



## Duty to Report and Protection from Retaliation

**Policy Type:** Administrative

**Responsible Office:** Integrity and Compliance Office, Audit and Compliance Services

**Initial Policy Approved:** 02/11/2010

**Current Revision Approved:** 01/23/2018

### Policy Statement and Purpose

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VCU is committed to an environment of uncompromising integrity and ethical conduct wherein all individuals are expected to understand and comply with the laws, regulations, and policies that govern our university activities. In order to maintain integrity at the highest level of excellence and to promote equal treatment, VCU expects that all members of our university community will timely report actual or suspected violations of laws, regulations, and policies, hereinafter referred to as misconduct.

The expectation to report actual or suspected misconduct is absolute and for this reason every individual also retains protection against retaliation for making a good faith report, raising a good faith concern and/or participating in an investigation of misconduct. Knowingly making a false report, or reporting with malice or reckless disregard for the truth, is prohibited.

VCU is committed to a civil professional working environment. Inherent in this commitment is an environment free from retaliation. Retaliation against any employee who brings forth a good faith concern, asks a clarifying question or participates in an investigation is prohibited.

No individual shall be adversely affected for refusing to carry out a directive which constitutes misconduct.

Management has a special duty to recognize and report misconduct. Management is expected to report—without unreasonable delay—any misconduct to the Integrity and Compliance Office, Audit and Compliance Services, for guidance and support.

Employees are not to investigate suspected misconduct on their own but should, without unreasonable delay, report to the appropriate authority for the concern; if unknown, all concerns may be centrally reported to the Integrity and Compliance Office, Audit and Compliance Services. See the procedures sections for additional details.

All persons employed by the Commonwealth of Virginia are required to report actual or suspected child abuse and/or neglect in compliance with the Mandatory Reporting of Injuries to Children Code of Virginia

§63.2-1509. Additionally, all persons employed by the Commonwealth of Virginia who work with adults in an administrative, supportive or direct care capacity are required to report actual or suspected abuse, neglect or exploitation of an aged adult or incapacitated adult in compliance with Code of Virginia §63.2-1606. See the procedures section of this policy for details.

Noncompliance with this policy may result in disciplinary action up to and including termination.

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## Who Should Know This Policy

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Every VCU employee (includes faculty), independent contractor and vendor is responsible for knowing this policy and familiarizing themselves with its contents and provisions.

## Definitions

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### **Aged Adult**

Means any person 60 years of age or older who resides in the Commonwealth of Virginia. It may also include any person 60 years of age who is temporarily in the Commonwealth and who is in need of temporary or emergency protective services.

### **Anonymous**

The VCU Helpline reporting option utilizes a third party service which manages intake of reports. Any report made anonymously using this option is not tracked by this company. E-mail addresses, phone numbers, location information, etc. are not identified, saved or retrieved, unless otherwise provided by the reporter.

### **Compliance Partner**

Compliance partners are university members having compliance responsibilities formally required by their position descriptions and, therefore, have joined the Compliance Advisory Committee (CAC). The CAC members in these highly specialized areas, with highly specialized compliance functions, give direction and assistance to the university community. A complete listing is available on the compliance website at [www.compliance.vcu.edu](http://www.compliance.vcu.edu)

**Confidentiality**

All reports made are kept confidential to the extent possible, meaning they are addressed under tight control, keeping dissemination of information on a need to know basis. Only VCU's Ombudsperson, counselors holding a licensure for their profession, and clergy functioning in those capacities for the university are able to provide confidentiality.

**Emergency**

Means that an aged adult or incapacitated adult is living in conditions that present a clear and substantial risk of death or immediate and serious physical harm to himself or others.

**Good Faith**

For purposes of this policy, good faith is defined to mean reasonable belief or suspicion and without ill-will.

**Incapacitated Adult**

Means any person 18 years of age or older who resides in the Commonwealth of Virginia and who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning their well-being. It may also include an incapacitated nonresident adult who is temporarily in the Commonwealth and who is in need of temporary or emergency protective services.

**Misconduct**

For purposes of this policy misconduct is defined to mean failing to meet VCU expectations whether intentional or inadvertent. \*Note: See definition for "VCU's Expectations" below.

**Research Misconduct**

Research misconduct is the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results. Research misconduct does not include honest error or differences of opinion.

- **Fabrication** is making up data or results and recording or reporting them.
- **Falsification** is manipulating research materials, equipment, or processes or changing or omitting data or results such that the research is not accurately represented in the research record.
- **Plagiarism** is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

**Retaliation**

An adverse employment action, or credible threat of an adverse employment action, taken against an employee who has reported actual or suspected misconduct, participated in an inquiry or investigation, or raised a concern. Disciplinary action taken as a result of misconduct is not considered retaliation.

Types of adverse action include, but are not limited to: dismissal from employment; demotion; unfounded negative job references; loss of salary or benefits; transfer or reassignment; denial of promotion that otherwise would have been received; and/or unwarranted written notices.

## Timely

Timely is defined to mean as soon as reasonably possible once misconduct is known or suspected, or without unreasonable delay.

## VCU Expectations

For purposes of this policy, VCU's expectations are defined to mean adherence to and compliance with all laws, regulations, and policies.

## Contacts

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The Integrity and Compliance Office officially interprets this policy and is responsible for obtaining approval for any revisions as required by the policy *Creating and Maintaining Policies and Procedures* through the appropriate governance structures.

Please direct policy questions to the Integrity and Compliance Office.

## Policy Specifics and Procedures

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The procedures below outline specific information available throughout the university community for reporting. While a report may go to a specific individual for further inquiry, all reports (excepting crimes and child abuse/neglect reported to the state) are eventually reported to the University Integrity & Compliance Office, Audit and Compliance Services (ICO-ACS) for tracking purposes. When management receives a report, management is expected to contact the ICO-ACS for tracking purposes, support and guidance.

A reporter may choose to report concerns to a specific area, or to the University Integrity & Compliance Office. Available reporting options are listed below.

1. **Reporting Emergencies or Crimes: Call VCUPD at 804-828-1234 or Call 911**
2. **Reporting Misconduct (violations of laws, regulations or policies):** Many reporting mechanisms are available. The list below is for the reporter to choose the option most appropriate for the circumstance.
  - Contact the responsible Compliance Partner in the department/area where the misconduct is known or suspected. See the [Compliance Partner Accountability Matrix](http://www.assurance.vcu.edu/cac.html) for this listing, located at <http://www.assurance.vcu.edu/cac.html>.
  - Report concerns to your immediate supervisor or department head, if appropriate.
  - Report concerns to Human Resources – Employee Relations 804-828-1510.
  - Report via the VCU Helpline by calling 1-888-242-6022 or by submitting an online report [www.vcuhelpline.com](http://www.vcuhelpline.com). Both of these options provide university members an anonymous and confidential reporting option 24 hours a day, 365 days a year.
  - Contact the University Integrity and Compliance Office directly at 804-828-2336 or email [ucompliance@vcu.edu](mailto:ucompliance@vcu.edu).
3. **Suspected Child Abuse or Neglect:** All persons employed by VCU who suspect child abuse or neglect in their professional or official capacity are to report as follows:

- Report as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense.
  - Report suspected offense immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred; or
  - Report to the Virginia Department of Social Services' toll-free child abuse and neglect hotline at 1-800-552-7096; or
  - Report through one of the above listed reporting mechanisms for VCU and VCU, in an effort to support information sharing with appropriate state agencies, will make the report to VA Department of Social Services. Please note this may cause a delay in reporting during non-business hours; therefore, it is best to report directly to the appropriate local city or country department or main office for the Virginia Department of Social Services.
- 4. Suspected Aged or Incapacitated Adult Abuse, Neglect or Exploitation:** All persons employed by VCU who work with adults in an administrative, supportive or direct care capacity are required to report actual or suspected abuse, neglect or exploitation of an aged adult or incapacitated adult as follows:
- Report suspected offense immediately to the local department of the county or city wherein the aged or incapacitated adult resides or wherein the abuse, neglect or exploitation is believed to have occurred; or
  - Report immediately to the Virginia Department of Social Services' toll-free adult protective services hotline at 1-888-832-3858.
  - The obligation to report is the individual's responsibility and may not be delegated to anyone else at VCU. Note: In order to support information sharing with appropriate state agency offices, if a report is made to VCU through one of the above listed reporting mechanisms, VCU will make a report to the VA Department of Social Services.
- 5. Reporting Discrimination, Sexual Misconduct, Harassment or Related Retaliation**
- Contact the Equity and Access Services (EAS) at 804-828-1347  
<http://www.equity.vcu.edu/>; or
  - To report incidents prohibited by the policy [Affirmation of VCU's Equal Opportunity](#) (discrimination or harassment on the basis of race, color, religion, national origin (including ethnicity), age, sex (including pregnancy, childbirth and related medical conditions), parenting status, marital status, political affiliation, veteran status, genetic information (including family medical history), sexual orientation, gender identity, gender expression, or disability), use EAS's [Equal Opportunity Incident Reporting Form](#).
  - To report incidents prohibited by the policy [Sexual Misconduct/Violence and Sex/Gender Discrimination](#) (sexual assault, sexual exploitation, partner or relationship violence, sex or gender-based discrimination, retaliation, or complicity), use EAS's [Sexual Misconduct/Violence and Sex/Gender Discrimination Incident Reporting Form](#) and/or email [titleix@vcu.edu](mailto:titleix@vcu.edu).
- 6. Reporting Fraud:** VCUPD and Internal Audit, Audit and Compliance Services, are responsible for coordinating investigation and reporting to the Commonwealth of Virginia incidents of fraud. Report fraud as soon as you suspect or know of fraudulent activity.
- Contact VCUPD – Non emergency number: 804-828-1196.
  - Contact Internal Audit, Audit and Compliance Services at 804-828-2336.

7. **Reporting Research Misconduct:** For any known or suspected instances of waste, fraud or abuse under any federal grant, contract, or subcontract:

- All reporting options outlined herein are available to you, as well as external reporting options to the federal government. Details for this option are located at:

[http://www.research.vcu.edu/federal\\_whistleblower/](http://www.research.vcu.edu/federal_whistleblower/)

For instances of known or suspected falsification, fabrication and/or plagiarism while conducting research activities:

- Contact the Research Integrity Officer in the Office of Research and Innovation at 804-827-2157.

## Forms

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1. [Equal Opportunity Incident Reporting Form](#)
2. [Sexual Misconduct/Violence and Sex/Gender Discrimination Incident Reporting Form](#)

## Related Documents

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1. Commonwealth of Virginia Policy 1.60, *Standards of Conduct*
2. [VCU Code of Conduct](#)
3. Mandatory Reporting of Injuries to Children, Code of Virginia §63.2-1509
4. Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.
5. Virginia Fraud Against Taxpayer Act, Code of Virginia, Article 19.1, Chapter 3 of Title §8.01-216.1-216.19
6. Fraud and Abuse Whistle Blower Protection Act, Code of Virginia, § 2.2-3009 et seq.
7. State agencies, courts, and local constitutional officers to report certain fraudulent transactions; penalty Code of Virginia §30-138
8. 41 U.S.C. §4712; DFAR 3.908 Pilot Program for Enhancement of Whistleblower Protection
9. VCU Policy: [Research Misconduct](#)
10. VCU Policy: [Affirmation of VCU's Equal Opportunity](#)
11. Americans with Disabilities Act of 1990, as amended
12. Section 504 of the Rehabilitation Act of 1973
13. Titles VI and VII of the Civil Rights Act of 1964
14. Virginia Human Rights Act
15. Genetic Information Nondiscrimination Act of 2008
16. Governor's Executive Order Number One (2018)
17. VCU Policy: [Sexual Misconduct/Violence and Sex/Gender Discrimination](#)

## Revision History

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This policy supersedes the following archived policies:

May 2, 2018	<i>Duty to Report and Protection from Retaliation</i> (minor revision to address elder abuse; update reporting mechanisms to EAS; add and update definitions)
January 23, 2018	<i>Duty to Report and Protection from Retaliation</i>
May 5, 2017	<i>Duty to Report</i> (title changed to <i>Duty to Report and Protection from Retaliation</i> )
June 13, 2014	<i>Duty to Report</i>
January 7, 2013	<i>Duty to Report</i> (formerly <i>Reporting Suspected University Related Misconduct-Noncompliance &amp; Protection from Retaliation</i> )
February 11, 2010	<i>Reporting Suspected University Related Misconduct-Noncompliance &amp; Protection from Retaliation</i>

## FAQ

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### 1. If I have knowledge of misconduct am I expected to report it?

Yes. All VCU employees are expected to report any known or suspected misconduct as soon as possible. Remaining silent and not reporting concerns or issues is not in concert with VCU's expectations and permits misconduct to occur.

### 2. Who determines discipline of employees once misconduct has been determined?

It depends. Overall, the appropriate management function in the area determines final disciplinary actions. This policy does not supersede any existing policies addressing employee discipline or due process afforded to employees. VCU's established procedures related to discipline remain intact and apply here.