



ADMINISTRATIVE POLICY

Grievance Procedures for Title IX
Complaints

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Responsible officer title: Title IX Coordinator

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Policy Statement

The University of Valley Forge (UVF) will adopt and publish grievance procedures that provide for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX. Such procedures will comply with federal requirements.

Notice of these procedures, along with the University’s Sexual Misconduct and Violence Policy will be given to all applicants for admission and employment, students, and parents or legal guardians of students or student and applicants. Notice will include how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the University will respond to such complaints.

The Title IX Coordinator and Title IX Team

The Title IX Coordinator at the University of Valley Forge is responsible to:

- Coordinate all efforts to comply with Title IX University-wide
- Notify all applicants for admission and employment, students, parents or legal guardians of the University’s sexual harassment, misconduct and violence policy and grievance procedures
- Coordinate the effective implementation of supportive measures for those who report complaints and those who respond to complaints
- Coordinate the effective implementation of any remedies to sexual discrimination, including sexual harassment.

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Any person may make a report of sex discrimination, including sexual harassment by contacting the Title IX Coordinator or any member of the Title IX Care Team (above). The report can be made:

- In person, by mail, by telephone, or email
- Using the contact information listed above
- Or by any other means that results in the Title IX Coordinator receiving the verbal or written report
- At any time (including during non-business hours)

Inquiries about the application of Title IX to the University of Valley Forge may be referred to our Title IX Coordinator or to the Assistant Secretary for Civil Rights at the U.S. Department of Education. For instructions on making an inquiry, call 1-800-USA-LEARN (1-800-872-5327).

Title IX Care Team Required Training

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation, the grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

In addition, decision makers receive training on any technology to be used at a live hearing, and on issues of relevance of questions and evidence including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators receive training on issues of relevance, and on creating an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

Responding to Complaints

The Title IX Coordinator will coordinate the response of the University when it has actual knowledge of a complaint of sexual harassment in an education program or activity of the University against a person in the United States.

An education program or activity includes locations or events over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

The Title IX Coordinator, on behalf of the University, will:

- Respond promptly and in a manner that is not deliberately indifferent
- Treat complainants and respondents equitably by offering supportive measures to the complainant and by following the grievance procedures process before the imposition of any disciplinary sanctions or other measures that are not supportive against a respondent.
- Promptly contact the complainant to:
 - Discuss availability of supportive measures.
 - Consider the complainant's wishes in regard to supportive measures.
 - Inform the complainant that supportive measures are available without a formal complaint.
 - Explain the process of filing a formal complaint.

Supportive Measures

Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The University will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

Formal Complaints

When a formal complaint is filed with the Title IX Coordinator will provide the following written notice to the parties who are known:

- Notice of these Grievance Procedures for Title IX complaints
 - Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and identities of the parties involved, the
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conduct allegedly constituting sexual harassment, the date and location of the alleged incident, and with sufficient time to prepare a response before any initial interview

- A written statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility is made at the conclusion of the grievance process.
- That both the parties may have an advisor of their choice who may be, but is not required to be, an attorney who may inspect and review evidence.
- That the University prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the University decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the University will provide notice of the additional allegations to the parties whose identities are known.

Emergency Measures or Administrative Leave

The University may remove a respondent from the University's education 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 justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

The University may place a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with title IX rules and regulations.

Grievance Process

For the purpose of addressing formal complaints of sexual harassment, the University's grievance process will:

- Ensure that any provisions, rules, or practices other than those required by Title IX that the University adopts as part of its grievance process for handling formal complaints of sexual harassment will apply equally to both parties.
 - Provide a grievance process (whether formal or informal) before a determination of remedies or disciplinary action.
 - Provide remedies that are designed to restore or preserve equal access to the University's education program or activity.
 - Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
 - Require that any individual designated by a University as a Title IX Coordinator, investigator, decision-maker, or any person designated by a University to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
 - Presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 - Include a reasonably prompt timeframe for filing and resolving appeals, for the informal resolution process, if offered
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- Provide process for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to all parties of the delay or extension and the reason or the action. Good cause can include: the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
 - Describe the range of disciplinary sanctions and remedies that may be implemented after any determination of responsibility.
 - State the standard of evidence is preponderance of the evidence and that the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.
 - Procedures and permissible bases for an appeal
 - Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Dismissal of a Formal Complaint

The University will investigate allegations in a formal complaint. For the purposes of a Title IX investigation, the complaint MUST be dismissed if:

- The conduct alleged would not constitute harassment as defined, even if proved, or
- The conduct did not occur in an educational program or activity, or
- Did not occur against a person in the United States.

The school may dismiss complaints when:

- The complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations contained therein
- The respondent is no longer enrolled or employed by the University
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal of a formal complaint, the University will promptly send written notice of the dismissal and reasons thereof simultaneously to the parties.

Dismissal of a formal complaint does not mean that the University will not review the complaint through other student conduct processes.

Investigation of a Formal Complaint

When investigating a formal complaint and throughout the formal grievance process, the University will:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties.
 - Ensure that it will not access, consider, disclose or use records maintained by any recognized professional or paraprofessional (like a medical doctor or licensed counselor) without written consent to do so for the grievance process.
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- Provide equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
 - Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
 - Provide the parties with the same opportunities to have others present during any grievance proceeding.
 - Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate
 - Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, even evidence not intended to be used in reaching a determination, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
 - Prior to the conclusion of the investigation, send to each party and the party's advisor, the evidence subject to inspection in electronic format or hard copy. Each party will have 10 business days to submit a written response. The investigator will consider each party's written response prior to the completion of the report.
 - Make all evidence available at any hearing to give each party equal opportunity to refer to the evidence during the hearing.
 - Create an investigation report that fairly summarizes relevant evidence
 - Send the report to each party and the party's advisor 10 days in advance of the hearing for their review and opportunity to send the investigator a written response.

Hearings

The University will provide for a live hearing in which the decision maker will provide for each party's advisor to ask the other party and any witnesses all relevant questions and follow up questions, including challenging credibility. The University will provide a party with an advisor of their choice, from a list of UVF advisors, if the party does not have one.

The University will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. Although the University may consult parties as to availability when scheduling hearings, parties, witnesses, and advisors are expected to rearrange their schedules to participate in the hearing as scheduled.

All participants in a hearing will sign a participant's consent form which will include an agreement of confidentiality, acknowledgement of hearing procedures, and, for those testifying, waiver of right to privacy.

The hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision makers and parties to simultaneously see and hear the party or the witnesses answering questions.

Live hearings may take place 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, with technology enabling participants to simultaneously to hear and see each other.

During the hearing, only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a question, the decision maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. 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 questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The University will make all evidence available at any hearing to give each party equal opportunity to refer to the evidence during the hearing.

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; provided, however, that the decision maker cannot draw an inference about the 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.

The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

Determination

The person making the decision about responsibility (the decision maker) will not be the investigator of the complaint, and will not be the Title IX Coordinator.

The decision maker will issue a written determination within 10 business days of the hearing regarding responsibility applying the "preponderance of the evidence" standard.

The determination will include the following:

- Identification of the allegations
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to parties, interviews with parties, site visits, means of gathering evidence, hearings held, etc.
- Findings of fact supporting the determination
- Conclusion regarding the application of UVF's code of conduct
- A statement of, and rationale for, the result as to each allegation, including:
 - A determination of responsibility
 - Any disciplinary sanctions the University imposes on the respondents
 - Whether remedies designed to restore or preserve equal access to the educational program or activity will be provided to the complainant
- The procedures and permissible bases for the complainant and respondent to appeal
- The date the determination will be final if no appeal is submitted

The determination will be written and sent simultaneously to the parties by email.

When imposing sanctions and disciplinary measures, the University intends to be fair and consistent, promote change in the individual, provide restitution (in the case of theft or loss), restore the individual to community, if possible.

A list of possible sanctions available to the University are found in the Student Handbook, Employee Handbook, and in the University of Valley Forge Sexual Misconduct and Violence Policy.

Appeals

The University provides parties with the opportunity to appeal a dismissal of a formal complaint or any allegations, or the determination of responsibility. Appeals may be made on the basis that:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

All appeals related to a Title IX complaint must be received in writing by the Title IX Coordinator within ten (10) business days of the notification of dismissal of complaints or allegations, or of determination. Once received, the Title IX Coordinator will notify both parties in writing that an appeal has been filed and will implement appeal procedures equally for both parties. The Title IX Coordinator will also ensure the decision maker of the appeal is not the same person who made the original determination, the investigator of the complaint, or the Title IX Coordinator.

The decision maker for the appeal will give both parties equal opportunity to submit a written statement in support of, or challenging, the outcomes, issue a written decision describing the result of the appeal and the rationale for the result, and provide a written decision simultaneously to both parties

Informal Resolution

An informal resolution process cannot be offered by the University until a formal complaint is filed; however, at any time prior to reaching a determination regarding responsibility the university may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

When offering an informal resolution process, the University will provide the parties a written notice disclosing the allegations and requirements of the informal resolution process which include:

- The circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations after a resolution
- Notice that, before a resolution is made, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint
- Any consequences resulting from participation in the informal resolution process
- Records that will be maintained or could be shared

The University will obtain the parties voluntary written consent to the informal resolution process.

The University does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Maintenance of Records

The Title IX Office of the University of Valley Forge will maintain for seven (7) years a record of each sexual harassment investigation, any appeal and the result, and any informal resolution and the result.

For each response to a formal complaint, the Title IX Office will maintain for seven (7) years a record of any action taken, including supportive measures in response to a report or formal complaint of sexual harassment, documented basis for its conclusion that the response was not deliberately indifferent, documented measures taken designed to restore or preserve equal access to education programs or activities. If the University does not provide supportive measures to the complainant, then it will also document the reasons why such a response was clearly not unreasonable in light of the known circumstances.

The University will maintain all materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process. The training materials will be publicly available on valleyforge.edu or available upon request for inspection by members of the public.

Retaliation

No member of the UVF community or any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, or as required by law, or to carry out the purposes of resolving Title IX complaints, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination as described in these grievance procedures.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation provided, however, that a

determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Grievance Procedures Definitions

- *Actual knowledge* means notice of sexual harassment or allegations of sexual harassment to a UVF's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. The University considers that it has actual knowledge of a report when it has been received by the Title IX Coordinator, the Deputy Coordinator, or a member of the Title IX Care Team.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- *Consent* means words or overt actions by a person who is competent to give informed consent indicating freely given agreement to have sexual intercourse or sexual contact.
 - Silence is not a guarantee of consent
 - Consent to one activity or one event in time does not imply consent to future sexual actions
 - In order to give consent, one must be of legal age
 - A person cannot give consent when they are mentally or physically incapacitated
- *Formal complaint* means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment.
- *Document filed by a complainant* means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- *Sexual harassment* means conduct on the basis of sex that satisfies one or more of the following:
 - An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in an unwelcome sexual conduct;
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
 - (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C.12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C.12291(a)(30). *See Other Definitions at the end of this document.*
- *Supportive measures* mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Other Definitions

Sexual assault means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Sex offense means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.
- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Dating violence means violence committed by a person— A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and B. where the existence of such a relationship shall be determined based on a consideration of the following factors: i. The length of the relationship. ii. The type of relationship. iii. The frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to— A. fear for his or her safety or the safety of others; or B. suffer substantial emotional distress.
