



Policy Title: Discrimination and Harassment Policy	Effective Date: 11/21/2014
Policy Number: GEN PO 1002	Date of Last Review: 6/3/2024
Oversight Department: Office of Institutional Equity	Next Review Date: 3/1/2025

## 1. PURPOSE

- A. Radford University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, against otherwise qualified persons with disabilities or based on any other status protected by law.
- B. The purpose of the Discrimination and Harassment Policy hereafter Policy is to establish clearly and unequivocally that Radford University prohibits discrimination, harassment, and retaliation by individuals subject to its control or jurisdiction and to set forth procedures by which such allegations shall be filed, investigated, and adjudicated.

## 2. APPLICABILITY

- A. This Policy applies to on-campus conduct involving students, employees, faculty and staff, visitors to campus (including, but not limited to, individuals participating in camps and programs, volunteers, non-degree seeking students, exchange students and other students taking courses or participating in programs at Radford University, and contractors working on campus who are not Radford University employees) as well as to students living on campus, employees, faculty and staff participating in Radford University sponsored activities off campus. This Policy is applicable to any conduct that occurs off campus that has continuing effects that create a hostile environment on campus or that effectively denies a person equal access to Radford University education program. This Policy applies to discrimination and harassment occurring against a person in Title IX cases. This Policy replaces and supersedes the Radford University Sexual Harassment Policy and Nondiscrimination Statement as well as any and all references related to discrimination and harassment that may be contained in other Radford University policies including the Standards of Student Conduct.

date

## B. Academic Freedom and Free Speech

This Policy does not allow censure or censorship of constitutionally protected expression, which is valued in higher education and by Radford University. In addressing all reports of alleged violations of this Policy Radford University will take all permissible actions to ensure the safety of students and employees while complying with any and all applicable guidance regarding free speech rights of students and employees. This Policy does not in any way apply to editorial and editorial decisions or abridge the content of particular textbooks or editorial materials.

## 3. DEFINITIONS

**Appellant** means an individual who appeals either the final determination of a case or the Title IX Coordinator's dismissal of a Formal Complaint.

**Appellee** means an individual who is the non-appealing party in an appeal.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, discrimination, harassment or other possible violation of this Policy.

**Consent** is knowing, voluntary and clear permission, by word or action, to engage in mutually agreed upon all





activity from a hidden location or



initiated before reporting it to the Title IX Coordinator. The Radford University Police Department will follow departmental procedures.

4. Reports Made by Students: Students hold





implementing regulations of FERPA, 34 C.F.R. 99.36, and as detailed in the Sexual Violence Threat Assessment portions below

#### F. Sexual Violence Threat Assessment

1. Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person or where a person is incapable of giving consent that is alleged to have occurred (i) against any student or (ii) on campus in or on a Radford University building or property or on public property that is on campus or immediately adjacent to and accessible from campus the Title IX Coordinator shall promptly inform a review committee of the report including personally identifying information.
  - a. The review committee shall be comprised of, at a minimum, the Title IX Coordinator a representative of law enforcement and a student affairs representative. The review committee may consist of other Radford University officials depending on whether the accused individual is a student faculty or staff member and the circumstances of the report. The review committee shall be advised by the Office of the Attorney General.
  - b. Within 72 hours of receipt of the report the review committee shall meet to review the information and shall continue to meet as necessary as new information becomes available. If the criteria in Paragraph a. are met the review committee shall convene regardless of whether or not the victim has notified the Radford University Police Department Carilion Clinic Police, or local law enforcement or whether or not the victim has requested that Radford University proceed with a Title IX investigation.
  - c. The review committee may obtain law enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records and know facts and circumstances of the reported incident and other evidence known to Radford University including the Radford University Police Department Carilion Clinic Police, and local law enforcement. The review committee shall be considered to be a threat assessment team established pursuant to Virginia Code § 23.1-805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 et seq). The review committee shall comply with the Family Educational Rights and Privacy Act in conducting its review.
  - d. In addition to the available information detailed in Paragraph c. above, the review committee shall consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:
    - i. Other sexual misconduct reports about the same individual;
    - ii. Prior acts or reports of misconduct at another institution or a history of violent behavior
    - iii. Threats of further sexual misconduct against the reporting individual or others
    - iv. A history of failing to comply with a no contact order issued by Radford University officials
    - v. Allegations of multiple perpetrators in the same incident

- vi. Use of physical violence in the reported incident or a prior incident. Examples of physical violence include, but are not limited to, hitting, punching, slapping, kicking, restraining, or choking;

identifying information, unless such information is disclosed to a law enforcement agency pursuant to Paragraph e.

h. At the conclusion of the Search

2. To the extent possible, Radford University will seek the consent of the Complainant before offering specific means to the greatest degree possible.
3. Radford University may remove a Respondent from an educational program or activity on an emergency basis provided that the University undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, discrimination, or harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. Radford University may temporarily reassign or place on administrative leave any employee alleged to have violated this Policy pending investigation. Leave will be administered in accordance with appropriate employment policies.
4. Radford University will maintain as confidential any specific means provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the ability of the University to provide the specific means.

#### I. Disciplinary Immunity

Ensuring the safety of individuals who report violations of this Policy is Radford University's primary concern. In compliance with Virginia Code § 23.1-808, and in order to facilitate reporting, Radford University will provide disciplinary immunity to a person who reports to any individual employed by the institution that an act of sexual violence, or any other incident violating this Policy which occurred on campus in or on a non-campus building or property or on public property as such terms are defined in Virginia Code § 23.1-806. Disciplinary immunity means that if the institution determines as a result of any investigation relating to such alleged act of sexual violence or other violation of this Policy the reporting individual committed a separate, unrelated, nonviolent act that violates the Radford University Standards of Student Conduct that person is immune from disciplinary action for such violation. Disciplinary immunity may also be offered to individuals who intend to help others before a violation of this Policy.

## B. Written Explanation of Rights and Options

1. When the Title IX Coordinator receives a report that a Complainant has been a victim of discrimination or harassment, the Title IX Coordinator will promptly contact the Complainant to hear and provide a written explanation of rights and options, which shall include:
  - a. Notification of resources including information on contacting the local sexual assault crisis center or other victim support services, both within Radford University and in the local community
  - b. Options for available assistance in, and how to request support measures regardless of whether the Complainant chooses to report the crime to law enforcement or file a Formal Complaint
  - c. The procedures for Title IX, including filing a Formal Complaint, Formal Investigation, and Informal Resolution procedures, dismissal of cases, adjudication, appeals and disciplinary sanctions and remedies

Three factors determine the category of the case and, thus, the process by which the case is adjudicated. The determining factors are 1) whether the alleged incident is considered "sexual harassment," 2) the location where the alleged incident occurred, and 3) the Respondent's affiliation with Radford University (e.g., student employee). Parties to a case will be notified simultaneously of the category in which their case falls. The categories are "Title IX Case," "Student Conduct Referral Case," and "Non Title IX/Non Student Case." Parties to a case will be informed of the proper category for their case and will be informed if the category changes as investigations learn more information. Cases will be identified and adjudicated as follows:

- i. The case will be categorized as a "Title IX Case" and will be referred to a Decision Maker for a live hearing, with a document as if

iii. The case will be categorized as a Non Title IX/Non Student Case" and will continue to be processed in the Office of Internal Equity. It will allow appeal option, if

(a) The

conduct charges for students





- i. The case will be categorized as a Title IX Case" and will be referred to a Decision Maker for a live hearing, ~~by~~ a document review as appeal, if
  - (a) The allegation is ~~sexual~~ harassment and
  - (b) The



Complaints of ~~sexual~~ harassment, discrimination or other discrimination or harassment. The University may not take the parties to



than one Complainant or more than one Respondent references in this section to the singular party "complainant" or "respondent" include the plural as applicable.

9. If a Formal Investigation is used, at any time prior to reaching a determination regarding responsibility the Title IX Coordinator may facilitate an Informal Resolution process that does not involve a full investigation and adjudication, provided that the Title IX Coordinator provides written notice as outlined in Section 5; obtains the parties' voluntary written consent to the Informal Resolution process and the Informal Resolution process is not offered or facilitated to resolve allegations that an employee sexually harassed or otherwise discriminated against a student.

**a. Informal Resolution**

- i. For alleged violations of the Discrimination and Harassment Policy the Complainant and the Respondent have the option to proceed under an informal process, when deemed permissible by the Title IX Coordinator and when the allegations are not that an employee sexually harassed or otherwise discriminated against a student.
- ii. If the Complainant, the Respondent, and the Title IX Coordinator all agree that an Informal Resolution would be used, the Title IX Coordinator shall attempt to facilitate a resolution that is agreeable to all parties. Prior to beginning the Informal Resolution process the Title IX Coordinator must obtain the parties' voluntary written consent to the process.
- iii. Upon initiating an Informal Resolution, the Title IX Coordinator will provide the parties written notice of the following:
  - (a) the allegations
  - (b) either party has the right to withdraw from the Informal Resolution process at any time prior to agreeing to a resolution and may elect a Formal

InformalTj/



v. The burden of proof and

### viii. Title IX Case

Following the Formal Investigation, the Title IX Coordinator will schedule a live hearing with a Decision Maker

- (a) The Title IX Coordinator will notify both parties of the time, date, and location of the live hearing.
- (b) The hearing will occur within ten (10) business days from the date the Final Investigative Report is distributed to the parties. If an extension is necessary, all parties will be notified of the expected time frame and the reason for the extension.
- (c) The Decision Maker will facilitate the hearing.
- (d) The Decision Maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions including questions challenging credibility. Such 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.
  - (i) 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 must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
  - (ii) If a party or witness does not submit to cross-examination at the live hearing, the Decision Maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; however, the Decision Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.
- (e) Live hearings may be conducted with all parties physically present in the same geographic location or at Radford University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually using technology enabling participants to simultaneously see and hear each other. At the request of either party, Radford University will provide for the live hearing to occur with the parties located in separate rooms using the technology enabling the Decision Maker and parties to simultaneously see and hear the other party or the witnesses answering questions.
- (f) If a party does not have an advisor present at the live hearing, Radford University must provide, without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- (g) Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the



Complainant or if the claims and evidence concern specific incidents of  
the Complainant's prior sexual behavior in respect to the Respondent and  
are offered to prove consent

(h) Radford University will create an audio or audio-visual recording,





**3. Appeal Procedure for a "Non Title IX/Non Student Case"**

- a. A Complainant or Respondent desiring to appeal the investigator findings shall file a written request for appeal with the Title IX Coordinator within five (5) business days of delivery of the Final Investigator Report
- b. The Title IX Coordinator will notify the other. The

for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. Both the appellant and appellee, or the Title IX Coordinator if the appellee does not participate, will address the Chair of the Committee and not each other. The Chair will make the final decision on all matters of procedure during the hearing.

- g. The past sexual history or sexual character of a party to the Formal Complaint Complainant or Respondent or anyone other than each other will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the Respondent in the form of previous findings in any Radford University or judicial proceeding will be admissible. The parties will be notified in advance by the Appeal Committee Chair of the hearing if any information addressed by this paragraph is deemed admissible.
- h. The Appeal Committee will review all provided documents and, within ten (10) business days following the hearing, the Committee will submit a written recommendation simultaneously to both parties, the Title IX Coordinator and the President. The recommendation shall include: (i) a description of the appellant's goods for appeal; (ii) whether such goods are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or eject the findings of the Title IX Coordinator and/or the recommended sanction and the rationale for such determination; (iv) if the Title IX Coordinator's findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution, and (v) the materials the Committee members were provided by the Title IX Coordinator and by the appellant and appellee.
- i. Within three (3) business days of the Committee's recommendation, the President shall notify the Committee, the Title IX Coordinator and the parties in writing of his decision relative to the findings and recommendations of the Committee. The decision of the President is final and no



3. The Title IX Coordinator will prepare a monthly summary of pending reports present the summary to the President and retain the summary for at least

[Code of Virginia § 18.2-61 et seq. \(Article 7\)](#), Criminal Sexual Assault”

[Code of Virginia § 19.2-389](#), Dissemination of criminal history record information.”

[Code of Virginia § 19.2-389.1](#), Dissemination of juvenile record information.”

[Code of Virginia § 23.1-805](#), Violence prevention committee; threat assessment team.”

[Code of Virginia § 23.1-806](#), Reporting of acts of sexual violence.”

[Code of Virginia § 23.1-808](#), Sexual violence; policy review disciplinary immunity for certain individuals who make reports”

[Code of Virginia § 23.1-900](#), Academic suspension, permanent dismissal, or withdrawal from institution.”

[Code of Virginia § 32.1-127.1:03](#), Health records privacy

## 9. INTERPRETATION

The authority to interpret this policy is in the President of the University and is generally delegated to the Title IX Coordinator

## 10. APPROVAL AND REVISIONS

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was adopted by the Radford University Board of Visitors on November 21, 2014.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 18, 2015.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 15, 2017.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on May 10, 2019.

On August 5, 2020, the Radford University Board of Visitors approved a revision to the *Discrimination and Harassment Policy* (previously titled *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy*) effective August 14, 2020.

Note: This policy was reviewed in February 2024, but was not revised at the time pending issuance of revised Title IX regulations by the Department of Education. New Distance 0021, D 0 Tc <0003>Tj /To