Policy #1005
DISCRIMINATION POLICY

Responsible Oversight Executive: University Counsel
Date of Current Revision or Creation: August 11, 2015

A. PURPOSE

The purpose of this policy is to establish uniform guidelines in order to promote a work and education environment that is free from harassment and discrimination, as defined below, and to affirm the University's commitment to foster an environment that emphasizes the dignity and worth of every member of the Old Dominion University community. This policy also details the process to address complaints or reports of retaliation.

B. AUTHORITY

Code of Virginia Section 23.1-1301, as amended, grants authority to the Board of Visitors to make rules and policies concerning 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 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

Administrative Leave – Leave granted with the approval of Human Resources to cover periods of investigation of wrongdoing and to provide paid leave during the time management renders a decision on investigative results.

Assistant Vice President for Equity and Diversity/Title IX Coordinator (AVPED/Title IX Coordinator) - The position designated by the University to coordinate the institution’s compliance with State and Federal anti-discrimination laws, including Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), as amended. This position is also responsible for coordinating the institution’s compliance with Section 504 of the Rehabilitation Act of 1973, as amended. This position addresses systemic problems of discrimination, has oversight of this policy and student complaints and appeals relative to the accommodation process, and coordinates Technical Standards for all degree programs. The AVPED also coordinates the actions of the Deputy Title IX Coordinators at the University and is responsible for reporting on the University’s compliance with Title IX.

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

Complaint - The written and signed document or verbal statement of alleged facts used to initiate action under this policy.

Complaint Commencement Date - The date on which the complainant provides a written and signed complaint or a verbal statement that includes a statement of alleged facts describing the offense.

Consensual Relationship – Two or more individuals (including spouses and partners) involved by mutual consent in a romantic, physically intimate, and/or sexual relationship.

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.)

Deputy Title IX Coordinators - The designated officials within the University who may receive and report complaints as defined in this policy.

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, political affiliation, marital status, disability, or any other status protected by law -- that excludes an individual from participation
in an educational program or activity, denies the individual the benefits of an educational program or activity, 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. Discrimination does not have to include intent to harm or involve repeated incidents.

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 University community. Harassment does not have to include intent to harm or involve repeated incidents. Harassment violates this policy when it creates a hostile environment, as defined below.

Hostile Environment - May be created by unwelcome 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; and (d) the perspective of a “reasonable person” in the same situation as the person subjected to the conduct.

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

Responsible Employee – Includes any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or designee; or whom a student could reasonably believe has this authority or duty.

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 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, 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.

The types of Sexual Harassment prohibited by this policy are (1) Term or Condition of Employment (often referred to as "quid pro quo" harassment), which 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; and (2) Hostile Environment, which occurs when verbal, non-verbal and/or physical conduct is sexual and/or based on sex, gender, gender identity or sexual orientation (actual or perceived), unwelcome, and sufficiently severe and pervasive to interfere with a person's work/learning program performance or to create a hostile, intimidating or offensive environment.

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

- **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. 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. 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.

D. SCOPE

This policy applies to conduct on property owned, leased or controlled by the University involving students, employees, employees of affiliated organizations who are paid through the University, visitors to the institution, contractors working on campus who are not University employees, and students and employees participating in University-sponsored activities. Students include all persons admitted to the University who have not completed a program of study for which they were enrolled; student status continues whether or not the University’s programs are in session. Employees include all staff, administrators, faculty, full- or part-time, and classified or non-classified persons who are paid by the University. Affiliated organizations are separate entities that exist for the benefit of the University through and operating agreement and include the Foundations, the Community Development Corporation, and the Alumni Association. Visitors include, but are not limited to, vendors and their employees, parents of students, volunteers, guests, uninvited guests and all other persons located on property owned, leased or otherwise controlled by the University. This policy also is applicable to any conduct that occurs on non-University property that has continuing effects that create a hostile environment on campus.

E. POLICY STATEMENT

The University is committed to promoting a work and education environment that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, disability, pregnancy, political affiliation, marital status, and genetic information, or based on any other status protected by law. The University will take steps to prevent recurrence of harassment and/or discrimination when incidents occur, remedy any discriminatory effects on the complainant and others (including measures to protect other students, if appropriate), and address complaint or reports of retaliation.

F. PROCEDURES

Complaints and Reporting

Complaints and reports of discrimination, sexual harassment, and sexual violence 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 violence and is trained to help individuals who file complaints find resources, investigate reported incidents, and respond appropriately to conduct alleged to be in violation of this policy. Individuals receiving reports or complaints of discrimination, sexual harassment, or sexual violence 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.

An individual 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 AVPED/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.

Victims are encouraged to report matters to the ODU Police Department or local law enforcement in instances involving a possible criminal violation and will not be dissuaded by the University from doing so at any time. If the victim is unable to respond, the University encourages reporting of the incident by a third party. The University also strongly encourages all individuals who may witness or otherwise know of a suspected violation of this policy to report it to the appropriate University official.

The University’s designated Title IX Coordinator is ReNee S. Dunman, Assistant Vice President for Equity and Diversity, 1301A Spong Hall, Norfolk, VA 23529, 757.683.3141, rdunman@odu.edu.

The University’s designated Deputy Title IX Coordinators are listed below with their contact information:

**For All Students (Except Student-Athletes):**
Traci Daniels  
Special Assistant to the Vice President for Student Engagement and Enrollment Services  
129 Koch Hall  
Norfolk, VA 23529  
757-683-5890  
tdaniels@odu.edu

**For Student-Athletes:**  
Ragean Hill, Associate Athletic Director/Student-Athlete Academic Services  
115 Jim Jarrett Athletic Administration Building  
Norfolk, VA 23529  
757.683.3375  
rrhill@odu.edu

**For Faculty:**  
Brian Payne  
Vice Provost  
2020B Koch Hall  
Norfolk, VA 23529  
757.683.4757  
bpayne@odu.edu

**For Administrative & Professional Faculty, All Other Employees, and Visitors:**  
S. Lanay Newsom  
Director of Equity and EO/AA  
1301A 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 reporting individual will be contacted within three calendar days after the date of the report for an interview with a member of the AVPED/Title IX Coordinator’s staff. Anonymous complaints may also be filed by using the Discrimination
Complaint Form, which can be submitted online or hand-delivered, or the Anonymous Report Form available from the Women’s Center.

Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of this 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. It is a violation of this policy for a student or an employee to interfere with an individual’s right to file a complaint under this policy.

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. The AVPED/Title IX Coordinator will provide all identified parties with information about obtaining medical and counseling services, filing a criminal report, advocacy services including those offered by the YWCA as well as guidance on other University and community resources.

Sources of counseling, advocacy, and support within and outside the University community for students and employees are available on Student Engagement and Enrollment Services’ website. This list will be maintained and updated, as appropriate, by the Office of Institutional Equity and Diversity.

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 the 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 violence, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be reported immediately and will be addressed promptly. The AVPED/Title IX Coordinator shall provide a written notice to an individual who alleges he or she was a victim of sexual violence, as defined by this policy, whether the alleged incident occurred on or off property owned, leased or controlled by the University, describing the victim’s rights and options.

Title IX Training

The University shall provide training to all employees likely to witness or receive reports of sexual violence, including faculty, 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 students’ right to file a Title IX complaint with the University and to report a crime to campus or local law enforcement.

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

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.

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 http://www.odu.edu/content/odu/units/counselingservices.html
Student Health Services at https://www.odu.edu/studenthealth

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

These individuals will encourage complainants 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 to report the incident 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 as well as the safety of members of the University 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 for Student Engagement and Enrollment Services, 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 a 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 University 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 University 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 arrangements, 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 University 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 University 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 Policy.

Coordination with Student Conduct & Academic Integrity

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 & Academic Integrity is responsible for student discipline including when a student is charged with sexual violence as defined by this policy.

Consensual Relationships

Employees, whether faculty or staff, shall not engage in a consensual relationship with students when the employee has a “position of authority” with respect to the student in such matters as teaching or otherwise evaluating, supervising, advising, or coaching a student as part of a school program or employment situation. Likewise, a supervisor and an employee shall not engage in a consensual relationship. The University views such relationships as a conflict of interest. Employees have a duty to comply with the University's Conflicts of Interest policy.

A faculty member who enters into a consensual relationship with a student or supervisor who enters into a consensual relationship with an employee where a “position of authority” exists should be aware that, if a charge of sexual harassment is subsequently filed, it will be exceedingly difficult to prove a defense on the grounds of mutual consent.

If conduct of a sexual nature has occurred or is occurring in an apparently consensual relationship, and, if a complaint of sexual harassment regarding such conduct is filed by the student against the faculty member or graduate assistant, or by the employee against the University official, then sexual harassment shall be presumed in such cases when:

1. The relationship is between a faculty member or graduate assistant and a student and:
   a. The faculty member or graduate assistant is in a position to determine the student’s grade or otherwise affect the student’s academic performance or advancement; and
   b. The relationship began after the faculty member or teaching assistant was in such a position.

2. The relationship is between an employee and a University official who is in a position to supervise the employee or otherwise influence the conditions of the employee’s work, and the relationship began after the supervisor was in such a position.
Informal Procedure (Not Applicable to Claims Involving Sexual Violence)

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 AVPED/Title IX Coordinator 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 complaint, described below.

Time for Filing a Complaint

For complaints other than Title IX complaints by students, the complaint 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 Complaint

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 also will confirm that the matter involves an alleged violation of this policy, thereby conferring jurisdiction to the Office of Institutional Equity and Diversity. If it is determined that the Office of Institutional Equity and Diversity does not have jurisdiction, a referral will be made to the appropriate on-campus or off-campus resources to address the issues.

3. The AVPED/Title IX Coordinator or designee will discuss the complaint with the complainant and the respondent as appropriate, including providing information about the formal investigation procedure and other resources. The 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.

4. The AVPED/Title IX Coordinator or designee 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.

5. The AVPED/Title IX Coordinator or designee will consider whether interim measures and involvement of other University administrators is appropriate.

6. The AVPED/Title IX Coordinator, or a member of the AVPED/Title IX Coordinator’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 or a trained investigator assigned to the AVPED/Title IX Coordinator’s office shall conduct the investigation. All investigations of complaints alleging violations of this policy shall be overseen by the AVPED/Title IX Coordinator.

7. Both the 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. The University shall strive to make the process transparent and fair to all parties.

8. 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 and for review and determination of findings and sanctions through the appropriate University hearing/grievance procedures.

9. 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 of 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.

10. 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.

11. In all matters involving a claim of sexual violence, 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.
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 of 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 Board of Visitors Policy 1490, Administrative and Professional Faculty. 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 in consultation with the Vice President for 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. The University reserves the right to require a Contractor to remove from campus any employee who violates this policy. Contractors shall assign for duty only employees acceptable to the University.

5. Visitors who violate this policy will be directed to leave campus immediately and may be subject to a permanent ban 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 and 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 as allowed by the Code of Student Conduct.

3. A complaint involving an employee as respondent may be appealed by either party to the respective Vice President within 15 calendar days of the finding and/or imposition of sanction whichever is later. The decision of the Vice President is final.

4. 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:

Student Remedies:

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.

7. Designating an individual from the Women’s Center’s crises services team, who is specifically trained in providing comprehensive and ongoing trauma-informed guidance, support and advocacy for victims of sexual violence.

8. Designating an individual from the University Counseling Center who is specifically trained in providing trauma-informed counseling services to victims of sexual violence to be on call to assist students whenever needed;

9. Training or retraining University employees on the University's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
10. Developing materials on sexual violence for students;

11. Conducting bystander intervention and sexual violence prevention programs with students;

12. 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;

13. 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

14. Targeting 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.

Employee Remedies:

1. Providing an effective escort to ensure that the complainant can arrive and depart safely.

2. Acting to ensure the least possible contact between the parties involved.

3. Reassigning the respondent or implementing alternatives that are specifically tailored to provide relief to the complainant.

The respondent will be provided with clear, written expectations regarding contact with the complainant. Failure to comply fully will warrant further disciplinary action and could result in termination.

Deferral of Action

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

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 briefly 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 has 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.
Documentation and Recordkeeping

The AVPED/Title IX Coordinator will maintain, in a confidential manner, all complaints, witness statements, documentary evidence, written investigation reports, resolutions, and appeal hearings and associated documents for a period consistent with Federal and State record retention policies for paper or electronic files. The AVPED/Title IX Coordinator will prepare a monthly summary of pending complaints that will be presented to the President, which will also be retained for a period consistent with Federal and State record retention policies for paper and electronic files. 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. RECORDS RETENTION

Applicable records must be retained and then destroyed in accordance with the Commonwealth’s Records Retention Schedules.

H. RESPONSIBLE OFFICER

Assistant Vice President for Equity and Diversity

I. RELATED INFORMATION

- Title IX of the Education Amendments of 1972
- Library of Virginia Records Retention Schedules
- University Policy 6600 - Standards of Conduct for Classified Employees
- University Policy 6602 - Classified Employees Grievance Procedure
POLICY HISTORY
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Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:

/s/ ReNeé S. Dunman August 11, 2015
Responsible Officer Date

Policy Review Committee (PRC) Approval to Proceed:

/s/ Donna W. Meeks June 23, 2015
Chair, Policy Review Committee (PRC) Date

Executive Policy Review Committee (EPRC) Approval to Proceed:

Responsible Oversight Executive Date

University Counsel Approval to Proceed:

/s/ R. Earl Nance August 11, 2015
University Counsel Date

Presidential Approval:

/s/ John R. Broderick August 11, 2015
President Date

Policy Revision Dates: March 16, 2015 (Interim Policy); August 11, 2015

Scheduled Review Date: August 10, 2020