



<b>RCHC - AA - 128 Sexual Harassment Policy</b>		<b>rPolicies#188</b>
<b>Riverside College of Health Careers – Education Campus</b>		
<b>Academic Affairs: Academic Policies</b>	<b>All College Employees &amp; Students</b>	
<b>Policy Approver//Content Owner: T. Del Corso, Director, College Policy Committee Chair</b>		
<b>Effective Date: 8/21/2020</b>	<b>Page 1 of 12</b>	

*This policy meets Clery Act & VAWA Requirements; 2015 Virginia State Law Requirements; Dept. of Ed/TitleIX Regulations*

<b>Revision Description</b>
Policy updated to reflect changes to Title IX regulations effective August 14, 2020.

### **PURPOSE:**

This Policy is intended to promote a non-discriminatory educational environment at Riverside College of Health Careers (the “College”), and to comply with Title IX of the Education Amendments of 1972 (Title IX), the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, and state laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. In accordance with Title IX, the federal law that prohibits discrimination on the basis of sex in federally funded Educational Programs and Activities, this policy is designed to provide for the prompt, effective, fair, and impartial investigation and resolution of complaints of Sexual Harassment against students of the College.

### **POLICY STATEMENT:**

It is the policy of the College to maintain an educational environment in which sexual and gender-based Harassment are prohibited. Persons reporting Sexual Harassment (defined below), are provided support and avenues of redress. When Sexual Harassment is reported to the College, prompt and appropriate action will be taken to end the conduct, prevent its recurrence, and address its effects.

This policy will apply to all complaints of conduct regulated by this policy made by students, faculty, staff, or third parties, and will take precedence over any other College policies and procedures with respect to such complaints.

This policy does not replace the criminal justice system. Furthermore, the College is required to report to the police department certain alleged crimes, including sexual assault. If the victim wishes to remain anonymous, their name and identifying information will be withheld from the information provided to the police department. All persons have the right to pursue Sexual Harassment complaints beyond the College, and are encouraged to use law enforcement agencies, regardless of whether they choose to pursue recourse through this policy.

### **NOTICE OF NON-DISCRIMINATION:**

The College does not discriminate on the basis of sex or gender in its Educational Programs and Activities or in the context of employment. Sexual assault, Harassment, and Retaliation are forms of sex and gender-based discrimination prohibited by Title IX, which provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

### **DEFINITIONS:**

See [Appendix A](#).

### **TITLE IX COORDINATOR:**

The College has appointed the Title IX Coordinator to oversee the investigation of all reports related to sexual and

gender-based harassment, in collaboration with the Director of Campus Resources. The Title IX Coordinator and/or Director of Campus Resources are available to meet with any person to discuss information about resources, interim measures and options for investigation and resolution under this policy as well as provide assistance in notifying law enforcement.

Inquiries or complaints concerning the application of Title IX, including complaints of Sexual Harassment or discrimination, may be referred to the Title IX Coordinator at:

Title IX Coordinator  
316 Main Street  
Newport News, VA 23601  
[TitleIXCoordinator@rivhs.com](mailto:TitleIXCoordinator@rivhs.com)  
(757) 240-2203

## **I. REPORTING SEXUAL HARASSMENT**

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### **A. Reporting Sexual Harassment to the College**

Sexual Harassment may be reported to the Title IX Coordinator, Director of Campus Resources, the Director of Academic Affairs, the Program Director, or Campus Security. Reports will be forwarded automatically to the Director of Academic Affairs.

€The Complainant may be the victim or any other person with knowledge of the Sexual Harassment.

The College strongly encourages the prompt reporting of Sexual Harassment. A delay in reporting may impact the College's ability to gather relevant and reliable information.

Preservation of information and tangible material relating to Sexual Harassment is essential for both law enforcement and campus investigations. Therefore, Complainants, Respondents, witnesses, or others reporting possible violations of this policy, are encouraged to preserve all information and tangible material relating to the incident. Examples include electronic communications (e.g., emails and text messages), photographs, clothing, bedding, and medical information. In the case of medical information, prompt examinations can be crucial.

### **B. Reporting Retaliation to the College**

€If any person believes they have been intimidated, threatened, coerced, or discriminated against in an effort to chill the exercise of Title IX rights, the person retaliated against should file a complaint with the Title IX Coordinator who is responsible for initiating prompt and equitable resolution of such complaints.

€It is not Retaliation for a school to punish someone for making a bad-faith materially false statement during a Title IX grievance process. Title IX expressly states that engaging in protected speech under the First Amendment never constitutes Retaliation.

### **C. Reporting Consensual Relationships**

Consensual amorous or sexual relationships (collectively referred to as consensual relationships) that occur in the context of educational or employment supervision and evaluation present serious ethical concerns. Consensual relationships between Administrators, staff, those with instructional responsibilities, and students enrolled in their classes or students for whom they have professional responsibility as advisor or supervisor demonstrate a breach of professional ethics and are in violation of this policy.

The respect and trust accorded an instructor by a student, as well as the power exercised by the instructor in giving praise or blame, grades, recommendations for further study and future employment, make voluntary Consent by the student suspect, given the fundamentally asymmetric nature of the relationship. Even when both parties have consented to the development of such a relationship, it is the faculty member who, by virtue of his/her special responsibility, may be held accountable for unprofessional behavior. (See Policy RCHC-AA-171 Faculty Rights and Responsibilities)

Complaints alleging Harassment, as defined above, may be filed by either party to the consensual relationship or by an aggrieved party outside the relationship.

**D. Reporting to Law Enforcement**

Reports of Sexual Harassment may also be made to law enforcement. The criminal process is separate from the College investigation and grievance process defined in this policy. A Complainant can pursue one or both options.

To initiate a criminal investigation or prosecution, reports of Sexual Harassment should be made to the Newport News Police or the police department in the jurisdiction where the Sexual Harassment occurred.

**E. Anonymous Reports**

Anonymous reports of Sexual Harassment may be considered invalid, and will not typically be pursued further in the absence of additional information.

**II. SUPPORT AND INITIAL ASSESSMENT**

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- A. Upon receipt of a Formal Complaint of Sexual Harassment, the Title IX Coordinator or designee will promptly conduct an Initial Assessment that includes the following steps:
1. Assess the nature and circumstances of the Sexual Harassment report.
  2. €Address immediate physical safety of the Complainant or any other individual(s).
  3. €Inform the Complainant of the right to notify (or decline to notify) law enforcement if the conduct is potentially criminal in nature.
  4. €Inform the Complainant of the right to seek medical treatment to address physical health and, as appropriate, preserve physical or forensic evidence.
  5. Assess the reported conduct to determine whether the circumstances pose a threat to the health or safety of the College community that warrant issuance of a Timely Warning or a temporary administrative suspension. €The College will remove any Respondent on an emergency basis if they pose an immediate threat to the health or safety of the campus.
  6. €Provide Supportive Measures whether or not a Formal Complaint has been filed.
    - a. The College will consider the Complainant's wishes in determining appropriate Supportive Measures.
    - b. The College will generally keep Supportive Measures confidential to the Complainant or the Respondent to the extent that confidentiality does not impair the College's ability to provide the Supportive Measures.
    - c. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.
  7. €Provide the Complainant with the following: information about on and off campus resources; examples of potential interim measures; an explanation of the investigative procedures; and the College's prohibition against Retaliation. (See RCHC-AA-Attachment 128.B Student Rights and Information When Reporting Sexual Harassment)
  8. Enter non-identifying information about the report into the Campus Security/Crime Log if the conduct is potentially criminal in nature.
- B. †The Director of Campus Resources will notify local prosecutors within 48 hours of beginning an investigation into a possible felony sexual assault.
- C. €The College may implement interim measures as may be appropriate for the individuals involved and for the larger College community. Interim measures may include but are not limited to:

1. Separation of the Complainant's and the Respondent's academic situation;
  2. Temporary administrative suspension of the Respondent;
  3. Enforcement of no-contact orders;
  4. Academic accommodations, if reasonably available.
- D. The scope and timing of further investigation and/or action will depend upon a number of factors including but not limited to:
1. Whether the Complainant requests confidentiality;
  2. Whether the Complainant requests that the investigation not be pursued;
  3. Whether the Title IX Coordinator determines that the College has an obligation to proceed with an investigation, regardless of the Complainant's wishes, in order to ensure campus safety;
  4. Whether ongoing fact-gathering by the police requires a temporary delay in further factual investigation by the College.

### **III. GRIEVANCE PROCESS**

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The College is required to investigate every Formal Complaint of Sexual Harassment. The Title IX Coordinator may file a Formal Complaint of Sexual Harassment if the Complainant chooses not to do so and it is reasonable in light of the known circumstances. In such circumstances, the Title IX Coordinator is *not* considered the Complainant.

The College will endeavor to complete its investigation and hearing, if any, within ninety days of receipt of the Formal Complaint. All timeframes set forth in this policy may be extended by the Director of Academic Affairs, with written notice to the Complainant and Respondent of the delay and the reason for the delay.

The Grievance Process includes:

- A. Dismissal Review
- B. Written Notice to the Parties
- C. Evidence Gathering
- D. Investigative Report
- E. Hearing
- F. Decision-Making
- G. Written Decisions
- H. Appeals

#### **A. Dismissal Review**

1. Upon notification of a Formal Complaint, the Director of Campus Resources, in consultation with the Director of Academic Affairs, will review the complaint to determine whether the allegations meet the requirements for either a mandatory or discretionary dismissal.
2. *€Mandatory Dismissal*: The College must dismiss a Formal Complaint or specific allegations within the complaint:
  - a. That do not describe conduct that meets the definition of Sexual Harassment;
  - b. That alleges Sexual Harassment which did not occur in the school's education program or activities;
  - c. That alleges Sexual Harassment that did not occur in the United States.

However, the College may still address dismissed complaints or allegations under its code of conduct, even if it is not Sexual Harassment under Title IX.

3. *€Discretionary Dismissal*: The College may dismiss a Formal Complaint:
  - a. If the Complainant notifies the Title IX Coordinator in writing that he/she wishes to withdraw the

Formal Complaint or some of its allegations;

- b. If the Respondent is no longer enrolled or employed by the College; or
  - c. If specific circumstances prevent the College from gathering evidence sufficient to reach a determination about the allegations.
4. In the case of both mandatory and discretionary dismissals, the College has the option to proceed with the investigation if it does not think dismissal is appropriate.
5. If the College dismisses a Formal Complaint or any of the allegations in it, the College will promptly send written notice to the Complainant and the Respondent of the dismissal, the reasons for the dismissal, and a statement that both parties have the right to appeal the dismissal.
- a. The Complainant will be advised of other appropriate disciplinary, legal, and support options and no further investigation under this policy will be pursued.
  - b. If new information is subsequently provided, this decision may be reevaluated.

#### **B. Written Notice to the Parties**

1. When the College begins an investigation into a Sexual Harassment complaint, the College will provide written notice to the Complainant and the Respondent not less than five days before any initial interviews are conducted. This is to allow both parties sufficient time to prepare for the initial interview.
2. The written notice will include the following information:
  - a. Key details of the alleged Sexual Harassment incident, including who was involved, the date and location if known, and the alleged misconduct that constitutes Sexual Harassment.
  - b. The Respondent is presumed not responsible during the grievance process.
  - c. Both the Complainant and the Respondent are entitled to an advisor of their choice. The advisor may be an attorney, but does not have to be. If either party does not have an advisor, the College will provide one at no cost to the party, solely for the purpose of conducting cross-examination on the party's behalf during the live hearing.
  - d. Neither party nor the school is allowed to seek, permit questions or allow the introduction of evidence that is protected by a recognized privilege, such as attorney-client privilege or doctor-patient privilege. This information can only be used during an investigation if the person holding that privilege has waived it.
  - e. Both parties may inspect and review evidence gathered by the College during the investigation.
  - f. The Student Code of Conduct prohibits knowingly making false statements or submitting false information during the grievance process. False statements include statements that omit a material fact, as well as statements that the speaker knows to be untrue. (See Policies RCHC-SA-202 Student Code of Conduct)
  - g. Retaliation constitutes an independent violation of this policy.
  - h. The College does not engage in *informal* resolution for complaints of Sexual Harassment.
3. Review with the Complainant and the Respondent their rights, including the right to have an advisor of their choice present during all meetings, interviews, and hearings; available resources; an explanation of the investigative procedures, and the College's prohibition against Retaliation. (See RCHC-AA-Attachment 128.C Student Rights and Information When Accused of Sexual Harassment; RCHC-AA-Attachment 128.D Information Sharing Consent Form).

**C. Evidence Gathering**

1. The Title IX Coordinator, in collaboration with the Director of Campus Resources, conducts all investigations into Sexual Harassment allegations. The burden of gathering evidence and burden of proof is on the College, rather than the parties. However, ~~€~~each party will have an equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence.
2. The investigation will be conducted in a prompt, fair, thorough, and impartial manner and will include, at a minimum: speaking separately with the Complainant, the Respondent, and pertinent witnesses, and soliciting and reviewing documentation relevant to the investigation including but not limited to available police reports.
3. ~~€~~The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present evidence.
4. ~~€~~Both parties are permitted to have their advisor of choice present during meetings and hearings.
5. ~~€~~The College will provide written notice of the date, time, location, participants, and purpose of all hearings, interviews, or other meetings, with sufficient time for the parties to prepare.
6. ~~€~~Both parties and their advisors will have equal opportunities to inspect and review the evidence gathered by the College as part of its investigation, if the information is directly related to the allegations raised in the Formal Complaint. That may include documents, notes from interviews with students or employees, or other types of evidence that the school gathers. This evidence may be sent in electronic format or copy.
7. ~~€~~The College will send the parties and their advisors evidence directly related to the allegations, in electronic format or hard copy, with 10 days for the parties to inspect, review, and respond to the evidence.

**D. Investigative Report**

1. After gathering evidence, the Title IX Coordinator and the Director of Campus Resources will prepare an Investigative Report on the allegations in the Formal Complaint which summarizes the evidence that the College has gathered about the alleged incident.
2. The Investigative Report will be provided to both parties. Both parties will have not less than ten days to respond to the evidence in writing.
3. If a response from either party is received, the response will be considered before finalizing the Investigative Report and circulated to the parties for at least another ten days before determination of responsibility is made or a hearing is scheduled.
4. The final written report of findings will be presented to the Director of Academic Affairs.

**E. Hearing**

1. The College is required to hold a live hearing for any Formal Complaint of Sexual Harassment. Live hearings may be conducted with all parties physically present in the same geographic location or, at the school's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. If requested by either party, the hearing may be held with parties located in separate rooms, with technology enabling everyone to see and hear each other. An audio or audiovisual recording or transcript of the live hearing will be made available to the parties for inspection and review.
2. The live hearing will include all involved parties, their advisors, witnesses, and the decision-makers. The College will notify in writing not less than five days before the hearing, the date, time, and location of the hearing.
3. If a party does not have an advisor, the College will provide one to be present at the live hearing.

4. Cross-Examination

- a. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
  - b. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Neither the Complainant nor the Respondent may personally question or cross-examine anyone. The advisors of the Complainant and Respondent are allowed to cross-examine other parties and witnesses.
  - c. The purpose of cross-examination is to help the decision-makers arrive at a factually accurate determination of responsibility by hearing each party's version of events and hearing each party answer questions about their version of events.
  - d. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker will first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
  - e. The Complainant's privacy will be protected by only allowing questions or evidence about prior sexual history if (1) it is offered to prove that someone other than the Respondent committed the alleged Sexual Harassment or (2) if it relates to sexual behavior between the Complainant and the Respondent and is offered to prove Consent.
5. Each person has the right to choose to participate or not participate in any part of the grievance process. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) will not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the decision-maker(s) will also not base their determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

**F. Decision-Making**

1. The Director of Academic Affairs will convene a hearing within ten days of receipt of the final Investigative Report from the Title IX Coordinator. The decision-makers will include the Director of Academic Affairs (Committee Chair) and two College officials appointed by the Director of Academic Affairs. €Decision-makers will not include the Title IX Coordinator, the Director of Campus Resources, officials with direct association to the Complainant and Respondent's educational programs, or otherwise involved in the investigation.
2. €The decision-makers will be provided the written Investigative Report. They will have an opportunity to interview all interested parties and will objectively evaluate the relevant evidence, including inculpatory and exculpatory evidence.
3. After all evidence is presented and the decision-makers and advisors have completed their questioning, both parties, their advisors, and their witnesses will be dismissed from the hearing.
4. After discussion of the evidence, the decision-makers, by majority vote, will determine whether the Respondent is responsible for the alleged Sexual Harassment. €For all Sexual Harassment hearings, decision-makers will determine responsibility using a preponderance of the evidence standard. With respect to any factual issue, this standard requires the determination of whether it is more likely than not that a fact exists or violation of this policy occurred. €Credibility determinations will not be made on the basis of the person's status as a Complainant, Respondent, or witness.
5. If the decision-makers find a violation of this or other College policies has occurred, appropriate sanctions, up to and including program dismissal, will be imposed by the decision-makers. Sanctions may include those listed in RCHC-AA-123 Disciplinary Actions Policy.
6. In determining the appropriate sanction(s), the decision-makers will take into account the following

considerations:

- a. The impact of the misconduct on the Complainant or the community;
  - b. Safety and protection of the College community;
  - c. The Respondent's disciplinary (and, if known, criminal) history;
  - d. The nature and circumstances of the misconduct;
  - e. The ongoing enrollment of both the Complainant and the Respondent, with preferential consideration given to the Complainant;
  - f. The Respondent's candor in responding to the complaint.
7. As a result of the investigation, the decision-makers may also recommend additional campus safety measures be implemented.
8.  The Registrar will add a statement to the academic transcript of any student suspended, expelled or withdrawn from the College for reasons related to an offense involving sexual violence.

#### **G. Written Decisions**

1.  At the conclusion of a hearing, the Director of Academic Affairs will prepare a Written Decision that will include the following:
  - a. The College policies that were violated;
  - b. A description of the procedural steps that were taken by the College, including a description of all notices and interviews that took place, any site visits that occurred and the hearing itself;
  - c. A findings of fact section with a description of the facts that were introduced at the hearing;
  - d. A statement and rationale for the conclusion of each allegation in the Formal Complaint;
  - e. A statement and rationale for the final determination of responsibility;
  - f. The disciplinary sanctions that the College will impose on the Respondent, if any, and whether the College will provide remedies to the Complainant;
  - g. A statement and rationale for any remedies for the Complainant, addressing how those remedies will restore or preserve equal access to education at the College. If the Respondent was found responsible, these remedies may burden the Respondent;
  - h. A statement that the parties have the right to appeal the initial determination regarding responsibility and the permissible bases for appeal.
2.  The written decision will be sent to both parties simultaneously and include information about how to appeal the determination.
3.  Either party may appeal the decision. Appeals must be received by the College within ten days of the decision.

#### **H. Appeals**

1.  Appeals may arise from two different steps in the process:
  - a. After a dismissal decision and before the grievance process, whether the dismissal was mandatory or discretionary;
  - b. At the end of the grievance process.

2. ¶Grounds for appeal will be limited to:
  - a. A procedural irregularity affected the outcome of the matter;
  - b. New evidence has been discovered that was not reasonably available at the time of the determination on responsibility or dismissal; or
  - c. A conflict of interest on the part of the Title IX Coordinator, an investigator who compiled evidence, or a decision-maker, and the conflict of interest affected the outcome.
3. Appeals will be made to the Campus Administrator within ten days of notification of the decision. ¶Both parties will have ten days to submit a written statement supporting or challenging the outcome of the grievance process. ¶Upon receipt, the Campus Administrator will notify both parties in writing and implement appeal procedures equally.
4. ¶Within ten days, after considering the parties' written statements, the Campus Administrator will notify both parties simultaneously in writing of the final decision.
5. ¶The College's determination about whether the Respondent is responsible for the Sexual Harassment allegations becomes final after appeal.
6. In the event a student is found responsible for violating this policy and suspension or dismissal sanctions have been imposed, the College reserves the right to require the student to leave campus while the appeal is pending.

#### **IV. CONFIDENTIALITY**

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¶The College will keep confidential the identity of Complainants, Respondents and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

Information regarding investigations, interim measures, hearings, decisions, and sanctioning determinations, will be shared among College officials and external entities only on a need-to-know basis and as permitted by College policy and applicable law. The College may choose to comment publicly, in writing or otherwise, to the extent permitted by law, regarding the decision reached if, in the judgment of the College, the best interests of the community would be served by such a disclosure.

#### **V. RECORDS**

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¶Grievance process records will be retained by the Director of Academic Affairs for a period of seven years, consistent with Federal and state law. Records will include:

1. Records of the investigation, hearing, and determination of responsibility; audio, audiovisual recordings or transcript of hearings; records of sanctions or remedies provided.
2. Records of any appeal and the materials associated with an appeal such as the written statements submitted by the parties.
3. Records of Supportive Measures taken in response to a report or complaint of Sexual Harassment. This includes the situation in which the College offered Supportive Measures to a Complainant only and where the Complainant of Sexual Harassment opted not to proceed with a Formal Complaint. In such cases, the College record-keeping has to include a report that it was not deliberately indifferent and that it took measures designed to restore or preserve equal access to its educational program and activities.

¶Records of materials used to train the Title IX Coordinator, investigators, and decision-makers will be retained by the Director of Campus Resources for a period of seven years.

## **VI. COORDINATION WITH CONCURRENT LEGAL PROCEEDINGS**

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Persons may report to law enforcement and/or engage in civil litigation in connection with the same behavior that forms the basis of a report under this policy.

Where the Complainant or another person with knowledge of a possible violation of this policy has reported to law enforcement, the College will fulfill its responsibility to take prompt and appropriate action to provide protection and resources to both parties.

The College will comply with requests by law enforcement for cooperation in a criminal investigation and may temporarily delay an investigation under this policy while law enforcement is in the process of gathering evidence. However, if the Complainant files a Formal Complaint while criminal proceedings are pending, or if the College determines that an investigation should proceed, the College may not wait for the conclusion of the criminal case to proceed with its investigation. If the College finds that Sexual Harassment occurred, it will take steps to prevent its continuation or recurrence and to address its effects, regardless of whether external legal proceedings are pending.

## **VII. SUPPLEMENTAL/ALTERNATIVE AVENUES FOR FORMAL COMPLAINTS**

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In addition to, or in lieu of, the procedures set forth in this policy, individuals may pursue those remedies that are available to them.

Students may file Formal Complaints of discrimination or Sexual Harassment with:

United States Department of Education, Office for Civil Rights, Region I  
5 Post Office Square, 8th Floor, Boston, MA 02109-3921  
Tel.: (617) 289-0111 Fax: (617) 289-0150 <http://www.ed.gov/about/offices/list/ocr/docs/howto.html>

College faculty and staff members may file a charge with the Federal Equal Employment Opportunity Commission and/or the Virginia Council on Human Rights within 300 days of the incident.

Federal Equal Employment Opportunity Commission  
<http://www.eeoc.gov/employees/charge.cfm>

Virginia Council on Human Rights  
1100 Bank St #3, Richmond, VA 23219  
(804) 225-2292 <http://www.chr.state.va.us/>

College employees may obtain additional assistance and support from the RHS Department of Human Resources.

## **VIII. RESPONSIBILITIES OF CAMPUS ADMINISTRATORS, FACULTY, AND STAFF**

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Campus administrators, staff, and those performing instructional or academic advising duties have an added responsibility to create and maintain a learning environment free of Sexual Harassment, to protect a Complainant from continued Sexual Harassment and/or Retaliation, and to protect the Respondent from damage by false allegations.

If an administrator, staff member, or individual with instructional responsibility becomes aware of an incident that might reasonably be construed as constituting Sexual Harassment, they must take immediate steps to address the matter by contacting either the Title IX Coordinator or the Director of Campus Resources. Administrators, staff, and those with instructional responsibility should act whenever they learn—either directly or indirectly—about Sexual Harassment. This obligation exists even if the Complainant requests that no action be taken. It is the responsibility of the administrators/staff to address and report the situation.

€Prior to involvement in the grievance process, the Title IX Coordinator, the Director of Campus Resources, the Director of Academic Affairs, Campus Administrator, and other appointed decision-makers, will have completed

annual training that includes: *Clery Act Campus Security Authority training; Responding to and Prevention Strategies for Sexual Assault, Dating Violence, Domestic Violence, and Stalking (VAWA); and Title IX and Responsible Authorities Reporting Requirements under Title IX.* Training is provided by a third-party vendor. Training materials may be reviewed upon written request to the Campus Administrator.

## **APPENDIX A – DEFINITIONS**

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**AIDING, ABETTING, or INCITING:** Participating in, soliciting, directing, or assisting in Sexual Harassment.

**COMPLAINANT:** A person who is alleged to be a victim of conduct that could constitute Sexual Harassment. A third-party may report Sexual Harassment.

**CONSENT:** Clear and unambiguous agreement, expressed in mutually understandable words or actions, to engage in a particular sexual activity. Whether valid Consent has been given will be judged based upon what a reasonable person would have understood from such words or actions. Consent must be voluntarily given and is not valid (1) if obtained by physical force, coercion, or threat; (2) when a person is Incapacitated; or (3) when an intellectual or other disability prevents a person from having the capacity to give Consent. Consent to engage in one sexual activity, or agreement to engage in a particular sexual activity on a prior occasion, cannot be presumed to constitute Consent to engage in a different sexual activity or to engage again in a sexual activity. Consent can be withdrawn by either person at any point.

**DATING VIOLENCE:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of the relationship shall be determined based on a consideration of the following factors: length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.

**DOMESTIC VIOLENCE:** Acts of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, or by a person who is cohabitating with or has cohabitated with the victim as a spouse.

**EDUCATIONAL PROGRAMS AND ACTIVITIES:** This includes activities on campus and in clinical and practicum experiences where the school exercises substantial control over the context of the alleged Harassment and the person accused of committing Sexual Harassment.

**FORMAL COMPLAINT:** A written document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent.

**INCAPACITATION:** When a person lacks the capacity to give Consent to sexual activity because the person is asleep, unconscious, mentally and/or physically helpless, or otherwise unaware that sexual activity is occurring. Incapacitation is not necessarily the same as legal intoxication. Where alcohol or other drugs are involved, evaluating Incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's: decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.

**INTENTIONAL INCAPACITATION:** The act of providing alcohol or other drugs to a person with the intent to render the person Incapacitated.

**RESPONDENT:** An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment including Aiding, Abetting, or Inciting Sexual Assault, Sexual Harassment or Retaliation.

**RETALIATION:** Engaging in conduct that may reasonably be perceived to (1) adversely affect a person's educational, living, or work environment because of their good faith participation in the reporting, investigation, and/or resolution of report of a violation of this policy; or (2) discourage a reasonable person from making a report or participating in an investigation under this policy. Retaliation includes but is not limited to: (1) acts or words that constitute intimidation, threats or coercion intended to pressure a person to drop or support a complaint under this policy or to provide false or misleading information in connection with an investigation; and (2) pressuring a person to participate or refrain from participating as a witness in an investigation under this policy. Retaliation may

constitute a violation of this policy even when the underlying report made in good faith did not result in a finding of responsibility.

**SEXUAL ASSAULT:** Unwanted or unwelcome touching of a sexual nature, including: fondling; penetration of the mouth, anus, or vagina, however slight, with a body part or object; or other sexual activity that occurs without valid Consent.

**SEXUAL HARASSMENT:** Includes three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect, including: (1) any instance of *quid pro quo* Harassment by a school’s employee; (2) any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; or (3) any instance of sexual assault (as defined in the Clery Act, 20 U.S.C. § 1092(f)), Dating Violence, Domestic Violence, or Stalking (as defined in the Violence Against Women Act (VAWA), 34,U.S.C. § 12291(a)). Sexual Harassment may consist of verbal, physical, or other types of conduct that targets a person based on their sex and that the person finds unwelcome.

**SUPPORTIVE MEASURES:** Free individualized services which are designed to ensure equal educational access, protect safety, or deter Sexual Harassment; are reasonably available; are non-punitive, non-disciplinary; are offered to both the Complainant and the Respondent; and are not unreasonably burdensome to either party. Supportive Measures may include: counseling; extensions of deadlines or other course-related requirements; modifications of work or class schedules; campus escort services; leave of absence; and/or mutual restrictions on contact between individuals.

**STALKING:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Stalking includes repeated unwanted contact in the form of phone calls, physical presence, and/or regular mail. Stalking also includes unwanted electronic contact, i.e., email, text messages, social media, etc., (also known as cyber stalking).

**TIMELY WARNING:** Campus-wide notification that a serious or ongoing threat exists to students, faculty and staff.

**TITLE IX COORDINATOR:** The person designated to conduct an investigation under this policy. The Title IX Coordinator is a trained facilitator whose role includes protecting the safety of victims and promoting accountability.

**RELATED INFORMATION:**

<i>Attachments</i>	RCHC - AA - 128.A Administrative Actions Checklist RCHC - AA - 128.B Student Rights & Information When Reporting Sexual Harassment RCHC - AA - 128.C Student Rights & Information When Accused of Sexual Harassment RCHC – AA – 128.D Information Sharing Consent Form RCHC – AA - 129.D Title IX Contact Info for Posting on Campus
<i>Policies</i>	RCHC - AA - 123 Disciplinary Actions RCHC - SA - 202 Student Code of Conduct

**POLICY DATES:**

<b>Last Date Reviewed:</b>	8/21/2020
<b>Last Date Revised:</b>	8/21/2020
<b>Date Created:</b>	3/25/2015

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