

J.2 Appendices

APPENDIX A: DEFINITIONS

The following definitions apply to the Equal Opportunity, Harassment, and Nondiscrimination Policy (further referenced as “the Policy”):

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Administrator.** The person with primary responsibility for overseeing and enforcing the Policy As used in these policies and procedures, the “Administrator” also includes their designee(s).
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to participate in the VGCC’s education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
- **Complaint.** An oral or written request to VGCC that can objectively be understood as a request for VGCC to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
 - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - An employee whom VGCC has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or
 - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, retaliation, or Other Prohibited Conduct. The employee’s confidential status only applies with respect to information received while conducting the study.

- **Day.** A business day when the VGCC is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person or panel who reviews evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where VGCC exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that VGCC officially recognizes.
- **Employee.** A person employed by VGCC either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Administrator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by VGCC to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When VGCC receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- **Mandated Reporter.** A VGCC employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, retaliation, and/or Other Prohibited Conduct with the Administrator.^{1,2}
- **Nondiscrimination Team.** The Administrator, any deputy coordinators, and any member of the Resolution Process Pool.
- **Notice.** When an employee, student, or third party informs the Administrator of the alleged occurrence of discriminatory, harassing, retaliatory, and/or Other Prohibited Conduct.

¹ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

² The Administrator designated to receive information from Mandated Reporters may vary depending upon the type of alleged discrimination, harassment, or retaliation (e.g., on the basis of sex, on the basis of race, on the basis of disability).

- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against discrimination and harassment by law or VGCC Policy.
- **Relevant Evidence.** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to VGCC's Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy, or Other Prohibited Conduct.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** Any person who has gained admission.
- **Title IX Coordinator.** At least one official designated by VGCC to ensure ultimate oversight of compliance with Title IX and VGCC's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

APPENDIX B: ATIXA'S INFORMAL RESOLUTION (IR) FRAMEWORK³

Internal Use Only – Not to Be Published on Title IX Website page but should be published in Administrative Policy Manual on both the Website and Portal.

ATIXA has framed an Informal Resolution (IR) process that includes four options:

- 1) **Supportive Resolution.** When the Administrator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- 2) **Educational Conversation.** When the Administrator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations. (The Complainant can be involved in this conversation if they wish.)
- 3) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and VGCC are agreeable to the resolution.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism, such as shuttle negotiation, restorative practices, facilitated dialogue, etc., as described below.

Alternative resolution approaches are likely to be used more often by post-secondary institutions. ATIXA does not endorse these approaches as better or worse than other formal or informal approaches.

ATIXA believes that for an IR approach to be effective in addressing discrimination, harassment, and/or retaliation, it needs to be carefully and thoughtfully designed and executed and be facilitated by well-trained personnel who take the necessary time to prepare and lay a foundation for success. Although no approach is a panacea, the framework below can help to lay that foundation, regardless of which approach(es) are used.

Here are the principles to be considered in supporting various approaches to Informal Resolution:

- IR can be applied in any discrimination, harassment, retaliation, or Other Prohibited Conduct complaint but may not be appropriate or advisable in all matters involving serious violence.
- Situations involving dangerous patterns or significant ongoing threat to the community should generally not be resolved by IR, unless a Respondent is accepting responsibility.
- The Administrator has the authority to determine whether to permit an IR-based resolution, in line with any applicable federal or state requirements.

³ Appendix B is not intended for publication. It is offered as an internal guide for administrators and IR facilitators.

- Any party can withdraw from the IR process at any time before an agreement is reached.
- An IR Facilitator can also end an IR process early at their discretion.
- IR can be attempted before and in lieu of formal resolution as a diversionary resolution.
- Alternative approaches can inform formal resolution, as in a formal resolution model infused with restorative practices.
- IR-based processes could follow a Final Determination at the Parties' request.
- Alternative resolution approaches to IR must be facilitated by VGCC or a third party. There may be value in creating clearly agreed-upon ground rules, which the Parties must agree to abide by in advance, otherwise the Informal Resolution process may be deemed to have failed.
- Technology-facilitated IR is possible, should the Parties be unable or unwilling to meet in person.
- If IR fails, a Resolution Process can take place thereafter. Evidence elicited within the "safe space" of the IR facilitation could be later admissible in the Resolution Process unless all Parties and the Administrator determine it should not be. This will be clearly explained as a term of the decision to engage in the IR process.
- With situations involving violence or sensitive details, the preferred alternative approach typically involves a minimal number of essential Parties. It is not a restorative circle approach with many constituents, in order to ensure privacy.
- Some approaches require acceptance of accountability (this could be more than an acknowledgment of harm). A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the Administrator before determining that an incident is amenable/appropriate for resolution by IR.
- IR is intended to provide space for information exchange and connection, if desired, by the Parties. This may include supporting a dialogue to allow each party to express their experience of events or a process resulting in an accord or agreement between the Parties (e.g., Complainant, Respondent, VGCC), which is summarized in writing and enforced by VGCC. This can be a primary goal of the process.
- IR can result in the Parties' voluntary imposition of safety measures, remedies, and/or agreed-upon terms that VGCC can enforce. These can be part of the agreement.
- IR can result in the voluntary acceptance of "sanctions," meaning that a Respondent could agree to withdraw or resign, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the Complainant's safety/educational or employment access in lieu of formal sanctions that would create a disciplinary record for the Respondent. These should be enforceable by VGCC as part of the agreement, as may be terms of mutual release, non-disparagement, and/or non-disclosure.
- Although a non-disclosure agreement (NDA) could result from IR, it must be mutually agreed upon by the Parties and not coerced, as verified by the Administrator.
- Institutions must develop clear rules for managing/facilitating alternative resolution approaches to ensure they are civil, age-appropriate, culturally competent, reflective of an effort to neutralize power imbalances, and maximize the potential for the IR process to result in the Parties' understanding, restoration, remedy, etc.
- IR agreements may only be written to be binding on the Parties. They cannot include requirements or restrictions for persons or groups who are not a party to the Informal Resolution.

APPENDIX C: STATEMENT OF THE PARTIES' RIGHTS

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited discrimination, harassment, retaliation, and Other Prohibited Conduct, when reported in good faith to VGCC officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any VGCC public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from VGCC's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by VGCC officials.
- Have VGCC Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without VGCC pressure, if Informal Resolution is approved by the Administrator.
- Not be discouraged by VGCC officials from reporting discrimination, harassment, retaliation, and Other Prohibited Conduct to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by VGCC in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by VGCC law enforcement, security, and/or other VGCC officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
- A VGCC-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of discrimination, harassment, retaliation, and/or Other Prohibited Conduct if such changes are reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:
 - Relocating a residential student's housing to a different on-campus location
 - Assistance from VGCC staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)

- Transportation assistance
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and provide a pro-rated refund
 - Rescheduling or adjusting an exam, paper, and/or assignment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options
- Have VGCC maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair VGCC's ability to provide the supportive measures.
 - Receive sufficiently advanced written notice of any VGCC meetings or interviews involving another party, when possible.
 - Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses, including expert witnesses.
 - Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
 - Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
 - Access the relevant evidence obtained and respond to that evidence.
 - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
 - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.
 - The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed
 - Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
 - Regular status updates on the investigation and/or Resolution Process.
 - Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
 - A Decision-making panel that is not single sex in its composition, if a panel is used.
 - Preservation of confidentiality/privacy, to the extent possible and permitted by law.
 - Meetings, interviews, and/or hearings that are closed to the public.
 - Petition that any VGCC representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
 - Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
 - Apply the appropriate standard of proof, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
 - Be present, including presence via remote technology, during all testimony given and evidence presented during any live hearing.

- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a VGCC decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with the VGCC's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

APPENDIX D: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY

For the purpose of this Policy, the terms *privacy*, *confidentiality*, and *privilege* have distinct meanings.

- **Privacy.** Means that information related to a complaint will be shared with a limited number of VGCC employees who “need to know” in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in VGCC’s response to Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.
- **Confidentiality.** Exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by VGCC as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Resource will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the Title IX Administrator can assist them. With respect to Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.
- **Privilege.** Exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by a provider unless a court orders release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. VGCC treats employees who have the ability to have privileged communications as Confidential Employees.

VGCC reserves the right to determine which VGCC officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Decision-makers, Appeal Decision-makers, witnesses, the Parties, and the Parties’ Advisors. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties’ rights and privacy, and release is governed by the institution’s unauthorized disclosure policy.

VGCC may contact students' parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

APPENDIX E: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to describe assessment of any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and/or other Behavioral Intervention Team (BIT) (sometimes known as CARE team) members.

A VRA occurs in collaboration with the Non-discrimination team and must be understood as an ongoing process, rather than as a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

- 1) An appraisal of **risk factors** that escalate the potential for violence.
- 2) A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
- 3) A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
- 4) The application of **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Administrator will initiate the VRA process through the Nondiscrimination Team. The Nondiscrimination Team will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA as outlined in the Nondiscrimination Team manual and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include The NABITA Risk Rubric,⁴ The Structured Interview for Violence Risk Assessment (SIVRA-35),⁵ Violence Risk Assessment of the Written Word (VRAWW),⁶ Workplace Assessment of Violence Risk (WAVR-21),⁷ Historical Clinical Risk Management (HCR-20),⁸ and MOSAIC.⁹

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The Nondiscrimination Team conducts a VRA process and makes a recommendation to the Administrator as to whether the VRA indicates there is a substantial, compelling, and/or imminent and serious threat to the health and/or safety of a person or the community.

In some circumstances, the Administrator may determine that a VRA should be conducted by the Nondiscrimination Team as part of the initial evaluation of a Complaint under this Policy. A VRA can aid in critical and/or required determinations, including:

- 1) Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
- 2) Whether the Administrator should pursue/initiate a Complaint absent a willing/able Complainant
- 3) Whether the scope of an investigation should include an incident, and/or pattern of misconduct, and/or climate of discrimination or harassment
- 4) To help identify potential predatory conduct
- 5) To help assess/identify grooming behaviors
- 6) Whether it is reasonable to try to resolve a Complaint through Informal Resolution, and if so, what approach may be most successful
- 7) Whether to impose transcript notation or communicate with a transfer institution about a Respondent
- 8) Assessment of appropriate sanctions/remedies (to be applied post-determination)
- 9) Whether a Clery Act Timely Warning/Trespass order/Persona Non Grata is needed

⁴ <https://www.nabita.org/training/nabita-risk-rubric/>

⁵ <https://www.nabita.org/training/sivra-35/>

⁶ <https://www.nabita.org/training/vraww/>

⁷ www.wavr21.com

⁸ <http://hcr-20.com>

⁹ www.mosaicmethod.com

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Institutions may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

APPENDIX F: TITLE IX POLICY STATEMENT SAMPLE TEMPLATE

This statement can be used in other sections of the website or printed material as needed to point back to the Title IX full statement and webpage.

VGCC does not discriminate in its employment practices or in its educational programs or activities on the basis of sex. VGCC also prohibits retaliation against any person opposing discrimination or participating in any internal or external discrimination investigation or complaint process. Reports of misconduct, questions regarding Title IX, and concerns about noncompliance should be directed to the Title IX Administrator. For a complete copy of the Equal Opportunity, Harassment, and Nondiscrimination Policy or for more information, please contact the Title IX Administrator at (252) 738-3405 or address any complaints to the Assistant Secretary of Education within the U.S. Department of Education Office for Civil Rights (OCR).

APPENDIX G: ATIXA RECORD MAINTENANCE AND ACCESS MODEL POLICY

Policy Scope

This Policy covers records maintained in any medium that are created pursuant to VGCC's Equal Opportunity, Harassment, and Nondiscrimination Policy and/or the regular business of VGCC's Title IX offices. All such records are considered private or confidential by the Title IX Offices in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to discrimination, harassment, and retaliation. These records may be shared internally with those who have a legitimate educational interest and will be shared with the Parties to a Complaint under applicable federal and/or state law. The Title IX controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

Records pertaining to the Equal Opportunity, Harassment, and Nondiscrimination Policy include, but are not limited to:

- The Complaint
- NOIAs
- Documentation of notice to the institution, including incident reports
- Anonymous reports later linked to a specific incident involving known Parties
- Any documentation supporting the initial evaluation
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts)
- Dismissal-related documentation and appeals
- Documentation related to Emergency Removals, leaves, and interim actions and challenges
- Documentation related to the Resolution Process
- The Final Investigation Report and file
- Remedy-related documentation
- Supportive measures-related documentation
- Appeal-related documentation
- Informal Resolution records
- Outcome Notices
- Any other records typically maintained by VGCC as part of the Complaint file

Drafts and Working Files: Preliminary drafts and “working files” are not considered records that VGCC must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Administrator. An example of a “working file” would be the Investigator’s notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

Attorney Work-Product: Communications from the Title IX office or its designees with the VGCC’s legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the Title IX Office or accessible under this Policy unless the Administrator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage

Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by the Title IX office. The complete file must be transferred to the office, typically within fourteen (14) business days of the complaint resolution (including any appeal), if the file is not already maintained within the office. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained in the office during the pendency of an investigation.

The Title IX office will store all records created pursuant to the Policy, regardless of the identities of the Parties. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with any applicable Clery Act/Violence Against Women Act (VAWA) requirements will be maintained along with the Complaint file by the Title IX Office

Title IX Training Materials

VGCC will also maintain copies of the slides or other materials from all Title IX training for the Resolution Process Pool members, the Nondiscrimination Team, and employees. Trainings occurring prior to August 1, 2024, are available upon request to the Administrator, and trainings occurring after August 1, 2024, are available in the Title IX Section of the VGCC website for review.

Record Retention

All records created and maintained pursuant to the Policy will be retained by the Title IX office for a minimum of seven (7) years in database, digital, and/or paper form. Except for records pertaining to Title IX and the Clery Act/VAWA, the Administrator may authorize destruction or expungement acting under their own discretion, or in accordance with a duly executed and binding claim settlement and/or by court or government order.

Record Access

Access to records created pursuant to the Policy or housed in the Title IX office is strictly limited to the Administrator and any person they authorize in writing, at their discretion, or via permission levels within the database. Those who are granted broad access to the Title IX office records are expected to access only those pertinent to their scope, work, or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this Policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant VGCC policies and procedures.

Student Parties may request access to their complaint file. VGCC will provide access or a copy within 45 days of the request. Appropriate redactions of personally identifiable information may be made before inspection, or any copy is shared.

During the investigation, materials may be shared with the Parties using secure file transmission software. The Title IX will watermark any such file with the watermark identifying the role of the person in the process (e.g., Complainant, Respondent, Decision-maker; Complainant's Advisor) before sharing.

VGCC will maintain an access log of each case file, showing when and by whom it was accessed and for what purpose.

Record Security

The Administrator is expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security should include protection from floods, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be securely stored in the Title IX office or another appropriate secure location.

All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalog of all physical evidence will be retained with the Complaint file.

APPENDIX H: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS POOL

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of the VGCC's Equal Opportunity, Harassment, and Nondiscrimination Policy
- VGCC's Resolution Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Disparate treatment
- Disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance and creating an Investigation Report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Additional Training Elements Specific to Title IX

All investigators, Decision-makers, and other persons who are responsible for implementing VGCC's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Nondiscrimination Procedures, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with VGCC's Informal Resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- VGCC's obligations under Title IX
- How to apply definitions used by the VGCC with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX

APPENDIX I: 2024 TITLE IX OFFENSE REGULATORY DEFINITIONS

1) Sexual Assault

Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.¹⁰

a. Rape:

- Penetration,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

b. Sodomy

- Oral or anal penetration
- Of the Complainant by the Respondent
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

c. Sexual Assault with an Object

- Respondent's use of an object or instrument
- to unlawfully penetrate, however slightly, the genital or anal opening
- of the body of the Complainant,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

d. Fondling:

- The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent
- or causing the Complainant to touch the Respondent's private body parts
- intentionally for a sexual purpose
- without the consent of the Complainant, including instances where the Complainant is incapable of giving consent

¹⁰ This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below it.

- because of their age or
- because of their temporary or permanent mental incapacity or physical incapacity.

e. **Incest:**

- 1) Nonforcible sexual intercourse between persons who are related to each other
- 2) within the degrees wherein marriage is prohibited by North Carolina law.

f. **Statutory Rape:**

- 3) Nonforcible sexual intercourse with a person
- 4) who is under the statutory age of consent in North Carolina.

2) Dating Violence:

- Violence¹¹ committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; **and**
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - length of the relationship
 - type of relationship
 - frequency of the interaction between the Parties involved in the relationship.

3) Domestic Violence:

- Felony or misdemeanor crimes committed by a person who:
 - is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of North Carolina or a person similarly situated to a spouse of the Complainant;
 - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - shares a child in common with the Complainant; **or**
 - commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of North Carolina.

4) Stalking:

- engaging in a course of conduct¹² on the basis of sex, that is,

¹¹ For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

¹² For purposes of this definition, "A 'course of conduct' requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to, watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

- directed at a specific person that would cause a reasonable person¹³ to:
 - fear for the person's safety, or
 - the safety of others; or
 - suffer substantial emotional distress.¹⁴

¹³ Reasonable person is an objective standard meaning a person in the Complainant's shoes (having similar characteristics/demographics to the Complainant).

¹⁴ In the context of stalking, a Complainant is not required to obtain medical or other professional treatment, and counseling is not required to show substantial emotional distress.

APPENDIX J: PREGNANCY AND RELATED CONDITIONS STATEMENT

Non-Discrimination Statement

VGCC does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). VGCC prohibits members of VGCC community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status.¹⁵ This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

Definitions

- **Familial Status.** The configuration of one's family or one's role in a family.
- **Marital Status.** The state of being married or unmarried.
- **Parental Status.** The status of a person who, with respect to another person who is under the age of 18,¹⁶ is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- **Pregnancy and Related Conditions.** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related

¹⁵ "Title IX does not prohibit discrimination based on marital status *per se*, as discrimination based on marital status does not necessarily require consideration of a person's sex. Title IX does, however, prohibit a recipient from applying rules concerning marital status that treat individuals differently on the basis of sex (e.g., treating married women more or less favorably than married men, treating an unmarried mother worse than a married mother based on sex stereotypes, treating a man who is married to a man worse than a woman who is married to a man)." Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

¹⁶ Or a person who is 18 or older but who is incapable of self-care because of a mental or physical disability.

medical conditions; and recovery therefrom.¹⁷

- **Reasonable Modifications.** Individualized modifications to VGCC’s policies, practices, or procedures that do not fundamentally alter VGCC’s education program or activity.

Information Sharing Requirements

Any VGCC employee who becomes aware of a student’s pregnancy or related condition is required to provide the student with the Title IX Administrator’s contact information and communicate that the Administrator can help take specific actions to prevent discrimination and ensure equal access to the VGCC’s education program and activity. If the employee has a reasonable belief that the Title IX Administrator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Title IX Administrator’s contact information.

Upon notification of a student’s pregnancy or related condition, the Title IX Administrator will contact the student and inform the student of VGCC’s obligations to:

- Prohibit sex discrimination.
- Provide reasonable modifications.
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution’s education program or activity.
- Allow a voluntary leave of absence.
- Ensure lactation space availability.
- Maintain a Resolution Process for alleged discrimination.
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Title IX Administrator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

¹⁷ “[T]he Department interprets ‘termination of pregnancy’ to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion.” Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 F.R. 33474, April 29, 2024, codified at 34 C.F.R. 106.

Reasonable Modifications for Students

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to VGCC's education program and activity. Any student seeking Reasonable Modifications must contact the Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education
- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access
- A larger uniform or other required clothing or equipment
- Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and the VGCC's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator will consult with Disability Services to ensure the student receives reasonable accommodations for their disability as required by law.

Certification to Participate

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

- The certified level of physical ability or health is necessary for participation;
- The institution requires such certification of all students participating; and
- The information obtained is not used as a basis for pregnancy-related discrimination.

Lactation Space Access

The VGCC provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

Lactation spaces are located at all four campuses. Please use the contacts below to reserve time and access the lactation spaces.

Main Campus – College Library, 2205G
Contact: Library Staff (252) 738-3279
library@vgcc.edu

Franklin Campus – Room 1119

Contact: Faith Hudgins (252) 738-3636

hudginsf@vgcc.edu

South Campus – Room 2203

Contact: Diane Blalock (252) 738-3507

blalockd@vgcc.edu

Warren Campus – Room 1102

Contact: Serena Green (252) 738-3685

greens@vgcc.edu

Leaves of Absence

Students

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their healthcare provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity.

To the extent possible, VGCC will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students' scholarships, fellowships, or similar VGCC-sponsored funding during the leave term will depend on student registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar VGCC-supported funding by exercising their rights under this policy.

The Financial Aid Office can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Title IX Coordinator at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Coordinator will assist the student in completing any necessary paperwork.

Employees

Information on employment leave can be found in the Administrative Policy Manual.

If an employee, including a student-employee, is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.

Policy Dissemination and Training

A copy of this policy will be made available to faculty and employees in annually required training and posted on the VGCC website. VGCC will alert all new students about this policy and the location of this policy as part of orientation. The Office of Student Engagement, Retention, and Success will make educational materials available to all members of the VGCC community to promote compliance with this policy and familiarity with its procedures.

Based on 1 Policy, 1 Procedure (1P1P) Model created by ATIXA © June 2024. Used with contractual permission by Vance-Granville Community College.