



OLD DOMINION UNIVERSITY

University Policy

Policy #1005

DISCRIMINATION POLICY

Responsible Oversight Executive:

University Counsel

Date of Current Revision or Creation:

March 16, 2015 (**INTERIM POLICY**)

A. PURPOSE

The purpose of this policy is to foster an environment that emphasizes the dignity and worth of every member of the Old Dominion University (University) community free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law. This policy also address complaints or reports of retaliation against those who have opposed practices prohibited by this policy, those who have filed complaints or reports under this policy, and those who have testified or otherwise participated in enforcement of this policy.

B. AUTHORITY

[Virginia Code Section 23-9.2:3, as amended](#), grants authority to the Board of Visitors to establish rules and regulations for the institution. Section 6.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[Title IX of the Education Amendments of 1972](#)

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

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

[Equal Pay Act of 1963](#)

[The Age in Discrimination of Employment Act \(ADEA\)](#)

[Americans with Disabilities Act \(ADA\)](#)

[Section 504 of the Rehabilitation Act of 1973](#)

[The Genetic Information Nondiscrimination Act of 2008](#)

[Virginia Governor's Executive Order Number One \(2014\) - Equal Opportunity](#)

[Board of Visitor Policy 1001 – The Mission of the University](#)

[Board of Visitor Policy 1012- Resolution Adopting Executive Order Number One \(2014\) "Equal Opportunity"](#)

C. DEFINITIONS

Complainant - A University community member or visitor who files a formal complaint under this policy.

Complaint - The signed and written document used to file a formal complaint under this policy.

Complaint Commencement Date - The date on which the complainant provides a statement of alleged facts describing the offense to the Title IX Coordinator with the written and signed complaint.

Consent - 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. Diminished capacity of an individual to consent to sexual activity, whether caused by age, disability, use of drugs or alcohol, or any other reason, may result in a determination that the individual was unable to provide necessary consent.

Day - A calendar day. When the end of a specified period of days falls on a weekend or on a day when classes are not scheduled, that period shall be deemed to end on the next scheduled class day. (Example: A specified time period will not end during spring break or on any day between the end of the last summer session and the first scheduled class day of the fall semester. The specified time period will be continued until the next official class day.)

Discrimination - Inequitable and unlawful treatment based on an individual's protected characteristics or statuses -- race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, disability, or any other status protected by law -- that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an educational program or activity

Employee - All persons paid wages by the University in any capacity.

Harassment - 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.

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

involved; (d) the perspective of a “reasonable person” in the same situation as the person subjected to the conduct, and (e) the nature of higher education.

Sexual Harassment - 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:

- 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 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 University program or activity.
- Hostile environment. Acts that create a hostile environment, as defined below.

Respondent - An employee or affiliate of the University, or visitor against whom a complaint under this policy is filed.

Retaliation - Overt or covert acts of discrimination, harassment, interference, intimidation, penalty, reprisal or restraint against a group or individual exercising rights under this policy or cooperating in an investigation of complaints under this policy. Retaliation shall be deemed to constitute harassment and, therefore, will be considered a separate violation of this policy.

Sexual Misconduct - Includes sexual assault, sexual exploitation, dating violence, domestic violence, and stalking.

- Sexual Assault 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.
- Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an

individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or an STD to another, or exposing one's genitals to another in non-consensual circumstances.

- 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 the reporting party's statement and with 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 or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- 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. Domestic violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse.
- Stalking is engaging in a course of conduct directed at a specific person that would cause a "reasonable person" (a person under similar circumstances and with similar identity to the victim) 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.

Assistant Vice President for Equity and Diversity/TITLE IX Coordinator (hereinafter AVPED) - The individual designated by the University to coordinate the institution's compliance with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.). Further, this individual addresses systemic problems, if any, at the conclusion of each finding. The Assistant Vice President for Equity and Diversity/TITLE IX Coordinator for the University is located in the Office of Institutional Equity and Diversity. This person has oversight of this policy, coordinates the actions of the various Deputy Title IX Coordinators on campus, and is responsible for reporting on the University's compliance with Title IX.

Deputy Title IX Coordinators - The officials within the University charged with receiving and processing complaints under this policy. The Deputy Title IX Coordinator for student athletes under this policy is the Associate Athletics Director for Compliance (AAD). The Deputy Title IX Coordinator for all other students under this policy is the Special Assistant to the Vice President for Student Engagement and Enrollment Services. The Deputy Title IX Coordinator for faculty is the Assistant Vice President for Academic Affairs/ Vice-Provost. The Deputy Title IX Coordinator for Administrative and Professional Faculty, all other employees and visitors under this policy is the Director for Equity and EO/AA.

D. SCOPE

This policy applies to on-campus conduct involving students, employees, faculty and staff, visitors to campus (including, but not limited to, students participating in camp programs, non-degree seeking students, exchange students, and other students taking courses or participating in programs at the University), and contractors working on campus who are not University employees, and to students, visiting students, employees, faculty and staff participating in University-sponsored activities. This policy also is applicable to any conduct that occurs off campus that has continuing effects that create a hostile environment on campus.

E. POLICY STATEMENT

The University is committed to providing an environment that emphasizes the dignity and worth of every member of its community free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law. In pursuit of this goal, any question of impermissible discrimination on these bases will be addressed with efficiency and energy and in accordance with this policy and other applicable policies of Old Dominion University. The University will take steps to prevent recurrence of harassment and/or discrimination when incidents occur and to remedy any discriminatory effects on the complainant and others, including measures to protect other students, if appropriate. Victims are encouraged to report matters to the police in instances involving a possible criminal violation and will not be dissuaded by the University from doing so at any time. The University strongly encourages all individuals to report suspected violations of this policy to the appropriate University official.

Allegations of on-campus or off-campus violations of this policy should be reported to the AVPED/Title IX Coordinator in accordance with the guidance below and the Discrimination Grievance) Procedures.

A person who is no longer a member of the University community or a visitor, but who was a member or a visitor when at least a substantial portion of the alleged wrongful behavior occurred, is eligible to file a complaint. A complaint filed by a complainant who has no further connection with the University, or against a respondent who has no further connection with the University, may be dismissed by the Assistant Vice President for Equity and Diversity/Title IX Coordinator if the University has no means to take appropriate steps to eliminate the discrimination/harassment, prevent its recurrence, or address its effects.

The University encourages victims of sexual misconduct to report the incident to law enforcement. Further, if the victim is unable to respond, the University encourages reporting of the incident to law enforcement.

F. PROCEDURES

Complaints and Reporting

Complaints and reports of discrimination, sexual harassment, and sexual misconduct should be made to the University's AVPED/Title IX Coordinator. The AVPED/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

AVPED/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 AVPED/Title IX Coordinator.

The University's AVPED/Title IX Coordinator is ReNee Dunman, AVPED, 121A Spong Hall, Norfolk, VA 23529, 757.683.3141, rdunman@odu.edu

The Deputy Title IX Coordinators are listed below with their contact information:

Traci Daniels
Special Assistant SEES
129 Koch Hall
Norfolk, VA 23529
757-683-5890
tdaniels@odu.edu

Deborah Polca, Senior Associate Athletic Director/Senior Woman Administrator
124 Jim Jarrett Athletic Administration Building
Norfolk, VA 23529
757.683.3360
dpolca@odu.edu

Chandra DeSilva
Assistant Vice President for Academic Affairs and Vice Provost
2020 B Koch Hall
Norfolk, VA 23529
757.683.4423
cdesilva@odu.edu

S. Lanay Newsom
Director of Equity and EO/AA
121A Spong Hall
Norfolk, VA 23529
757.683.3141
snewsom@odu.edu

Reports of conduct in violation of this policy should be made without undue delay after the incident and may be made orally or in writing, including by electronic mail to any of the individuals identified above. The AVPED/Title IX Coordinator also will accept, without comment or need for explanation, a sealed envelope addressed to "AVPED/Title IX Coordinator." The envelope, at a minimum, should contain a piece of paper with the name and room number or phone number of the individual wishing to make a report. 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 after the date of the report, for an interview with a member of the AVPED/Title IX Coordinator's staff.

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. No employee or student of the University will dissuade or attempt to dissuade any person from filing a complaint under this policy.

The Role of the AVPED/Title IX Coordinator

The AVPED/Title IX Coordinator is charged with coordinating the University's compliance with federal civil rights laws. The AVPED/Title IX Coordinator does not serve as an advocate for either the complainant or the respondent. The AVPED/Title IX Coordinator will explain to all identified parties the procedures outlined below, including confidentiality. With Title IX complaints, the AVPED/Title IX Coordinator will provide all identified parties with information about obtaining medical and counseling services, filing a criminal report, information about receiving advocacy services including those offered by the YWCA, and guidance on other University and community resources.

Sources of counseling, advocacy, and support within and outside the University community have been provided below:

University Counseling Services – to receive confidential and supportive counseling for sexual assault, dating, violence, domestic violence and stalking victims including assessment and referral	1526 Webb Center	757.683.4401
University Women's Center – for victim advocacy, crisis intervention, education and outreach.	1000 Webb Center	757.683.4109
Student Health Services – medical care for sexual assault victims, not including evidence collection.	1007 Webb Center	757.683.3132
Student Ombudsperson Services – to receive assistance regarding class matters, administrative, academic or personal roadblocks.	2008 Webb Center	757.683.3442
Safe Space Committee – strives to reduce homophobia, transphobia and heterosexism in the university community	http://studentaffairs.odu.edu/safespace	
YWCA – provides sexual and relationship violence support, confidential counseling, education, emergency shelter and legal advocacy	5215 Colley Avenue, Norfolk VA	24-hour hotline: 757.226.9922
HER Shelter – Portsmouth domestic violence hotline, counseling, and emergency shelter		Hotline: 757.485.3384
Transitions Family Violence Services – Hampton hotline and shelter, support groups and advocacy		Hotline: 757.723.7774
The Genieve Shelter – Suffolk domestic violence shelter, hotline, counseling and services		Hotline: 800.969.HOPE
Samaritan House – Virginia Beach domestic violence shelter, hotline, counseling and services		Hotline: 800.430.2120
Navy Family Advocacy Program – Norfolk program for Navy families, counseling, support, advocacy and crisis intervention		DoD Safe Helpline: 877.995.5247

Navy Family Advocacy Program – cont.		NSN Victim Advocate Duty Phone: 757.438.3504
Navy Family Advocacy Program – cont.		NSN SARC Duty Phone: 757.650.6018
Army Sexual Harassment Assistance		800.267.9964
Virginia Family Violence and Sexual Assault state-wide hotline		800.838.8238
Sentara Norfolk General Hospital – medical care for sexual assault victims that include evidence collection and 24-hour emergency services.		757.388.3551 or 911
Chesapeake Forensics – medical care for sexual assault victims that includes evidence collections	1101 Madison Plaza, Ste 103, Chesapeake, VA	757.398.5105
LGBT Center of Hampton Roads – community organization providing resources, advocacy, and counseling	247 W. 25 th Street, Norfolk, VA	757.200.9198
National Sexual Assault Hotline – connect instantly to the nearest community rape treatment center		800.656.HOPE

The AVPED>Title IX Coordinator will offer to coordinate with other University administrators, when appropriate, to implement interim measures as described below. The AVPED>Title IX Coordinator will explain to all involved parties the process of a prompt, adequate, reliable, and impartial investigation, including the opportunity for both complainant and respondent to identify witnesses and provide other evidence. The AVPED>Title IX Coordinator 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 AVPED>Title IX Coordinator 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. The AVPED>Title IX Coordinator shall provide a written notice to an individual who alleges he or she was a victim of sexual misconduct, as defined by this policy, whether the alleged incident occurred on or off campus, of the victim's rights and options in accordance with 34 C.F.R. Section 668.46 (b)(11)(vii).

Title IX Training

The University shall provide training to all employees likely to witness or receive reports of sexual violence, including, professors, University law enforcement employees, administrators, University counselors, general counsels, athletic coaches, health personnel, and resident advisors. Training for employees will include practical information about how to prevent and identify sexual violence, including same-sex sexual violence; the behaviors that may lead to and result in sexual violence; the attitudes of bystanders that may allow conduct to continue and bystander intervention methods; the potential for revictimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual violence, including the use of nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The training will explain the responsible employees' reporting obligation, including what should be included in a

report and any consequences for the failure to report, the procedure for responding to students' requests for confidentiality, and the process to provide the contact information for the University's Title IX coordinator. The University will train responsible employees to inform students of: the reporting obligations of responsible employees; students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and their right to file a Title IX complaint with the University and to report a crime to campus or local law enforcement.

All persons involved in implementing the University's complaint procedures (e.g., Title IX coordinators, others who receive complaints, investigators, and adjudicators) shall receive training in handling sexual violence complaints, and in the operation of the University's grievance procedures. The training will include information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper standard of review for sexual violence complaints (preponderance of the evidence); information on consent and the role drugs or alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual violence; the need for remedial actions for the perpetrator, complainant, and the University community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct investigations; confidentiality; the effects of trauma, including neurobiological change; and cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds. Each operational unit having employees involved in the investigation and adjudication of complaints shall develop a training program to maintain the University employee's familiarity with this policy. Prior to July 1, of each year, each operational unit providing training must provide the Office of Institutional Equity and Diversity with written information detailing with the training received by each individual employee.

As part of the University's primary awareness and prevention programming, incoming students will receive training on an annual basis regarding the following topics:

- What constitutes sexual violence, including same-sex sexual violence, under the University's policies;
- The University's definition of consent applicable to sexual conduct, including examples;
- How the University analyzes whether conduct was unwelcome under Title IX;
- How the University analyzes whether unwelcome sexual conduct creates a hostile environment;
- Reporting options, including formal reporting and confidential disclosure options and any timeframes set by the University for reporting;
- The University's complaint procedures used to process sexual harassment/misconduct, sexual assault and sexual violence complaints;
- Student Code of Conduct provisions relating to sexual harassment/misconduct, sexual assault and sexual violence and the consequences of violating those provisions;
- Effects of trauma, including neurobiological changes;
- The role alcohol and drugs often play in sexual violence incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual violence;
- Strategies and skills for bystanders to intervene to prevent possible sexual violence;
- How to report sexual violence to the ODUPD or local law enforcement and the option to seek legal redress simultaneously with a Title IX grievance; and
- Title IX's protections against retaliation.

The training should also encourage students and employees to report incidents of sexual violence. On-going training for all students will be provided in accordance with federal law.

Deferral of Action

Should a discrimination complaint be raised in another internal procedure, the internal procedure shall be deferred until the conclusion of this procedure. For example:

- Classified employees who choose to complain about an action through the grievance procedure described in the Virginia Personnel Act that raises a complaint of discrimination will be referred to the Office of Institutional Equity and Diversity to initiate the Discrimination Complaint Policy and Procedures. The individual responsible for reviewing the claim of discrimination under the Virginia Personnel Act shall suspend his/her review of the complaint pending the conclusion of the discrimination complaint procedures.
- Any complaint filed by an employee or student with the Commonwealth of Virginia Department of Human Resource Management, the U.S. Equal Employment Opportunity Commission or the Office for Civil Rights will result in the dismissal of the internal complaint upon notice to the University that a complaint has been filed.

Criminal Reporting and Coordination

The AVPED>Title IX Coordinator will make all complainants aware of the right to also file a complaint with the Old Dominion University Police Department (ODUPD) or local law enforcement agency. The University will comply, to the fullest extent legally permissible, with all requests by the ODUPD or local law enforcement for cooperation in investigations. Such cooperation may require the AVPED>Title IX Coordinator to temporarily suspend the fact-finding aspect of a Title IX investigation detailed in the procedures below while the ODUPD or the local law enforcement agency gathers evidence. The AVPED>Title IX Coordinator's Office will promptly resume its Title IX investigation once the University is informed that the ODUPD or local law enforcement have completed the evidence gathering phase of the criminal investigation. 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.

Confidentiality, Anonymity and Requests Not to Pursue Title IX Investigation

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, such report must be made to licensed health care providers or licensed counselors. The University provides the following confidential sources at the University:

Clark, Anita Golemo	RN	1007 S. Webb Center	683-3132	agolemo@odu.edu
Dunker, Robert	MD	1007 S. Webb Center	683-3132	rdunker@odu.edu
Ewing, Kasaundra	NP	1007 S. Webb Center	683-3132	kewing@odu.edu
Foss, Jennifer	NP	1007 S. Webb Center	683-3132	jfoss@odu.edu
Kapur, Anand	MD	1007 S. Webb Center	683-3132	akapur@odu.edu
Lewis, Audrey	LPN	1007 S. Webb Center	683-3132	axlewis@odu.edu
Newman, Fran	NP	1007 S. Webb Center	683-3132	fnewman@odu.edu
St. George, Judy	NP	1007 S. Webb Center	683-3132	jstgeorg@odu.edu
Smith, Jane	NP	1007 S. Webb Center	683-3132	sjsmith@odu.edu
Stacy, Margret	LPN	1007 S. Webb Center	683-3132	mstacy@odu.edu
Waitekus, John	MD	1007 S. Webb Center	683-3132	jwaitekus@odu.edu

Cosio	Saharay	Psych/Clin Coord	scosio@odu.edu
Edmonson	Laura	Psychologist	ledmonso@odu.edu
Holley	Angela	Prof.Counselor	amholley@odu.edu
Hogins	Sandy	Prof. Counselor	shogins@odu.edu
Hughes	Kathryn	Prof. Counselor	kmhughes@odu.edu
Jatau	Z. Andrew	Prof. Counselor	zjatau@odu.edu
Taylor	Janae'	Psyc/Train Coord	j1taylor@odu.edu
Thompson	Lenora	Sr. Exec Dir	lthomps0@odu.edu
Vallee	Brent	Prof. Counselor	bvallee@odu.edu
Washington	Runell	Psychologist	rwashin@odu.edu
Petri	Justin	Psychiatrist	petrijd@evms.edu
Santher	Sharmini	Psychiatrist	ssanther@odu.edu

These individuals will encourage victims to report the incident to the ODUPD, the AVPED/Title IX Coordinator, or local law enforcement agency. Students and student organizations cannot keep reports confidential, even if working with officials above who are required to maintain confidentiality of reports. Other University officials receiving reports of conduct in violation of this policy are mandated reporters but will maintain privacy to every extent possible without compromising the University's ability to investigate and respond in accordance with applicable law and regulations. The AVPED/Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the AVPED/Title IX Coordinator to conduct a meaningful and fair investigation.

If the complainant requests confidentiality or that an investigation not be conducted, the 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 AVPED/Title IX Coordinator will take all reasonable steps to respond to the complaint consistent with the request, including measures that can be taken while honoring the request such as increased monitoring, supervision, or security at locations or activities where the misconduct occurred, or providing training and education materials or sessions to students and employees. The AVPED/Title IX Coordinator will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed and as well as the safety of members of the campus community.

In cases in which a complainant requests confidentiality or that an investigation not be pursued, but the AVPED/Title IX Coordinator has concerns that not conducting an informal or formal investigation may endanger the health or safety of members of the campus community, the AVPED/Title IX Coordinator will initiate confidential consultation with appropriate individuals who may include, as appropriate, the President, the Vice President of Student Engagement and Enrollment, the Provost, the University Chief of Police, the Threat Assessment Team, and University Counsel. The AVPED/Title IX Coordinator will make the ultimate decision on whether to conduct an (informal or a formal) investigation and the scope of the investigation or to respond in another manner, including use of interim measures described below.

Factors that will be considered in weighing a request by a complainant for confidentiality or not to proceed with a formal investigation include, but are not limited to, the seriousness of the alleged violation, the use of weapons or other aggravating circumstances, the respective ages and positions of the complainant and the respondent, means of obtaining evidence other than an Title IX investigation such as physical evidence or video footage, and the respondent's right to receive information.

The University also will consider any circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other violence including whether there have been other sexual violence complaints about the respondent, whether the respondent has a history of arrests or records from a prior indicating a history of violence, whether the respondent threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple persons. Other circumstances that might suggest there is an increased risk of future acts of sexual violence include a pattern of perpetration, such as via use of drugs or alcohol, or a pattern of incidents at a given location or by a particular group.

Interim Measures

The University may take interim measures, as necessary, to assist or protect the complainant during investigations of alleged discrimination and the resolution process and any law enforcement investigation, to address the safety of the complainant or any member of the campus community, and to avoid retaliation. If, in the judgment of the AVPED>Title IX Coordinator or other University administrators, the safety or well-being of any member of the campus community may be jeopardized by the presence on-campus of the accused individual, the AVPED>Title IX Coordinator may provide interim remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further potential violations.

The University will, to the greatest degree possible, seek the consent of the complainant before taking interim measures. Interim measures may include, but are not necessarily limited to, changes in classroom schedules or housing arrangement, no-contact order, removal from campus, escorts on campus, referral and coordination of counseling and health services, and modification of work or academic requirements. The University may temporarily reassign or place on administrative leave an employee alleged to have violated the Policy. In such situations the employee will be given the opportunity to meet with the AVPED>Title IX Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented.

Timely Warnings

The 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. The 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 safely in light of the potential danger. For more information on Timely Warning see [University Policy 3012 Safety and Security](#)

Coordination with Student Conduct

The University's AVPED>Title IX Coordinator is responsible for overseeing all complaints involving this Policy and identifying and addressing any pattern or systemic problems that arise during the review of such complaints. The Office of Student Conduct and Academic Responsibility is responsible for student discipline including when a student is charged with sexual misconduct as defined by this policy.

Informal Procedure (Not applicable to claims involving Sexual Misconduct)

1. Informal Discussion: The AVPED>Title IX Coordinator shall encourage an employee or student who has a complaint of alleged discrimination to discuss the complaint with the

individual who took the action that is the basis for the complaint. The Assistant Vice President may be present during such discussions if either party requests such.

2. Informal Resolution: Both parties to the complaint shall attempt to effect a resolution of the complaint through informal discussions.
3. The complainant may request, at any time during the informal process, to proceed with a Formal process described below. Such a request must be accepted by all other parties to the matter.

Time for Filing a Formal Complaint

For complaints other than Title IX complaints by students, the written statement must be filed within 120 calendar days of the date upon which the action(s) described in the complaint occurred or the entry of a final decision made after an administrative review of the action(s), whichever occurs later. For Title IX Complaints by students, the complaint must be within two years of the date upon which the action(s) described in the complaint occurred. Exceptions to the time frame for student complaints may be granted by the AVPED/Title IX Coordinator, for good cause shown.

Formal investigation and resolution

1. A formal complaint may be submitted either in written format or through a verbal interview of the complainant by the AVPED/Title IX Coordinator regarding the events and circumstances underlying the complaint. The complainant is not required to submit a written complaint to the AVPED/Title IX Coordinator to commence an investigation. In the case of a third party notification, the AVPED/Title IX Coordinator, or a member of the AVPED/Title IX Coordinator's staff 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 University, state, or federal entity for the same offense.
2. The AVPED/Title IX Coordinator will discuss the complaint with the complainant and the respondent as appropriate, including providing information about the formal investigation procedure and other resources. The AVPED/Title IX Coordinator 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.
3. The AVPED/Title IX Coordinator will advise each party that they have the right to an advisor and that neither party's advisor will be permitted to speak to participants other than quietly to the advisee in any process. Advisors violating this requirement may be asked to leave. The advisor is not permitted to question witnesses or make oral or written argument in any proceeding.
4. The AVPED/Title IX Coordinator will consider whether interim measures and involvement of other University administrators is appropriate. The AVPED/Title IX Coordinator also will confirm that the matter involves an alleged violation of the Discrimination Policy, thereby conferring jurisdiction to the AVPED/Title IX Coordinator's office. If the AVPED/Title IX Coordinator determines that the AVPED/Title IX Coordinator's office does not have jurisdiction, the AVPED/Title IX Coordinator will offer to assist the complainant, and, as

appropriate, the respondent, in finding appropriate on-campus and off- campus resources to address the issues.

5. The AVPED/Title IX Coordinator, or a member of the Assistant Vice President's staff 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 days of receipt of notice of the complaint. If extension of the investigation beyond 60 days is necessary, all parties will be notified of the expected time frame. Only the AVPED/Title IX Coordinator, a trained investigator assigned to the AVPED/Title IX Coordinator's office, or a trained member of the Office of Student Conduct shall conduct the investigation (as assigned by the Coordinator). All investigations of complaints alleging violations of this Policy shall be overseen by the AVPED/Title IX Coordinator.
 6. 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. The University shall strive to make the process transparent to all parties. The University shall be fair to all parties and ensure that individuals participating in investigation and resolution procedures under this policy do not have a conflict of interest with or bias against the complainant or the respondent.
 7. The Title IX Coordinator shall prepare a written investigation report, which shall be provided to both the complainant and the respondent concurrently, along with information about appeal procedures. In most cases the written investigation report shall be provided to both parties within 60 days of notice of the allegation. If extension of the time frame for the AVPED/Title IX Coordinator to finalize the investigation report beyond 60 days is necessary, all parties will be notified of the expected time frame for completion of the investigation report, for review and determination of findings and sanctions through the appropriate University hearing/grievance procedures.
8. Reporting the Investigation Results:
- a. In the case of a student respondent, the Title IX Coordinator, once the investigation is completed, shall report the results of the investigation to the Office of Student Conduct and Academic Integrity for evaluation for any applicable violations.
 - b. In the case of a faculty member respondent, the Title IX Coordinator, once the investigation is completed, shall report the results of the investigation to the Provost.
 - c. In the case of all other employees, the Title IX Coordinator, once the investigation is completed, shall report the results of the investigation to the supervisor of the employee and respective vice president.
9. In determining whether alleged harassment has created a hostile environment, the University, in accordance with all applicable hearing/grievance policies and procedures, shall consider not only 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.
10. In all matters involving a claim of sexual misconduct, questions concerning sexual history are prohibited except to the extent that the sexual history is that involving the complainant and respondent, absent a prior judicial or administrative determination of repeated or pattern behavior.

11. If the University finds by a preponderance of the evidence in a case involving a student respondent sexual misconduct did not occur, the matter will be documented as closed. **The Complainant may appeal the finding within 5 business days** from being notified of the hearing decision as described in Section N, below.
12. If the University finds by a preponderance of the evidence that violation of the Policy did occur, a written finding 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, as detailed in Section O, below. The written report also will contain a recommendation on sanctions. If interim measures as described above have been taken, the report shall include a recommendation regarding continuation, suspension or modification of any such interim measures. A copy of the written finding shall be provided to both the complainant and respondent, including the steps 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, and either or both parties may appeal within 5 business days upon being notified of the hearing decision as described in Section N, below. 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 completed investigation will be provided to the appropriate individual to determine and impose appropriate sanctions, as described below.

Sanctions

1. Sanctions for students will be determined in accordance with student regulations and policies and, where necessary or appropriate, in consultation with the **Director for Student Conduct & Academic Integrity or designee**. Sanctions may include, but are not limited to, disciplinary penalties described in the [Code of Student Conduct](#), suspension or dismissal/expulsion.
2. Sanctions for teaching and research faculty will be determined by the Provost, in consultation with the President and in accordance with the faculty handbook. Sanctions for non-teaching faculty and other non-classified staff shall be determined by the supervisor of the employee, or the President, in accordance with the applicable [Administrative and Professional Faculty](#) Policy. Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings.
3. Sanctions for classified employees will be determined by the supervisor of the employee while in consultation with the Vice President of Human Resources in accordance with the Commonwealth's Standards of Conduct Policy. Sanctions that may be imposed by the University include, but are not limited to verbal counseling, additional training, and issuance of a Written Notice, suspension, or termination of employment.
4. Contractors shall assign for duty only employees acceptable to the University. The University reserves the right to require the Contractor to remove from campus any employee who violates this Policy.
5. Visitors (including, but not limited to, students participating in camp programs, non-degree seeking students, exchange students, and other students taking courses or participating in programs at the University, who violate the Discrimination Policy will be

directed to immediately leave campus and may be subject to a permanent bar from campus.

6. A determination regarding the imposition of sanctions shall be made within 14 calendar days of the date of the AVPED/Title IX Coordinator's final investigative report, unless either party files an appeal. If extension of the time frame for sanctions to be imposed beyond 14 days is necessary, all parties will be notified of the expected time for completion of the investigation report. The parties shall be informed simultaneously in writing of any sanctions imposed for violation of this Policy by the individual imposing the sanctions within five calendar days of the determination in addition to the results of any disciplinary proceeding, the rationale for the results, any change to the result of the disciplinary proceeding, when the results become final, and a description of the University's response.. The AVPED/Title IX Coordinator shall be provided a copy of such written notification. The AVPED/Title IX Coordinator also will disclose in writing to the complainant the final results of a disciplinary proceeding involving the respondent with regard to an alleged forcible or non-forcible sex offense, act of stalking, domestic violence or dating violence on the complainant, as permitted by state and federal law including FERPA and the Virginia Freedom of Information Act.

University Hearing/Grievance Procedures and Appeals

1. General Considerations: As with the grievance/hearing process, the parties must have an equal opportunity to present relevant information in the appeals. The University must permit lawyers or other advisors at any stage of the proceedings, it must do so equally for both parties. The University shall not require the participation of the victim/survivor, and parties and witnesses shall be afforded the opportunity to participate remotely (teleconference) from another location. Any University imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally. If the University permits one party to submit third-party expert testimony, it must do so equally for both parties. If the University provides for an appeal, it must do so equally for both parties. Both parties must be notified, in writing, of the outcome of both the complaint and any appeal.
2. A complaint involving a student as respondent may be appealed by either party within 5 business days of being notified of the hearing decision, to the Director of Student Conduct and Academic Integrity as allowed by the [Code of Student Conduct](#). The original decision may be upheld, modified, overturned, or sent back to a Conduct Officer or panel to remedy any prior errors or to consider new information. The decision of the Director is final and not subject to further appeal. The Code of Student Conduct also outlines the following procedural hearing and appeal considerations for cases involving Title IX/sexual violence:
 - a. Upon receipt of a referral, the Director, or designee, may order the respondent to not have any contact, directly or indirectly, with the complainant.
 - b. Both the complainant and respondent will have the same opportunities to:
 - i. Meet with a professional staff member in the Office of Student Conduct & Academic Integrity to review the student conduct process and its application to sexual misconduct cases;
 - ii. Review and/or receive a copy of any referrals, reports or other supporting documentation or media that is relevant to the pending allegations, in advance of the hearing;

- iii. Seek removal of a Conduct Officer to address concerns regarding bias as described in the Code;
 - iv. Be present at the hearing, in person or remotely as described and hear all statements made;
 - v. Request a postponement of the hearing as described in the Code and be advised when the other party makes a request for postponement, and the outcome of that request;
 - vi. Request the provision of auxiliary aids or services, or other reasonable accommodations as described in the Code;
 - vii. Be accompanied to the hearing, or any other related meeting, by an advisor as described in the Code;
 - viii. Invite and/or question relevant witnesses as described in the Code;
 - ix. Present relevant information at a hearing as described in this Code. The past sexual history of the complainant or respondent will not generally be discussed or considered;
 - x. Be informed of the final results of a hearing, in writing, without condition or limitation, at the same time;
 - xi. Be provided with reasonable access to any hearing recording for the purpose of preparing an appeal request;
 - xii. Appeal the final results of a hearing in accordance with the criteria and procedures in the Code;
 - xiii. Be notified of a receipt of an appeal request submitted by the other party, any changes to the party's status pending review of the appeal, and the final results of the appeal.
- c. A complaint involving an employee as respondent may be appealed by either party to the person to whom the employee's supervisor reports within 15 calendar days of the finding.
 - d. There shall be no right of appeal in any other case of a violation of this policy.
 - e. This policy does not amend any rights that inure to employees arising from Board of Visitor or University policies or the policies of the Commonwealth of Virginia (i.e. Grievance Policies).

Remedies for the Complainant and the University Community

Depending on the circumstances of the incident and resolution, remedies for the complainant may include, but are not limited to:

1. Providing an effective escort to ensure that the complainant can move safely between classes and activities;
2. Ensuring the complainant and the perpetrator do not share classes or extracurricular activities;
3. Moving the respondent or complainant (if the complainant requests to be moved) to a different residence hall;
4. Providing comprehensive, holistic victim services including medical, counseling, and academic support services;

5. Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without academic or financial penalty; and
6. Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the violation that may have resulted in the complainant being disciplined.

Remedies for the broader student population may include, but are not limited to:

1. Designating an individual from the University Counseling Center who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist students whenever needed;
2. Training or retraining University employees on the University's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
3. Developing materials on sexual violence for students;
4. Conducting bystander intervention and sexual violence prevention programs with students;
5. Issuing policy statements or taking other steps that clearly communicate that the University does not tolerate sexual violence and will respond to any incidents and to any student who reports such incidents;
6. Conducting, in conjunction with student leaders, a campus climate check to assess the effectiveness of education and prevention efforts and to plan future strategies; or
7. Targeted training for a group of students if, for example, the sexual violence created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team.

Documentation and Record-keeping

The AVPED/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 AVPED/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 AVPED/Title IX Coordinator and the President to assess the University's compliance with the requirements of Title IX.

G. RESPONSIBLE OFFICER

Assistant Vice President for Equity and Diversity

H. RELATED INFORMATION

[Title IX of the Education Amendments of 1972](#)

[Board of Visitors Policy 1530 – Code of Student Conduct](#)

[University Policy 6600 - Standards of Conduct for Classified Employees](#)

[University Policy 6602 - Classified Employees Grievance Procedure](#)

POLICY HISTORY

Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:

Responsible Officer Signature

Date

Policy Review Committee (PRC) Approval to Proceed:

Policy Review Committee (PRC),
Chair Signature

Date

Executive Policy Review Committee (EPRC) Approval to Proceed:

Responsible Oversight Executive Signature

Date

University Counsel Approval to Proceed:

/s/ R. Earl Nance

University Counsel

March 16, 2015

Date

Presidential Approval:

/s/ John R. Broderick

President

March 17, 2015**Policy Revision Dates:** March 17, 2015 (Interim Policy)**Scheduled Review Date:**