vOLD DOMINION UNIVERSITY

Discrimination Policy (SUMMARY) – 08/11/15

*NOTE: This document is a summary of the Discrimination Policy (#1005). The full policy can be accessed at:* <http://www.odu.edu/content/dam/odu/policies/university/1000/univ-1005.pdf>

# 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.

# 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, nondegree 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.

# 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

**Assistant Vice President for Equity and Diversity/Title IX Coordinator.**

**DEFINITIONS**

* **Sexual Violence -** Includes sexual assault, sexual exploitation, dating violence and domestic violence.

* **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.
* **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 a Human Immunodeficiency Virus (HIV) or a Sexually Transmitted Infection (STI) 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 that is characterized by the expectation of affection or sexual involvement between the parties. 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** - 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.
* **Cyberstalking** is defined as threatening behavior or unwanted advances directed at another using the Internet and other forms of online and computer communications.
* **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 gender identity or a failure to conform to those gender stereotypes.

COMPLAINTS AND REPORTING - Students wishing to report have the following options:

Students have the right to have complaints of sexual assault dating violence, domestic violence, stalking, or sexual harassment responded to quickly and with sensitivity by college officials. Complaints and reports of discrimination, sexual harassment, and sexual misconduct should be made to the University’s AVPED/Title IX Coordinator or a Deputy 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

**Title IX Coordinator: ReNee S. Dunman**, Assistant Vice President for Equity and Diversity,

4111 Monarch Way Norfolk, VA 23508, 757.683.3141 rdunman@odu.edu.

**Deputy Title IX Coordinators:**

**For All Students (Except Student-Athletes): Traci Daniels,** Advisor & Special Asst. to VP SEES

 129 Koch Hall, Norfolk, VA 23529 757-683-5890 tdaniels@odu.edu

**For Student-Athletes:** **Ragean Hill,** Senior Associate Athletic Director/Senior Woman Administrator

124 Jim Jarrett Athletic Administration Building Norfolk, VA 23529 757.683.3360 rhill@odu.edu

**Criminal Prosecution**

To initiate criminal charges contact the ODU Police or the police department in the jurisdiction
where the crime happened:

ODU Police Department, 757-683-4000

Norfolk Police Department, 757-441-5610

**Confidentiality, Privacy, Anonymity and Requests Not to Pursue Title IX Investigation**

For any report under this policy, every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Information related to a report under this policy will only be shared with those University employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals must be discreet and respect the privacy of all individuals involved in the process. If a complainant 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 and/or their support staff. These individuals are designated as confidential resources and are employed with University Counseling Services and Student Health Services. The Office of Student Engagement and Enrollment Services maintains the current directory of these staff members:

Counseling Services at <https://www.odu.edu/counselingservices/directory>

Student Health Services at <https://www.odu.edu/studenthealth/directory>

This information, along with a full description of the services of these offices may be found through their respective websites.

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.

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 UniversityChief 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 Universityadministrators, 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 Universitywill, 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 Universitymay 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](http://www.odu.edu/content/dam/odu/policies/university/3000/univ-3012.pdf)