*Note:* this information is subject to change. Please refer to the OEO website: [www.oeo.vt.edu](http://www.oeo.vt.edu)

### Definitions

#### 1. **Discrimination**

Virginia Tech policies prohibit discrimination or harassment based on any of the following protected characteristics: age, color, disability, gender (including pregnancy), national origin, political affiliation, race, religion, sexual orientation, or veteran status. Discrimination occurs when a person's employment, academic enrollment, student financial aid, or participation in university activities is based on one of these characteristics. There are a very few legal exceptions.

#### 2. **Sexual coercion (quid pro quo sexual harassment)** is unwelcome conduct of a sexual nature or requests for sexual favors when employment or educational decisions are based on submission to, or rejection of, the conduct. Quid pro quo harassment is always sexual, and always involves a power differential. There are many fewer complaints of quid pro quo sexual harassment than hostile environment complaints

“Consensual” relationships—romantic relationships in which one member of the couple is in a position to supervise or evaluate the other person, either in the workplace or the academy. While possibly seeming innocent, they can lead to charges of nepotism, favoritism, or ultimately coercion. It’s important to remove either the reporting/evaluation part of the relationship, or the romantic one, and in any case not have both simultaneously. Under the policy, the faculty member or supervisor, by virtue of his or her special responsibility, will be held accountable, even if both parties have consented to the relationship.

#### 3. **Hostile or Intimidating Environment harassment** refers to unwelcome behavior that unreasonably interferes with work or education. At Virginia Tech, this behavior can be sexual harassment, or be based on the protected characteristics mentioned above. Whether the behavior constitutes harassment depends upon whether a **reasonable** person would find the behavior hostile, threatening or

intimidating. Unlike in *quid pro quo* sexual harassment, hostile environment harassment may involve individuals who are peers, and there need not be a power imbalance for the behavior to be considered harassment.

4. **Respondent:** person engaging in the offensive behavior or speech.
5. **Complainant:** person experiencing the offensive behavior or speech.

### **Impact vs. Intent**

Intent is not relevant in determining whether behavior is found to be harassment. What matters is the impact of the behavior on others. The statement, "I didn't mean anything by it," or "I was just kidding" is **not** a valid defense of harassing behavior.

The definitions of harassment refer to whether behavior is "welcome". Whether or not behavior is welcome depends upon the perception of the complainant, not the intent of the respondent. People need to be aware that individuals often misread what they believe the other person is thinking or feeling.

### **The "Reasonable Person" standard**

Different people react to behaviors in different ways. For the purposes of the policy, behavior is judged as if perceived by a "reasonable person" in similar circumstances.

### **Options Available for Those with Harassment or Discrimination Concerns**

Everyone should expect to be treated with respect, fairness, and dignity. When people feel that they have been disrespected, treated unfairly, or in a way that violates their dignity, the behavior may or may not be a violation of the harassment policy, but individuals do have choices in seeking to resolve the situation, either informal resolution or formal actions.

### **Informal Resolution**

Ideally, a complainant (the person with the problem) should:

1. If possible, speak to the respondent (the person with whom the complainant has the problem) privately and quietly, or
2. Get help when necessary, seeking assistance from resources such as:
  - Her or his supervisor
  - Human resources
  - An RA
  - A faculty member
  - An administrator such as a department head or dean
  - The Virginia Tech Women's Center
  - The Employee Assistance Program (faculty/staff)
  - Dean of Students
  - Cook Counseling Center (students)

Or the complainant can contact the Office for Equal Opportunity. OEO not only accepts formal complaints, but often can help with information resolution such as:

- Coaching the complainant in addressing the issue him or herself, if the complainant is comfortable doing so.
- Conducting education/training for the entire department

- Mediation or other conflict resolution approaches.

- Speaking to the respondent on the complainant’s behalf

Informal resolution, where appropriate, can be an excellent way to deal with these types of issues. Some advantages of informal resolution are that these approaches are often

- Less disruptive to the work or learning environment
- Less time-consuming
- More able to afford privacy to the parties
- Less risky for the complainant
- Ways to give the parties more control over outcome (with exceptions)

- More likely to allow parties to work together or associate in future.
- Successful at providing win/win solutions
- Good ways to develop skills for future dispute resolution.

But the person might not address the problem or get help in doing so. Here are some of the many powerful reasons that can stand in a person’s way:

**Fear of:**

- |                                     |  |
|-------------------------------------|--|
| ○ retaliation                       | ○ making an enemy                                      |
| ○ being seen as a trouble-maker     | ○ ridicule   |
| ○ being viewed as too sensitive     | ○ being seen as not able to make it in a "man's world" |
| ○ getting the respondent in trouble | ○ hostility  |
| ○ getting in trouble                | ○ being outnumbered                                    |
| ○ having misjudged the situation    | ○ not being believed                                   |
| ○ seeming disloyal                  | ○ losing a friend                                      |
| ○ hurting someone's feelings        | ○ being seen as lacking a sense of humor               |
|                                     | ○ creating conflict                                    |
|                                     | ○ anger  |

**Other Common Factors:**

- |  |   |
|--|---|
| ○ embarrassment.                                   | ○ not knowing whether he/she will be supported        |
| ○ need to fit in                                   | ○ friendship or romantic relationship with respondent |
| ○ confusion  | ○ racial differences                                  |
| ○ uncertainty whether behavior is worth mentioning | ○ cultural factors                                    |
| ○ communication styles                             | ○ belief that the institution tolerates behavior.     |
| ○ not knowing what will happen                     | ○ power imbalance                                     |
| ○ bad previous experiences                         | ○ intimidation  |
| ○ parent, partner or other getting involved        |   |

**Formal options are sometimes the appropriate choice, especially if behavior is repeated or severe, or if the complainant does not feel comfortable with informal approaches. Some examples of formal options are:**

- Formal investigation by OEO and, if warranted, disciplinary action
- Formal complaint to OEO
- The Grievance Procedure
- Judicial Referral (when respondent is a student)

- Federal EEOC/ State Human Rights
- State Office of Equal Employment Services
- Calling the police
- Filing a lawsuit

## Nine Principles For Handling Harassment Or Discrimination

- 1. The Office for Equal Opportunity should be contacted immediately with harassment and discrimination concerns, and are responsible for investigation of complaints.** In order to help ensure consistent handling of harassment and discrimination matters throughout the institution, OEO should be consulted when such issues arise. In addition OEO will conduct the investigation in those situations where doing so is necessary.

We ask that administrators, supervisors or human resources staff err on the side of safety, and contact OEO even if they are not sure whether a situation involves conduct covered by the policy.

### *Communication methods*

If at all possible, people who are handling these situations should use the phone or meet face-to-face, whether with OEO staff or with the parties. It is best to avoid discussing confidential and/or sensitive matters by email.

- 2. Doing nothing is always the wrong thing, and time is of the essence**

All harassment and discrimination concerns must be addressed promptly, without waiting for a formal or written complaint. This does not mean handling all incidents at the same level, or overreacting to minor problems, but dealing with problems effectively and appropriately. Human Resources, the departmental human resources person, and/or OEO should be contacted regarding what to do.

- 3. Treat all complaints seriously, no matter how improbable or trivial an allegation may seem to be, or what motivation may have seem to have prompted the claim.** It is a major error to assume that a complaint has no merit or is unimportant, and fail to do anything about it. OEO and human resources staff are available to help determine what response is necessary for a given situation and what disposition is consistent with institutional practice.

When someone reveals a concern, it is important not to judge the person's credibility or question the appropriateness of his or her actions. This is not the time for conjecture about whether the person is telling the truth, or whether he or she might have prevented the behavior in question. In addition, we prefer that supervisors avoid offering an opinion about whether the policy has been violated, even if it seems obvious that the behavior is or is not harassment.

- 4. Respect the parties' privacy, but do not promise confidentiality** While it is important to respect the privacy of the individuals involved, it may not be possible to keep certain information confidential if a situation is serious enough to warrant further action. As an agent of Virginia Tech, once a supervisor, faculty member or administrator becomes aware of a situation, the institution is legally considered to be aware of it as well, and is "on notice". It should be explained to the parties, however, that information will be shared, if at all, only on a need-to-know basis.

It may be possible to withhold the name of the complainant from the respondent. If the respondent is told of the complaint, however, he or she will need to be given enough information to be able to understand what conduct is being complained of. While the respondent may be able to guess who has complained, it is actually worse for the respondent to have too little information.

**5. Be aware that the complainant’s wishes do not control how a case is handled.** While it is important to know what the complainant wants to happen, and his or her wishes are always taken into account, those preferences do not determine how the case will be handled. He or she may want the institution to do more—or less—than what is ultimately determined to be appropriate for the circumstances. If a matter is serious enough, the institution is compelled to address the situation even if the complainant directs us not to do so. For example, a complainant may ask that “nothing be done,” but if doing so allows harassment to continue, or if the behavior is egregious, we cannot accommodate that request. On the other hand, a complainant will sometimes demand that the respondent be fired or severely disciplined for conduct that the institution does not believe merits that level of corrective action; it is the department’s judgment that determines the outcome, even if the complainant is not happy with the result.

**6. Guard against retaliation.**

Assure the complainant that retaliation is prohibited under the policy and warn the respondent of this same principle. Ascertain whether the complainant has any concerns that there will be negative consequences for airing the complaint, and ask him or her to inform you if retaliation occurs.

Make clear to the respondent the prohibition against retaliation. He or she should also be made aware that attempts to determine who had complained, or to contact the complainant to apologize, explain, or discuss the allegations could be viewed as retaliatory as well. If interaction between the parties is necessary, discussion should be limited to work-related matters.

Neither party should be penalized or discouraged from using any of the resources available to them, such as

- Bringing a complaint/grievance
- Consulting with other offices
- Complaining to outside agencies
- Referring the issue to Judicial Affairs
- Contacting the police
- Consulting a lawyer or filing a lawsuit

*Note for supervisors:* be aware that because of recent law, a greater range of employment actions are now considered to affect adversely an employee who has made a complaint. Employment actions that a supervisor makes may be found to be materially adverse, and therefore retaliatory, if they would dissuade a reasonable worker from making or supporting a charge of discrimination. Be sure to consult with human resources personnel about this issue.

**7. Actively protect the safety and well-being of both parties.**

As a rule, parties on all sides experience great distress in harassment matters. It is advisable routinely to provide both parties with information about Virginia Tech support services, including the Employee Assistance Program, [www.hr.vt.edu/employeescorner/eap/](http://www.hr.vt.edu/employeescorner/eap/) (available to faculty and staff on Tech’s health plan) or Cook Counseling, [www.ucc.vt.edu/](http://www.ucc.vt.edu/) available to students, and the Virginia Tech Women’s Center [www.womenscenter.vt.edu/](http://www.womenscenter.vt.edu/) If the situation might involve a criminal matter such as an assault or a hate crime, be sure to advise either party that he or she has a right to contact Virginia Tech police or local police agencies. In addition, take the initiative to speak to Virginia Tech Police and/or human resources if safety might be an issue.

Consult with Human Resources about the appropriateness of using measures such as annual leave or

paid suspension for either or both parties if doing so might be indicated.

Both parties should be given information about available resources, (for example, that found at: [www.hr.vt.edu/employeecorner/](http://www.hr.vt.edu/employeecorner/) , including a copy of the Antiharassment Policy, which may be viewed at [www.policies.vt.edu/1025.pdf](http://www.policies.vt.edu/1025.pdf) .

**8. Carefully document all actions and communications.**

Keep detailed documentation, taking careful notes about communications and other events.

**9. Corrective action must be appropriate**

After OEO has been consulted, any steps taken to correct the situation should be at the lowest level appropriate to the circumstances. Decisions about disciplinary action should be made in consultation with human resources staff and/or the Provost’s Office.

The possible range of resolutions is broad, and includes actions such as

- Coaching/support of subordinates in addressing the behavior themselves;
- General education or training;
- Mediation, if appropriate;
- Reprimand;
- Discipline, up to and including termination.

**Students:**

If the respondent is a student, incidents of harassment should be reported to the Dean of Students Office and/or the Office of Judicial Affairs. Where the incident involves a violation of the Student Code of Conduct, the case can be handled through the student judicial process; otherwise, the issues may be addressed through educational interventions or informal negotiation. If appropriate, the Office of Judicial Affairs will provide an opportunity for a hearing. In the event of a formal action, the respondent will be notified of the charge and given an opportunity to respond to any charges in a fair and impartial setting.

**Special note on sexual harassment of students**

We have a particular responsibility to protect students from sexual harassment. The institution is legally considered to be on notice of harassment if any responsible employee knew, or in the exercise of reasonable care should have known, about the harassment. A “responsible employee” is any employee whom a student could reasonably believe has the authority or responsibility to take action on or report the harassment. Therefore, it is important that any employee who becomes aware of sexual harassment of a student report the situation to the appropriate person.

For more information, see the U.S. Department of Education Revised Sexual Harassment Guidance at [www.ed.gov/offices/OCR/archives/pdf/shguide.pdf](http://www.ed.gov/offices/OCR/archives/pdf/shguide.pdf)

**What Can be Harassment**

Some examples of behaviors that, if unwelcome and severe, repeated, or pervasive could lead to charges of harassment and possibly be considered policy violations appear below. One-time behavior seldom qualifies as harassment, but the best practice is to address the behavior very early, before it becomes repeated or severe.

- Messages, hugs, and other touching;
- Screen savers or other images displayed on computers;
- Personal comments, especially about someone’s body or appearance;
- Certain items displayed in the workplace;
- Joking that has sexual overtones or denigrate a group of people;
- Flirting
- Phone calls, emails, IMs, visits or unwanted personal attention.

This is not an exhaustive list. Other factors that affect whether harassment will be found include the age difference between the parties, issues of a difference in power, and whether there are others in the vicinity.

As mentioned above, the intent of the respondent is not a factor in determining whether the policy has been violated, but may be taken into account in choosing the appropriate level of corrective action.

**How to avoid creating perceptions of harassment or discrimination**

The following guidelines can be helpful to those in a work area:

- Respect people in the workplace and the academy. Being disrespected is the single most common reason for people to file complaints, whether or not there is a policy violation;
- Try to imagine how others might feel,
- Think twice before making any joke,
- Be aware that welcomeness can change. For example, someone may find a joke to be funny the first few times, but object strongly to it after a while.
- Treat staff, colleagues and students with respect and dignity. Avoid embarrassing people;
- Insist that people treat each other with respect, in your area or others;
- Get help promptly from human resources or a supervisor/administrator if there is an employee with performance problems;
- Maintain a professional relationship with people in the workplace. Avoid talking about personal issues—yours or theirs—even if they bring it up. When in doubt, change the subject. Faculty or managers who feel that they need to help should make good use of Virginia Tech's counseling programs such as Cook counseling or the Employee Assistance Program;
- Be conscious of how guidance is provided; overenthusiastic mentoring can sometimes be seen as intrusive or even harassing;

Consider:

- Whether a spouse, parent, child, sibling or friend would want to be treated this way;
- Whether we would want our spouse, parent, child, sibling or friend to see our behavior;
- How it would look if it were published in the newspaper;
- If behavior might offend or hurt other members of the group;
- If someone could misinterpret the behavior as harmful or harassing.

Continue to set and model standards of behavior when on VT business—even off campus, in the field, at conferences, and overseas. There is no “300 mile limit” beyond which anything goes.

**The best rule of thumb is---when in doubt, don’t.** (Adapted in part from material by New Media Learning, LLC and other sources.)

## **OEO Services**

### **1. Training and education**

Education is at the heart of an effective harassment prevention program. We encourage all administrators and managers to have us speak to their areas on a routine basis, before any problems occur. At the very least, each person in the department or unit should be given information on the *Antidiscrimination and Harassment Policy* when they first come to Virginia Tech, and on an annual basis thereafter.

We can provide education on the harassment policy or on conflict resolution in a way that is appropriate for any faculty or staff population. Our presentations are designed to be practical, helpful, candid, and interactive. We have created different formats and materials for diverse populations such as faculty members, managers, service employees, students, or administrators—and we will work with departments to plan education that is right for the needs of a particular area.

In addition, OEO provides online training at [training.newmedialearning.com/top\\_level/vatech\\_choice.htm](http://training.newmedialearning.com/top_level/vatech_choice.htm) ; managers and employees can participate in this training at no charge to the department, and their completion will automatically be recorded.

Our goal is to furnish regular education on the anti harassment policy to all segments of the Virginia Tech community. If we have not recently provided education or training in an area, please contact our office at 540/231-7500, and we will schedule presentations. If need be, we can be flexible in arranging schedules or locations to suit departmental or individual needs.

### **2. Consultation**

We are always pleased to hear from people—no question is too small. Please give us a call at 540/231-7500 with any questions about possible harassment, discrimination, or conflict issues, and we will do our best to help.

### **3. Employee resources**

We will meet with any employees who have questions about harassment, discrimination, or conflict issues. Respondents as well as complainants have often found it helpful to speak with us, and we will strictly respect an individual's privacy to the extent that we are able to do so.

### **4. Conflict Resolution**

Conflict resolution approaches are often the most effective way to resolve interpersonal problems. OEO can provide coaching, mediation, facilitation, and other conflict resolution services where it is appropriate to use them. There are experienced mediators on the OEO staff, and the Office maintains a list of trained mediators in the VT campus community.

## Questions

Q: Can women violate the policy by harassing men?

A: Yes. The policy can be violated by women harassing men, and by people harassing individuals of the same sex.

Q: Are there many false accusations of harassment?

A: No—contrary to what many people believe, false accusations are rare.

Q: Does the conduct or verbal behavior need to be sexual for it to be a violation of the policy?

A: No—Virginia Tech’s policy includes a number of protected classes, and behavior based on any of those characteristics that interferes significantly with a person’s work or education could be harassment

Q: Does Virginia Tech include sexual orientation as a protected characteristic?

A: Yes, Virginia Tech policies prohibit harassment or discrimination on the basis of sexual orientation.

Q: Does there need to be a difference in power between the parties, such as between a manager and an employee for there to be harassment?

A: No, harassment can occur between coworkers or between students at the same level.

Q: Does the Virginia Tech University harassment policy apply to each of the individual colleges and departments? To Northern Virginia, to Extension, and outlying sites?

A: Yes, this policy applies to all Virginia Tech entities and to all individuals enrolled or working at Virginia Tech.

Q: Where can I find the harassment policy?

A: For faculty, see the *Faculty Handbook*, provisions 2.7 Professional Responsibilities and Conduct; 2.7.1 Statement of Principles of Ethical Behavior, and 2.7.5 Policy on Anti-Discrimination and Harassment Prevention. The complete policy can be found on the OEO website, at [www.oeo.vt.edu/site/v4/uploads/media/Policy\\_1025\\_Final.pdf](http://www.oeo.vt.edu/site/v4/uploads/media/Policy_1025_Final.pdf) and below:

## **Anti-Discrimination and Harassment Prevention Policy**

No. 1025

Subject: Anti-Discrimination and Harassment Prevention Policy

Rev. 3

Virginia Polytechnic Institute and State University

Policy and Procedures

Date: 8/29/05

### **1.0 Purpose**

Virginia Tech does not tolerate discrimination or harassment on the basis of age, color, disability, gender, national origin, political affiliation, race, religion, sexual orientation or veteran status. Such behavior is inconsistent with the University's commitments to excellence and to a community in which mutual respect is a core value as articulated in the Virginia Tech Principles of Community. The prohibition against discrimination and harassment applies to all levels and areas of University operations and programs, to students, administrators, faculty, staff, volunteers, vendors and contractors.

Virginia Tech is also committed to the free and vigorous discussion of ideas and issues. This policy does not allow curtailment or censorship of constitutionally protected expression, nor does it attempt to address behaviors that do not constitute discrimination or harassment. Offensive behavior that does not violate this policy should be addressed by the appropriate supervisor or administrator.

### **2.0 Policy**

#### **2.1 Prohibited Acts**

##### **1. Discrimination/Harassment**

Discrimination/ Harassment includes the following behaviors:

- A. Conduct that conditions any element of a person's employment, enrollment as a student, receipt of student financial aid, or participation in university activities on that person's age, color, disability, gender (including pregnancy), national origin, political affiliation, race, religion, sexual orientation, or veteran status, unless otherwise permitted or required by applicable law;
- B. Conduct of any type (oral, written, graphic, electronic or physical) based upon a person's age, color, disability, gender (including pregnancy), national origin, political affiliation, race, religion, sexual orientation, or veteran status and which unreasonably interferes with the person's work or academic performance or participation in University activities, or creates a working or

learning environment that a reasonable person would find hostile, threatening or

intimidating;

- C. Conduct consisting of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or education; or submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual.

## **2. Retaliation**

It is a violation of this policy to retaliate against any party for participating in a discrimination/harassment investigation ("protected activity"). Retaliation includes any adverse treatment which is reasonably likely to deter the complainant or others from filing a charge of discrimination/harassment or participating in a discrimination/harassment investigation. Retaliation can be verbal, written, graphic, electronic or physical.

## **3. Knowingly Filing False Complaints**

Knowingly filing a false complaint of discrimination/harassment or of retaliation is a violation of this policy. Such conduct may be pursued using the steps followed for a complaint of discrimination/harassment, and if found to have occurred will result in disciplinary action that may include termination or expulsion.

## **4. Intentional Breaches of Confidentiality**

All participants in the discrimination/harassment complaint resolution process described below, including the complainant and respondent, witnesses and any other parties shall respect the confidentiality of the proceedings. Breaches of confidentiality jeopardize effective functioning of internal complaint resolution. Participants are authorized to discuss the case only with those persons whose university duties entail a clear and genuine need to know.

A complaint alleging an intentional breach of confidentiality may be pursued using the procedures set forth in Sections 5.3.and 5.4 below. Such a breach may also constitute an act of retaliation. Further, a breach of confidentiality may void the outcome of any previously agreed-upon resolution to a complaint.

## **2.2 Consensual Relationships**

It should be understood by all members of the university community that consensual amorous or sexual relationships (hereinafter referred to as consensual relationships) that occur in the context of educational or employment supervision and evaluation present serious ethical concerns. Consensual relationships between faculty and students enrolled in their classes or students for whom they have professional responsibility as advisor or supervisor violate the policy on Professional Ethics and Responsibilities and may be a violation of this discrimination/harassment policy. Similarly, consensual relationships between supervisors and employees they directly supervise violate University policy. Faculty members or others performing instructional or academic advising duties and supervisors involved in consensual relationships must remove themselves from any activity or evaluation that may reward or

penalize the affected student or employee.

Consensual relationships between faculty and students are particularly susceptible to exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and future employment, make voluntary consent by the student suspect, given the fundamentally asymmetric nature of the relationship.

Faculty and supervisors should be aware that conducting consensual relationships with students or employees they supervise makes them liable for formal action. Even when both parties have consented to the development of such a relationship, it is the faculty member or supervisor who, by virtue of his or her special responsibility, will be held accountable for unprofessional behavior. Complaints alleging discrimination/harassment, as defined above, may be filed by either party to the consensual relationship or by an aggrieved party outside the relationship.

### **3.0 Responsibilities of Those Experiencing Discrimination/Harassment**

Anyone who believes they have been subject to or have observed instances of discrimination/harassment should take one or more of the following steps:

1. create a detailed record of the offending behavior, and any response thereto.
2. ask the perpetrator to cease the offending behavior;
3. seek the assistance of a supervisor, faculty member or university administrator; and/or
4. contact the Office for Equal Opportunity. (See Sections 5.3 and 5.4 below.)

It bears emphasis that the complainant is not required to confront or complain to the discriminating/harassing party. He or she may instead pursue steps 3 and/or 4 above.

## **4.0 Responsibilities of Administrators, Supervisors and Faculty**

University administrators, supervisors, faculty members and others performing instructional or academic advising duties have an added responsibility to create and maintain a work and learning environment free of discrimination/harassment.

If an administrator, supervisor or faculty member becomes aware of an incident that might reasonably be construed as constituting discrimination/harassment, he/she must take immediate steps to address the matter. In such cases, the administrator, supervisor or faculty member should promptly contact the Office for Equal Opportunity in order to coordinate any further action which may be necessary.

Administrators, supervisors and faculty members have a legal obligation to act whenever they learn--either directly or indirectly--about discrimination/ harassment. This obligation exists even if the complainant requests that no action be taken. It is not the responsibility of the complainant to correct the situation.

Administrators, supervisors and faculty members have the legal responsibility to protect a complainant from continued discrimination, harassment or retaliation. They must also protect persons accused of discrimination/harassment from potential damage by false allegations. Administrators and supervisors will be held accountable for dealing with and taking necessary steps to prevent discrimination/harassment.

Administrators and supervisors are responsible for informing their employees and students of this policy.

## **5.0 Procedures**

### **5.1 Introduction**

This Policy reflects the University's commitment to maintain a community that is free from discrimination/harassment. Virginia Tech has designed procedures for prompt internal resolution of discrimination/harassment complaints that arise within the University community. The University expects that the use of these procedures will facilitate a prompt resolution of such complaints, but the assistance of faculty, staff and students is critical to helping the University learn of and address problem behavior. Every member of the university community has the right to a civil and productive work and learning environment; and has the responsibility to maintain the highest standards to accomplish this goal.

## **5.2 Scope**

These procedures apply to prohibited acts (defined above) performed by any employee, volunteer, vendor, or contractor of Virginia Tech.

Discrimination/harassment allegedly perpetrated by an undergraduate or a graduate student who is not acting in the capacity of a university employee, volunteer, vendor or contractor falls within the jurisdiction of the Office of Judicial Affairs regardless of the status of the complainant (i.e. student, faculty, or staff). The Office of Judicial Affairs will address the complaint in accordance with procedures described in University Policies for Student Life.

## **5.3 Informal Resolution**

Once the Office for Equal Opportunity receives information suggesting a reasonable possibility that discrimination/harassment has occurred, it will arrange a meeting with the complainant further to review the information, applicability of the policy, and available options. For an individual who does not wish to file a formal complaint, but who nevertheless wishes to put an end to conduct they believe to violate this policy, the following options are available:

1. with the advice and assistance of the Office for Equal Opportunity as requested, the complainant may write to or meet with the accused, discuss the situation and make it clear that the behavior is unwelcome; or
2. a representative of the Office for Equal Opportunity may discuss the alleged conduct with the charged party, review this policy with him or her, and seek an explicit commitment to comply with the requirements stated therein. A complainant may request that, if practical, such a conversation be held without revealing his or her identity directly to the charged party. Action taken by the Office for Equal Opportunity under this provision shall not constitute a finding of discrimination/harassment.
3. the Office for Equal Opportunity can consult with appropriate supervisors to explore options for informal resolution including training and education.

All records relating to an informal investigation will be retained in the Office for Equal Opportunity for a period consistent with applicable federal and state law and in accordance with university records management policy, after which the records will be destroyed.

## **5.4 Formal Resolution**

A formal complaint includes a written description of the facts and circumstances allegedly constituting discrimination/harassment signed by the complainant and filed with the Office for Equal Opportunity. A formal complaint must be made

within 300 days of the alleged discrimination/harassment. Promptly after a written complaint is filed, the Office for Equal Opportunity will provide written notification to the accused (“respondent”) of the allegations and the identity of the complainant. The respondent also will be furnished with a copy of the written charge and will have an opportunity to respond to the allegations contained therein. The respondent’s immediate supervisor will receive a copy of the written notification. An accused student may wish to consult a faculty mentor in responding to the complaint. After the notification described above, the Office of Equal Opportunity will conduct any additional investigation which may be necessary.

The investigation is expected to lead to one of the following possible outcomes:

1. The Office for Equal Opportunity finds insufficient facts to support the charge;
2. The Office for Equal Opportunity finds facts to support the charge, reaches a negotiated resolution satisfactory to the parties, and does not recommend further action; or
3. The Office for Equal Opportunity finds facts to support the charge and recommends further action.

Upon completion of the investigation, the Office for Equal Opportunity will submit to the President a report including findings of fact and any recommended action. Disciplinary action shall reflect the status of the accused, the severity and pervasiveness of the conduct, the apparent intent of the accused, and other relevant factors in the case. Copies of the report will be provided to the complainant, the respondent, the respondent’s immediate supervisor, the Dean, Director and /or Department Head as appropriate, and the Provost or Executive Vice President as appropriate.

## **5.5 Appeal**

In the event that either the complainant or the respondent disagree with or object to the Office for Equal Opportunity’s findings and recommendations rendered pursuant to section 5.4 above, the following options are available:

1. Complainants may pursue the appropriate remedy set forth in Paragraph 5.6 below.
2. Classified staff respondents, including those performing instructional or academic advising duties, may pursue their grievance rights as set forth in the State Employee Grievance Procedure.
3. Faculty respondents and others performing instructional or academic advising duties within fourteen days of receipt of the findings of fact and/or

recommended action, may request review of the Office for Equal Opportunity’s findings and recommendations by the Provost or Executive Vice President as appropriate. The Provost or Executive Vice President will appoint a three-member panel and designate one of the members as chair. Members of the panel will be selected from among the General Faculty in consultation with the President of the Faculty Senate or the Chair of the Commission on Administrative and Professional Faculty as appropriate. The Director of the Office for Equal

Opportunity will participate in all meetings of the panel and serve as a non-voting advisor to the panel. If the appellant respondent is a student, the Provost will appoint a representative from the Graduate School or Student Affairs as a non-voting member. The panel will determine whether there existed in the available evidence of record a reasonable basis for Office for Equal Opportunity's findings and recommendations. The panel will report its determination to the Provost or Executive Vice President for further action as warranted.

Records of the investigation will be retained by the Office for Equal Opportunity for a period consistent with federal and state law and in accordance with university records management policy, after which the records will be destroyed.

A complainant found to have made intentionally false allegations of discrimination/harassment is subject to University discipline. (See Section 2.1(3) above.)

### **5.6 Supplemental/Alternative Avenues for Formal Complaints**

In addition to, or in lieu of the procedures set forth above:

1. Students may file formal complaints with the Office for Civil Rights of the U.S. Department of Education.
2. Faculty may file a charge with the federal Equal Employment Opportunity Commission and/or the Virginia Council on Human Rights within 300 days of the incident.
3. The following options are available to staff:
  - A. Non-probationary classified staff may file a grievance within 30 days of the offense as outlined in the Grievance Procedure for State Employees; or
  - B. Salaried and wage staff may file a complaint using the Discrimination Complaint Procedure administered by the Office of Equal Employment Services in the state's Department of Human Resource Management.

- C. Salaried and wage staff may file a complaint with the federal Equal Employment Opportunity Commission or the Virginia Council on Human Rights within 300 days of the alleged discrimination/harassment.

Additional information regarding any of the procedures outlined above may be obtained from the Office for Equal Opportunity.

Additional assistance and support may be obtained from the Office of the Provost (faculty), the Office of Personnel Services (classified staff), The Women's Center, the Graduate School (graduate students), Cook Counseling Center (students), or the Office of Judicial Affairs (students).

## **6.0 References**

Virginia Department of Human Resources Management Policy 1.60 Standards of Conduct  
Virginia Department of Human Resource Management Policy 2.05, Equal Employment Opportunity  
Virginia Department of Human Resource Management Policy 2.30 Workplace Harassment  
Department of Employment Dispute Resolution Grievance Procedure Manual  
Virginia Tech Policy 4075 Accommodation of Employees with Disabilities  
Virginia Tech Faculty Handbook  
Virginia Tech Research Faculty Handbook  
Virginia Tech Classified Employee Handbook  
Building Graduate Community: Expectations for Graduate Study (Graduate School publication)  
Virginia Tech Principles of Community

## **7.0 Approvals and Revisions**

- Revision 1  
Revised by Commission on Faculty Affairs, December 17, 1990, the Faculty Senate, January 8, 1991, and the EO/AA Committee on January 8, 1991, with further revisions, February 12, 1991.

Approved March 4, 1991 by University Council.

- Revision 2  
Revised by the EO/AA Committee, March 29, 1994; approved by Commission on Faculty Affairs, May 13, 1994.

Approved October 3, 1994 by University Council.

- Revision 3  
Revised by the Commission on Equal Opportunity and Diversity, March 28, 2005.

Approved by University Council, May 2, 2005

Approved by the Board of Visitors, August 29, 2005

## RESOURCES

### For all members of the VT Community

*Office for Equal Opportunity*  
[www.oeo.vt.edu](http://www.oeo.vt.edu)

*VT Police*  
[www.police.vt.edu/](http://www.police.vt.edu/)

*Cyberstalking*  
[www.haltabuse.org/](http://www.haltabuse.org/)

*Violence*  
[www.stopabuse.vt.edu](http://www.stopabuse.vt.edu)

*Virginia Tech Principles of Community*  
[www.multicultural.vt.edu/pdf/](http://www.multicultural.vt.edu/pdf/)

*Women's Center*  
[www.womenscenter.vt.edu/](http://www.womenscenter.vt.edu/)

*SafeWatch*  
[www.safewatch.vt.edu/](http://www.safewatch.vt.edu/)

*Cranwell International Center*  
(International students & employees)  
[www.uusa.vt.edu/cranwell/](http://www.uusa.vt.edu/cranwell/)

### Students

*Cook Counseling Center*  
[www.ucc.vt.edu/](http://www.ucc.vt.edu/)

*Services for Students with Disabilities*  
[www.ssd.vt.edu/](http://www.ssd.vt.edu/)

*Schiffert Health Center*  
[www.healthcenter.vt.edu/](http://www.healthcenter.vt.edu/)

*Dean of Students*  
[www.dos.vt.edu/](http://www.dos.vt.edu/)

*Judicial Affairs*  
[www.judicial.vt.edu/committee.php](http://www.judicial.vt.edu/committee.php)

*Student Legal Services*  
[www.legal.sga.vt.edu/](http://www.legal.sga.vt.edu/)

### Faculty/Staff

*Human Resources*  
(Staff Issues)  
[www.hr.vt.edu/](http://www.hr.vt.edu/)

*Fraud, Waste, and Abuse Hotline*  
(anonymous reporting)  
[www.doa.virginia.gov/procedures/DSIA/Fraud and Abuse Hotline.htm](http://www.doa.virginia.gov/procedures/DSIA/Fraud_and_Abuse_Hotline.htm)

*Employee Assistance Program*  
(four free counseling sessions for those with VT health insurance)  
[www.hr.vt.edu/employeecorner/eap/](http://www.hr.vt.edu/employeecorner/eap/)

*ADA Coordinator (Disabilities)*  
[www.hr.vt.edu/employeecorner/adainfo/#achieve](http://www.hr.vt.edu/employeecorner/adainfo/#achieve)

*Faculty Committee on Reconciliation*  
(particularly for disputes with administrators or immediate supervisors)  
[www.facultysenate.vt.edu/Reconciliation.html](http://www.facultysenate.vt.edu/Reconciliation.html)

### LGBTQ issues (Lesbian, Gay, Bisexual, Transgender and Questioning)

*LGBT Alliance (undergraduates)*  
[www.lgbta.org.vt.edu/](http://www.lgbta.org.vt.edu/)

*Safe Zone (allies of LGBT)*  
[www.vtlgbtcaucus.org/safezone.html](http://www.vtlgbtcaucus.org/safezone.html)

*LGBT Caucus*  
(staff, faculty & graduate students)  
[www.vtlgbtcaucus.org/](http://www.vtlgbtcaucus.org/)

## State Resources

Commonwealth of Virginia listing of state agencies:

[www.virginia.gov/cmsportal/government\\_881/state\\_1089/index.html](http://www.virginia.gov/cmsportal/government_881/state_1089/index.html) , including

- Human Rights Council: [chr.vipnet.org/](http://chr.vipnet.org/)
- Department of Human Resource Management (classified employees):  
[www.dhrm.virginia.gov/employeerelations.html](http://www.dhrm.virginia.gov/employeerelations.html)
- Department of Employment Dispute Resolution: [www.edr.state.va.us/](http://www.edr.state.va.us/)

## Statutory Framework

*Civil Rights Act of 1964*

[usinfo.state.gov/usa/infousa/laws/majorlaw/civilr19.htm](http://usinfo.state.gov/usa/infousa/laws/majorlaw/civilr19.htm)

*Equal Pay Act of 1963*

[www.eeoc.gov/policy/epa.html](http://www.eeoc.gov/policy/epa.html)

*Age Discrimination in Employment Act of 1967*

[www.eeoc.gov/policy/adea.html](http://www.eeoc.gov/policy/adea.html)

*The Americans with Disabilities Act of 1990*

[www.eeoc.gov/policy/ada.html](http://www.eeoc.gov/policy/ada.html)

*Civil Rights Act of 1991*

[www.eeoc.gov/policy/cra91.html](http://www.eeoc.gov/policy/cra91.html)

## Federal Agencies

*Equal Employment Opportunity Commission*

[www.eeoc.gov/](http://www.eeoc.gov/)

*US Department of Labor, Office of Federal  
Contracts Compliance*

[www.dol.gov/esa/media/reports/ofccp/equalpay](http://www.dol.gov/esa/media/reports/ofccp/equalpay)

*US Department of Education-Office for Civil  
Rights*

[www.ed.gov/about/offices/list/ocr/index.html?sr=c=mr](http://www.ed.gov/about/offices/list/ocr/index.html?sr=c=mr)

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