

**The Lutheran University Association, Inc.,
d/b/a Valparaiso University**

**Nondiscrimination, Harassment, and Sexual Misconduct Policy: Notice of
Nondiscrimination, Reporting Procedures, and Complaint Process**

I. NONDISCRIMINATION AND HARASSMENT POLICY STATEMENT

It is the policy of Valparaiso University that no person shall on the grounds of race, color, gender, age, disability, veteran status, religion,¹ national origin, or sexual orientation be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment or in any educational program or activity of the University. The prohibited discrimination also includes discrimination based on pregnancy. To that end, and in compliance with federal and state laws, the University prohibits any member of the faculty, staff, administration, student body, or visitors to campus, whether they are guests, patrons, independent contractors, or clients, from discriminating against any other such person or member of the University community in violation of this Policy. A person may also file a complaint of discrimination with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html, or calling 1-800-421-3481. The U.S. Department of Education Office of Civil Rights is also located at: Lyndon Baines Johnson Department of Education Bldg., 400 Maryland Avenue, SW Washington, DC 20202-1100.

Valparaiso University also prohibits harassment, and may consider it a form of discrimination, as set forth above, if it is unwelcome and sufficiently severe or pervasive so as to substantially interfere with a person's work, education, participation in a University activity, or purpose for being on campus, or is otherwise considered discrimination in violation of the law. Harassment prohibited by this Policy may include, but is not limited to, threats, physical contact, violence, pranks, jokes, derogatory comments, vandalism, or verbal, graphic, or written conduct directed at an individual or individuals because of their race, color, sex, age, disability, veteran status, religion, national origin, sexual orientation, or gender identity. Even if actions are not directed at specific persons, a hostile environment may be created when the conduct is sufficiently severe, pervasive or persistent so as to unreasonably interfere with or limit the ability of an individual to work, study, participate in activities of the university, or achieve their purpose for being on campus. Furthermore, off campus incidents or incidents at non-University activities may be considered when determining the severity, pervasiveness, or persistence of the conduct that gives rise to hostility or harassment.

Certain "responsible employees" have a duty to promptly report when the responsible employee knows or reasonably should know of a possible discrimination, harassment, or sexual misconduct. Responsible employees are those (1) who have the authority to take action to redress sexual misconduct; (2) who have been given the duty of reporting incidents of sexual misconduct such as

¹ An institution committed to its Lutheran tradition, the University reserves its right to promote the teachings of the church and to exercise preferences in admissions and employment-related practices in favor of Lutherans.

sexual violence, sexual harassment, domestic violence, dating violence, stalking, or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or (3) who could reasonably be believed to have this authority or duty. Responsible employees include, but are not limited to, the following: faculty, adjunct faculty, administrators, department chairs, Discrimination Complaint Advisors (DCAs), resident assistants (RAs), and resident life and student affairs staff. Responsible employees must promptly report incidents of discrimination, harassment, and sexual misconduct to the Title IX Coordinator. Furthermore, Indiana law requires that anyone who has reason to believe a minor (17 years of age or less) has been sexually assaulted immediately report the matter to the Valparaiso University Police Department or other local law enforcement.

This Policy, and its procedures and processes, are administered by numerous University employees as mentioned throughout. All involved employees are to recuse themselves from a matter when there is a conflict of interest. Any involved employee may raise the issue of a potential conflict of interest to the University's General Counsel to determine whether an employee has a conflict of interest in any particular case, and the General Counsel may then replace that person or take other action to the extent necessary to abate the conflict and preserve impartiality.

II. PROHIBITED HARASSMENT AND SEXUAL MISCONDUCT POLICY STATEMENT

Harassment on the basis of sex, as later defined under this Policy, is a violation of federal and state law. Valparaiso University strives to create a safe and nondiscriminatory environment where individuals treat one another with respect and, therefore, does not tolerate sexual harassment on campus or within the scope of its activities. Individuals who believe they are victims of sexual harassment are strongly urged to promptly report such incidents as set forth under the reporting procedures below. Valparaiso University will investigate every sexual harassment complaint in a timely manner and, when there is a finding of sexual harassment, take corrective action to stop the harassment and prevent the misconduct from recurring, and correct any discriminatory effects of such harassment. The severity of the corrective action will depend on the circumstances of the particular case.

The determination of what constitutes sexual harassment will vary with the facts and circumstances of a particular case but generally involves unwanted sexual attention. Any person may be subject to sexual harassment, and one can be sexually harassed by a member of the same gender. Sexual harassment is generally defined as unwelcome advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of instruction, employment, or participation in other University activities;
- (2) submission to or rejection of such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions affecting an individual; or
- (3) such conduct has the purpose or effect of interfering with an individual's performance or creating an intimidating, hostile, or offensive environment.

Sexual harassment prohibited by this Policy may take different forms. Examples might include:

- (1) Direct or implied threats that submission to sexual advances will be a condition of advancement or promotion in any endeavor, including but not limited to employment, work status, promotion, or academic grades;
- (2) Direct propositions of a sexual nature;
- (3) Unnecessary touching, hugging, or brushing against another person's body;
- (4) Sexually explicit statements, questions, or jokes;
- (5) Remarks of a sexual nature about a person's clothing or body, sexual activity, sexual orientation, gender identity, failure to conform to stereotypical notions of masculinity or femininity, or previous sexual experience;
- (6) Conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress ("stalking");
- (7) Intimate partner violence such as domestic² or dating violence³; or
- (8) Physical assault or violence.

Sexual violence is a form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her drug or alcohol use, because of his or her temporary or permanent mental or physical incapacity, or because of his or her youth. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

There is no consent if:

- coercion, intimidation, threats, and/or physical force are used.
- a person is mentally or physically incapacitated or impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation.
- a person is asleep or unconscious.

Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent. Finally, consent to previous sexual activity does not imply consent to future sexual activity.

Sexual violence includes sexual assault, rape, sexual battery, sexual abuse, and sexual coercion. Some examples of sexual violence include:

- Rape or sexual assault: sexual intercourse of any type with a person that has not consented to the intercourse.

² A violent act committed by a: (1) current or former spouse or intimate partner of the victim; (2) person with whom the victim shares a child in common; (3) person cohabitating with, or has cohabited with, the victim as a spouse or intimate partner; (4) person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the violence occurred; or (4) person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.

³ A violent act committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- Sexual touching of any type with a person that has not consented to the touching.
- Sexual touching or intercourse of any type committed by force, threat, or intimidation.
- Sexual touching or intercourse of any type committed by force or coercion to effect the touching or intercourse.
- Sexual touching or sexual intercourse of any type with a person who is asleep or unconscious because of drug or alcohol use.
- Exceeding the scope of consent by engaging in a different form of sexual activity than a person has consented to.
- Knowingly transmitting a sexually transmitted disease such as HIV to another person through sexual activity.
- Secretly videotaping sexual activity.
- Participating in any activity that will likely result in any type of sexual touching or intercourse with a person by force, without the person's consent, or when the person is asleep or unconscious because of drug or alcohol use.

Sexual harassment does not include:

- (1) Discussions, communications, or actions that are sexual in nature but part of a legitimate academic exchange of ideas or artistic performance. As a University that values academic freedom and expression, there may be times when debates or performances of this type are acceptable and even encouraged; or
- (2) Any other harassment not based on race, color, sex, age, disability, veteran status, religion, national origin, sexual orientation, or gender identity.

The University does not support any incidents of harassment even though the incident may not constitute sexual harassment. As such, it reserves the right to punish the instigator of such an incident under a different theory, for example, lacking collegiality. If there is any question whatsoever, the incident should be reported and the grievance process should be followed.

Title IX Coordinator

The Title IX Coordinator is appointed by the President and responsible for monitoring, advising, and overseeing all complaints involving discrimination harassment, and sexual misconduct, and identifying and addressing any patterns or systemic problems that arise during the review or administration of any aforementioned complaints. The Title IX Coordinator is also responsible for assessing the campus climate, coordinating any remedial or interim measures, and providing training to campus community members. The Title IX Coordinator will be available to meet and provide assistance to individuals, who believe they have been a target or victim of discrimination, harassment, or sexual misconduct, but the Title IX Coordinator is not an emergency contact person that provides immediate assistance for anyone who has been sexually assaulted or is a victim of a crime. The Title IX Coordinator is be adequately trained to deal with issues arising from discrimination, harassment, or sexual misconduct on campus, has a thorough understanding of the grievance processes, and is available as a general resource in addition to overseeing the administration of a discrimination, harassment, and sexual misconduct

complaint processes. The current Title IX Coordinator is Larry D. Robertson, J.D. His office is located at 136A Kretzmann Hall, and he can be contacted at 219-464-6370 (office) or Title9@valpo.edu.

III. RETALIATION, MALICIOUS COMPLAINTS, FALSE INFORMATION

It is a violation of this Policy for a person to retaliate against an individual because that individual, in good faith, reports a violation of this Policy or files a complaint pursuant to this Policy claiming a violation of this Policy. Retaliation against witnesses and others who assist in bringing a complaint or otherwise cooperate in an investigation is prohibited. A retaliation complaint will be considered a separate claim from the original complaint, with separate proceedings and subjecting the alleged violator to separate disciplinary action.

However, any individual who knowingly or recklessly files a false complaint claiming a violation of this Policy, or who knowingly or recklessly provides false information in the implementation of the process to enforce this Policy, may be subject to disciplinary action.

IV. SANCTIONS/DISCIPLINE

Violations of this Policy can be very serious matters having far-reaching effects on the lives and careers of individuals or success of students. Employees, students, and guests who violate this Policy are subject to disciplinary action. Possible sanctions for a person found to be in violation of this Policy include, but are not limited to, the following:

- (1) Oral or written reprimand;
- (2) Required attendance at a harassment/discrimination sensitivity program;
- (3) Oral or written warning;
- (4) Loss of salary or benefits or demotion;
- (5) Transfer or change of job, class, residential assignment, or location, including removing the person from being in a position to retaliate or further harass or discriminate against the complainant;
- (6) Suspension, probation, termination, dismissal, expulsion, or removal from campus; or
- (7) Other action Valparaiso University deems appropriate under the circumstances including termination of contractual arrangements with the University.

While counseling is not considered a sanction, it may be offered or required in combination with sanctions. If a student or student groups are found to be in violation of this Policy, any of the sanctions set forth in the *Student Guide to University Life* may also be involved.

V. SEXUAL MISCONDUCT RESOURCES AND REPORTING OPTIONS

| CONFIDENTIAL RESOURCES⁴ | NON-CONFIDENTIAL RESOURCES |
|---|---|
| <p>(1) Sexual Assault Awareness & Facilitative Education Office (SAAFE)</p> <ul style="list-style-type: none"> ▪ Crisis Line: 219.464.6789 ▪ Emergencies: 219.929.7087 <p>(2) Counseling Center</p> <ul style="list-style-type: none"> ▪ 219. 464.5002 <p>(3) University Pastors</p> <ul style="list-style-type: none"> ▪ 219.464.5093 <p>(4) Student Health Center</p> <ul style="list-style-type: none"> ▪ 219.464.5060 <p>(5) The Caring Place</p> <ul style="list-style-type: none"> ▪ 219.464.5060 <p>(6) National Sexual Assault Hotline</p> <ul style="list-style-type: none"> ▪ 800.656.HOPE <p>(7) RAINN (Rape Abuse Incest Nat’l Network)</p> <ul style="list-style-type: none"> ▪ 800.799.7233 | <p>(1) Title IX Coordinator</p> <ul style="list-style-type: none"> ▪ Title9@valpo.edu ▪ 219.464.6370 <p>(2) Valparaiso University Police Department</p> <ul style="list-style-type: none"> ▪ 219.464.5430 <p>(3) Office of Residential Life</p> <ul style="list-style-type: none"> ▪ 219.464.5413 <p>(4) Office of Student Affairs</p> <ul style="list-style-type: none"> ▪ 219.464.5411 <p>(5) Discrimination Complaint Advisors (DCAs)</p> <p>(6) Resident Assistants (RAs)</p> <p>(7) Faculty</p> <p>(8) Administrative staff</p> |

Confidential vs. Non-Confidential Resources

A student or employee who has been a target or has been accused of discrimination, harassment, or sexual misconduct, and wishes to keep his or her identity and information private and confidential, should seek a confidential resource listed above. A student or employee, who has been a target or has been accused of discrimination, harassment, or sexual misconduct, and wishes to report an incident, should seek a non-confidential resource listed above. The non-confidential resources will protect a student or employee’s privacy by limiting the people with whom they share the reported information; however, non-confidential resources cannot guarantee complete confidentiality, as they must notify and report to the Title IX Coordinator.

Protective Measures

The SAAFE Office and the Office of Student Affairs assists students with interim measures such as academic, housing, and transportation accommodations, in addition to no contact directives, that are reasonably available. For employees, Human Resource Services will also coordinate working accommodations if such accommodations are reasonably available. Regardless of whether a student or employee decides to report to the incident of sexual misconduct to the Valparaiso University Police

⁴ Confidential Resources will report crimes to appropriate University personnel for inclusion in the annual crime statistics disclosure, though the victim’s name will be withheld from the report. Further, all University publicly-available recordkeeping excludes personally-identifiable information to the extent permitted by law.

Department, interim measures and accommodations are available upon the victim's request and will be implemented when they are reasonably available.

At any time, a student or employee may seek a court-issued protective order at the Porter County Clerk's Office located at 16 East Lincolnway, Suite 209, Valparaiso, Indiana 46383. If an order of protection, no contact order, restraining order, or another similar lawful order issued by a criminal, civil, or tribal court is obtained, a copy should be provided to Valparaiso University Police Department or the Title IX Coordinator. The University and Valparaiso University Police Department will take all legal and reasonable steps to implement such an order.

Additional Options Available for Reporting Sexual Misconduct

Both men and women can be victims or perpetrators of sexual misconduct. Valparaiso University does not tolerate violence and strongly encourages all persons who feel they may have been a victim of violence while on campus or participating in a University endeavor to report the incident to the Valparaiso University Police Department. Valparaiso University Police Department is a non-confidential resource. Victims may notify proper law enforcement authorities, including Valparaiso University Police Department and local police; be assisted by Valparaiso University Police Department in notifying law enforcement authorities if the victim so chooses; and decline to notify such authorities. DCAs and the Title IX Coordinator will assist a victim in notifying the Valparaiso University Police Department and/or local police if requested by the victim.

A person who perpetrates a sexual violence, such as rape or sexual assault, while on campus or during a University-sponsored activity or endeavor is subject to a broad range of disciplinary actions including, but not limited to: suspension, expulsion, termination of employment, and/or permanent separation from the University.

An individual who believes they have been a victim of sexual violence is encouraged to immediately contact the Valparaiso University Police Department at 219.464.5430. An officer will:

- Provide for the person's immediate need for safety;
- Call a counselor to come on campus to speak with the person;
- Provide transportation to the emergency room if requested;
- Gather information pertaining to the incident;
- Advise the person on obtaining a restraining order, and by request, notify someone with authority over the assailant so contact between the two parties can be limited; and
- Call the Title IX Coordinator to assist in the matter.

An individual is not required to report the Valparaiso University Police Department immediately; however, it is important to preserve any evidence of the incident as it may be necessary to prosecute a crime or obtain an order of protection. An individual is strongly encouraged not to shower, douche, brush teeth, eat, or change clothing in an effort to preserve physical evidence. If a victim changes clothes, a victim is encouraged to put all clothing wearing at the time of the incident into a paper bag.

Students have the following additional options available immediately:

- (1) Call the Sexual Assault Awareness and Facilitative Education (SAAFE) Office crisis line at 219.464.6789. For emergencies occurring after regular business hours, call 219.929.7087;
- (2) Call the Counseling Center crisis response line at 219.464.5002. The caller will receive a recording that will provide instructions for contacting a counselor at home. The counselor may come to campus to speak to the person and assist him/her in reporting the assault to the VUPD;
- (3) Call the Title IX Coordinator at 219.464.6370 or Title9@valpo.edu;and/or
- (4) Go directly to the Porter Emergency Room. Porter Hospital may charge the student for services. Medical personnel will call the VUPD. A person choosing this option for requesting assistance may expect appropriate professionals to fill the following roles:
 - PH Emergency Room personnel will conduct a physical examination, treat any injuries, gather physical evidence of the assault and supply aftercare instructions;
 - VUPD officer will interview relevant parties, including the victim, to initiate an official investigation; and
 - The SAAFE and/or Counseling Center advocate will provide emotional support, safeguard the person's right to make choices, assist the person in examining alternatives and begin the recovery and re-empowerment process.

Employees and students have the following additional options available:

- (1) Contact the Title IX Coordinator at 219.464.6370 or Title9@valpo.edu;
- (2) Contact the Office of Human Resource Services, which will assist in placing the employee into the Employee Assistance Program; and/or
- (3) Contact an off-campus service available to assault victims, which include:
 - National Sexual Assault Hotline 1.800.656.HOPE
 - Sexual Assault Recovery Project 219.465.3408
 - Victim's Assistance Unit 219.465.3433
 - Porter County Prosecutor's Office 219.465.3415
 - Porter Starke Services 219.531.3500

Available Reporting Options

The University will respond to discrimination, harassment, or sexual misconduct if it knows or reasonably should know of the situation. Certain responsible employees have a duty to promptly report discrimination, harassment, or sexual misconduct as set forth above in this Policy. Indiana law requires that anyone who has reason to believe a minor (17 years of age or less) has been sexually assaulted immediately report the matter to the Valparaiso University Police Department or other local

law enforcement. Members of the University community who believe they have been discriminated against, harassed, or a target of sexual misconduct, or know or reasonably should know of discrimination, harassment, or sexual misconduct, or have been accused of discrimination, harassment, or sexual misconduct while on campus or participating in a University-sponsored activity or endeavor, should contact the Title IX Coordinator or Discrimination Complaint Advisor (DCA) to request advice and information about how to proceed. DCAs are appointed by the President. A list of current DCAs can be obtained from the General Counsel's website at <https://www.valpo.edu/general-counsel/policies/university-policies-general/>. If invoked, the role of the DCA is to stay in close contact with the individual and serve as a resource for information about procedures, services, and techniques for resolving the situation. The DCA is responsible for providing impartial assistance, identifying, and discussing the options an individual who feels he or she has been discriminated against, harassed, or a target of sexual misconduct or an individual who has been accused of discrimination, harassment, or sexual misconduct might wish to follow. These options include both an Informal and Formal Complaint/Resolution Process. The Informal Process is set forth below. The DCA will report complaints to the Title IX Coordinator, who will provide further assistance and oversight into procedures as required.

Employees and students can file an Informal or Formal Complaint anytime, whether or not they contacted or sought the assistance of a DCA. Employees and students may file an Informal or Formal complaint against an employee or student pursuant to the Informal and Formal Complaint/Resolution Processes as proscribed below. Complaints by or against non-employees and non-students that allege sexual violence such as sexual assault or rape or the violation of a crime, may be made with the Valparaiso University Police Department or the Title IX Coordinator. Complaints by or against non-employees and non-students that allege discrimination, harassment, or sexual misconduct must be filed with the Director of Human Resource Services if the alleged violator is an employee, or with the Dean of Students if the alleged violator is a student. The Title IX Coordinator may take all reasonable steps to investigate or file a complaint against an employee or student if victim does not invoke the Informal or Formal Complaint Resolution Process in circumstances where there is a continuing or broader threat to the campus community.

All reporting mechanisms may also apply to any student or employee who has been discriminated, harassed, or a target of sexual misconduct by another student or employee off campus or during a non-University activity. Finally, the University has the authority to take interim action against any alleged violator while the applicable complaint processes is pending. The purpose of any interim action is to separate the complainant from the alleged violator or alleviate any potential danger while the applicable process is pending. Any employee subject to an interim action will still be paid their normal rate of pay while the applicable process is pending.

VI. INFORMAL DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT COMPLAINT/RESOLUTION PROCESS

Using the Informal Complaint/Resolution Process for a discrimination, harassment, or sexual misconduct complaint is not required or necessarily encouraged, but the alleging individual may prefer to attempt to resolve the matter utilizing this Process. The purpose of this Process is to expeditiously

resolve the matter to the satisfaction of the complainant without having to undergo a Formal Complaint/Resolution Process.

To invoke this Process, *if the alleged violator is an employee*, the complainant must file an Informal Complaint Form <https://www.valpo.edu/general-counsel/files/2016/10/Discrimination-Informal-Complaint-Form.pdf> with the Director of Human Resource Services. However, the complainant may also contact the Title IX Coordinator to assist in filing an Informal Complaint Form. If the complainant is a student claiming sexual misconduct, the SAAFE Office Coordinator will contact the Director of Human Resource Services on his/her behalf. The Director of Human Resource Services will notify the Title IX Coordinator in all cases, and the Title IX Coordinator will provide oversight of the process.

If the alleged violator is a student, the complainant must file an Informal Complaint Form <https://www.valpo.edu/general-counsel/files/2016/10/Discrimination-Informal-Complaint-Form.pdf> with the Dean of Students. However, the complainant may contact the Title IX Coordinator or the SAAFE Office Coordinator to assist in filing an Informal Complaint Form. The SAAFE Office Coordinator will contact the Dean of Students on behalf of the complainant. In cases where a student claims sexual misconduct, the student complainant is encouraged to contact the SAAFE Office Coordinator first. The Dean of Students will notify the Title IX Coordinator in all cases, and the Title IX Coordinator will provide oversight of the process.

If the alleged violator is a nonstudent or nonemployee, the complainant must file an Informal Complaint Form <https://www.valpo.edu/general-counsel/files/2016/10/Discrimination-Informal-Complaint-Form.pdf> with the Title IX Coordinator.

The complainant must supply a brief description of what occurred, the name of the violator(s), any witnesses, any evidence of his/her claim, and his/her desired outcome or results. The investigator(s) will review the complaint, will meet with the parties and any available witnesses, and will review all available evidence. A proposed resolution will be presented to the complainant and respondent for approval or disapproval. Possible resolutions include: temporary, indefinite, or permanent separation of the parties, explicit agreements about future conduct, change in workplace assignments, substitution of one class for another, or other appropriate relief. The complainant may choose to dismiss his/her Informal Complaint anytime during this Process and/or file a Formal Complaint.

If the matter does not result in the alleging individual's desired outcome, he or she may reject the proposed resolution and file a Formal Complaint. If the alleging individual is satisfied with the outcome or it results in his/her desired outcome, the results will be documented and the matter will be resolved.

VII. FORMAL DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT COMPLAINT/RESOLUTION PROCESS

Purpose

The purpose of this Process is to provide avenues for formally addressing and resolving claims of discrimination, harassment, or sexual misconduct, and taking action against an employee who has

violated the University's policy that prohibits discrimination, harassment, or sexual misconduct. This Process applies to any student or employee wanting to make a complaint against any employee, but this Process does not apply to any tenure-track faculty member claiming that he/she was denied tenure or not renewed as the result of prohibited discrimination or harassment. Such complaints are made pursuant to procedures set forth in the *Faculty Handbook*. Formal Complaints against a student must be made with the Dean of Students pursuant to the Student Judicial System as set forth in the *Student Guide to University Life*. Such a complaint will be governed by the process therein. All reported incidents will be treated seriously and given prompt attention.

Confidentiality

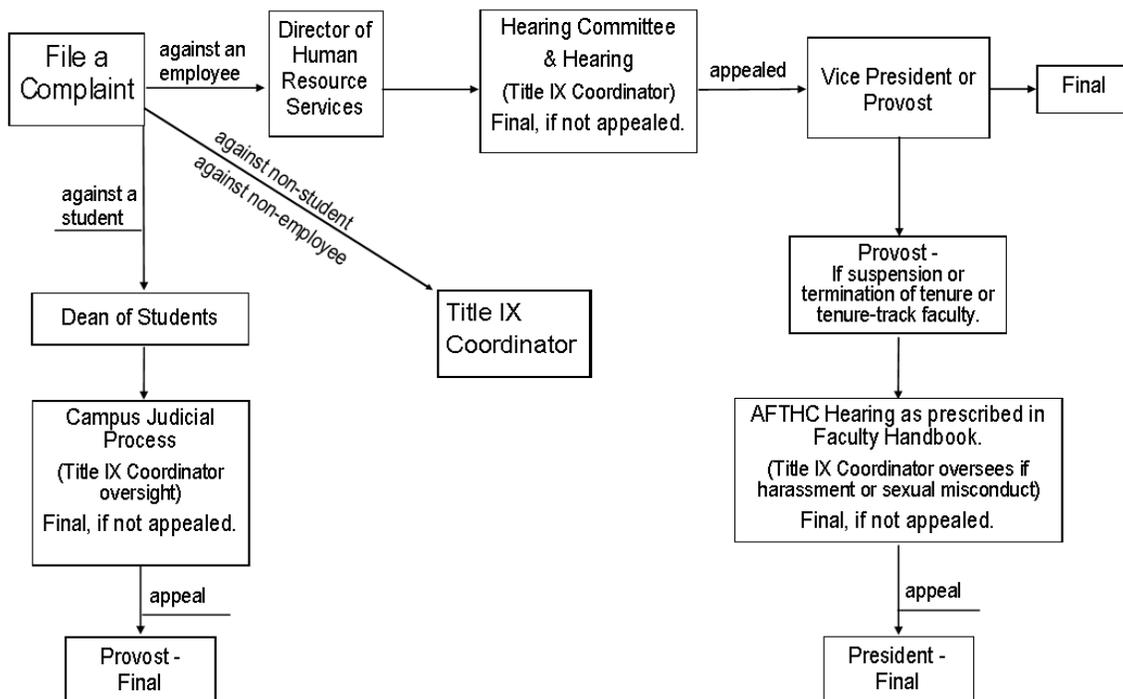
The Title IX Coordinator is in the best position to evaluate confidentiality requests, though the University may reasonably determine that another employee would be more appropriate. In the event a complainant requests confidentiality or asks that a complaint not be investigated, the University will take all reasonable steps to investigate and respond to the complaint consistent with a request for confidentiality or a request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the University's ability to respond may be limited. The University reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the campus community.

Starting the Process

A Formal Complaint against an employee is filed with the Director of Human Resource Services. A Complaint Form can be obtained from the Office of Human Resource Services, or available online at, <https://www.valpo.edu/general-counsel/files/2016/10/Discrimination-Formal-Complaint-Form.pdf>. The Form will require the complainant to set forth sufficient details of the incident(s), along with alleged violators, witnesses, evidence (included or attached), and relief sought. Complainants are encouraged to file their complaint in a timely manner to preserve evidence. The Director of Human Resource Services will immediately forward a copy of the Form and its attachments to the Title IX Coordinator and alleged violator(s). The alleged violator(s) may submit a written response to the Director of Human Resource Services, attach additional evidence to the response, and name any additional witnesses. Any written response must be submitted to the Director of Human Resource Services within ten (10) calendar days after the alleged violator received a copy of the Form. The Director of Human Resources will immediately forward a copy of the written response to the Complainant. All members of the VU community should understand that this Policy is not intended to keep them from filing a criminal complaint if they so choose. The University's process is separate from a criminal investigation or other criminal proceedings. The University's responsibilities under this Policy are not relieved if a criminal complaint is filed in court or if there is an outside law enforcement agency investigating the matter. Further, the University can find a violation of this Policy even if the criminal standard for a conviction cannot be met.

Discrimination, Harassment, Sexual Misconduct

Formal Complaint/Resolution Process at a Glance



Investigation and Procedures

The Discrimination, Harassment, and Sexual Assault Grievance Committee will facilitate a hearing to determine, by a preponderance of the evidence, whether or not the complainant was discriminated against, harassed, or a target of sexual misconduct in violation of University policy. The Committee shall consist of three (3) employees randomly chosen by the Title IX Coordinator from a pool of twenty (20) employees appointed by the President. The pool of employees receives annual training on issues related to sexual misconduct, investigation, and the hearing process. The pool shall consist of five (5) full-time hourly employees, five (5) full-time salaried employees, and ten (10) tenured or tenure-track faculty members. If the alleged violator is a faculty member, the Committee shall consist of all faculty. For other employees, the Committee shall consist of one (1) faculty member, one (1) hourly employee, and one (1) salaried employee.

The University investigation and resolution proceedings shall be prompt, fair, and impartial. During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include: (1) equal opportunity to identify and have considered witnesses and other relevant evidence; (2) similar and timely access to all information considered by the Committee; (3) equal opportunity to review any statements or evidence provided by the other party; and (4) equal access to review and comment upon any information independently developed by an investigator or the Committee.

The Committee may dismiss any complaint by majority vote if, assuming the allegations were true, it would not constitute a violation of the University's Policy against discrimination, harassment, or sexual misconduct. The President of the University may appoint outside legal counsel or a consultant to guide or direct the Committee. The Title IX Coordinator shall oversee the process, may provide the Committee advice on the process, but shall have no authority over the Committee. The Committee shall choose one of its members to chair the Committee.

Should a Committee member have a conflict of interest in hearing the matter, he or she must withdraw from this matter. In such a case, the withdrawing Committee member will be replaced by a similarly situated person.

The University will strive to resolve a complaint within sixty (60) calendar days of receiving it, though certain resolutions may take longer depending on the circumstances. If resolution will take longer than sixty (60) calendar days, the parties will be given notice and an explanation in writing. The University's internal investigation is separate from the investigation of outside law enforcement agencies, and the University will only delay its investigation due to an outside investigation if particular circumstances warrant such a delay. Delays for this reason will typically not exceed 3–10 calendar days. At the hearing, standard courtroom procedures and rules of evidence will not apply. The Committee must review the complaint, its attachments, and any written responses and their attachments; separately interview and question the complainant and alleged violator(s); and call to attendance available witnesses they determine might have relevant information. The complainant and the alleged violator(s) may have advisors of their choice at the hearing or any related meeting but such person may not ask questions of the Committee members, witnesses, or otherwise participate in the hearing. Members of the Committee may make negative inferences from any alleged violator's refusal to participate in the process or answer questions from the Committee members. In cases of alleged sexual misconduct, questioning about the complainant's sexual history with anyone other than the respondent will not typically be permitted, especially when the purpose is purely to show the complainant's sexual predisposition. However, in certain circumstances it may be permissible, such as if the complainant raises the issue or if it is of particular relevance to the current complaint. When requested, the University will make arrangements so that the complainant and the alleged violator(s) do not have to be present in the same room at the same time.

A written determination shall be rendered by a majority vote of the Committee within five (5) calendar days after the hearing. The decision shall be written by the Chair, set forth justification for the decision, and signed by each member stating that a majority of the Committee supported the decision. A determination against the violator shall set forth any sanctions. The matter shall be final and binding unless appealed. The Vice President (or Provost) over the violator may postpone the sanctions or suspend the violator, with pay, until the time to appeal the determination has expired or the appeal process has been exhausted. The Chair may attach any relevant documents to the written determination. Both the complainant and the respondent shall be simultaneously notified in writing of: (1) the outcome of the hearing; (2) appeal procedures; (3) any changes to the results that occur prior to the time the results become final; and (4) the final determination.

A copy of the Committee's written determination shall be provided to the Title IX Coordinator and the immediate supervisor, and placed in personnel files.

Appeals Process

The complainant or any violator(s) can appeal the Committee's determination by submitting a written appeal to the alleged violator's respective Vice President or Provost within five (5) calendar days from the date of receipt of the Committee's determination. The appeal must be dated, signed by the party appealing, set forth reasons why the Committee's determination is unjustified, and include a copy of the determination. The Vice President or Provost will immediately forward a copy of the appeal to the Chair of the Committee, the Title IX Coordinator, and the non-appealing party. The Chair will provide the Vice President or Provost a written response within five (5) calendar days from the date of his/her receipt of the appeal, and the non-appealing party may provide a written response within five (5) calendar days from the date of his/her receipt of the appeal.

The respective Vice President or Provost has the discretion to review the determination of the Committee on any basis he/she deems appropriate, interview witnesses, and render any decision on appeal that he/she deems appropriate. The Title IX Coordinator will be available to provide the Vice President or Provost advice. The Vice President or Provost shall issue a written determination within fifteen (15) days of his/her receipt of the appeal. A copy of the written decision shall be provided to the appealing party, the non-appealing party, the Title IX Coordinator, and the parties' personnel files. All decisions of the Vice President or Provost are final and binding. However, the decisions of a Provost that support a determination that a faculty member violated the University's policy against discrimination, harassment, or sexual misconduct may be subject to additional process pursuant to the *Faculty Handbook*.

Sanctions

The employee's respective Vice President or Provost will review sanction(s) recommended and may modify the sanction(s) if so inclined. However, should the Provost seek to impose suspension or expulsion of a tenure or tenure-track faculty member, additional process may be due pursuant to the *Faculty Handbook*.⁵

⁵ To the extent there are any inconsistencies between the *Nondiscrimination, Harassment, and Sexual Misconduct Policy* and other University grievance, complaint, or discipline procedures, the *Nondiscrimination, Harassment, and Sexual Misconduct Policy* will control.