



Preventing and Responding to Discrimination

Policy Type: Administrative

Responsible Office: Equity and Access Services, Office of the President

Initial Policy Approved: 03/26/2009

Current Revision Approved: 05/29/2018

Policy Statement and Purpose

This policy outlines the procedures that the university follows to prevent and respond to discrimination based on protected identity.

Virginia Commonwealth University (“VCU”) prohibits and will not tolerate unlawful discrimination in the workplace, academic setting or any of its programs or activities 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, as required by Title IX of the Education Amendments of 1972; the Americans with Disabilities Act of 1990, as amended; Section 504 of the Rehabilitation Act of 1973; Titles VI and VII of the Civil Rights Act of 1964; the Genetic Information Nondiscrimination Act of 2008; the Virginia Human Rights Act; the Governor’s Executive Order Number One (2018); and other state or federal laws and university policies. VCU also prohibits unlawful discrimination against employees or applicants because they have inquired about, discussed or disclosed their own pay or the pay of another employee or applicant.

Unlawful discrimination is harmful to the wellbeing of our community members, the university’s learning/working environment and collegial relationships among our students and employees. VCU supports diversity that provides a climate of inclusion. Toward that end, VCU is dedicated to addressing disparities wherever they exist and pursuing opportunities to explore and create in an environment of trust. As a federal contractor and affirmative action and equal opportunity employer, VCU promotes the full realization of employment opportunity for all persons, including racial and ethnic minorities, women, individuals with disabilities and protected veterans. These efforts apply to all employment actions, including but not limited to recruitment, selection, hiring, promotion, and compensation.

VCU will take prompt and appropriate action to eliminate unlawful discrimination against individuals with protected identities as defined in this policy, prevent its recurrence and remedy its effects. It is the responsibility of every member of the VCU community to foster an environment free of unlawful discrimination. All members of the VCU community are encouraged to take reasonable and prudent actions to prevent or stop unlawful discrimination, and those who do so will be supported by VCU and protected from retaliation. Retaliation against an individual who brings forth a good faith concern, asks a clarifying question, or participates in an investigation is prohibited.

Violations of this policy are regarded as serious offenses and will result in discipline or other administrative action, up to and including expulsion or termination. Third parties who violate this policy may be permanently barred from VCU facilities, services or activities or subject to other restrictions.

This policy establishes VCU's investigation and administrative procedures and lists the applicable disciplinary procedures that will be followed in response to findings of discrimination. This policy supersedes and replaces VCU's Affirmation of Equal Opportunity policy. In developing and implementing this policy and procedures, VCU is committed to providing a fair and impartial process for all parties.

In cases where multiple nondiscrimination policies apply, the director of Equity and Access Services ("EAS") will determine which existing procedures will be used to resolve the complaint. Reports of sexual assault, sexual exploitation, intimate partner violence (including stalking), sexual or gender-based harassment, complicity (with such behaviors), or retaliation (for reporting such conduct) are governed by the university's [Sexual Misconduct/Violence and Sex/Gender Discrimination](#) policy and will be resolved pursuant to the procedures set forth in that Policy. Complaints of discrimination which do not allege sexual assault, sexual exploitation, intimate partner violence (including stalking), sexual or gender-based harassment, complicity (with such behaviors), or retaliation (for reporting such conduct) will be resolved pursuant to the procedures set forth in this Preventing and Responding to Discrimination policy.

State and federal hate crime laws also address conduct that may meet VCU's definition of discrimination, and criminal prosecution may take place independently of any disciplinary action instituted by VCU.

Table of Contents

Who Should Know This Policy.....	2
Definitions.....	3
Contacts.....	6
Policy Specifics and Procedures.....	7
Forms.....	19
Related Documents.....	20
Revision History.....	22
FAQ.....	22

Who Should Know This Policy

This policy governs the conduct of VCU students (regardless of enrollment status as defined the VCU Student Code of Conduct), employees and third parties (i.e., non-members of the VCU community, such as vendors, alumni/ae, visitors, university affiliates or local residents). Third parties are both protected by and subject to this policy. A third party may make a complaint or report a violation of this policy committed by a member of the VCU community. Likewise, VCU will not tolerate third parties engaging in discrimination on VCU property or in matters associated with a VCU-sponsored event as described below.

This policy applies in a variety of circumstances, starting with conduct that occurs on VCU property (i.e., owned, leased or controlled by VCU) to the extent consistent with United States federal law. This policy also applies to all actions that involve the use of VCU's computing and network resources, including email accounts, even if from a remote location. Additionally, this policy applies to conduct that occurs off VCU property (i.e., off campus) when the conduct is associated with a VCU-sponsored program or activity, such as travel, research or internship programs, or when such conduct may have a continuing adverse effect or could create a hostile environment on campus. VCU EAS will determine in its reasonable discretion whether this policy applies based on the facts of an individual case.

Definitions

Complainant

The student, employee or third party who presents as the person impacted by the discrimination or retaliation under this policy, regardless of whether that person makes a report or seeks action under this policy. The university may also serve as a Complainant in certain circumstances.

Discrimination

There are two broad categories of unlawful discrimination: (1) disparate impact and (2) disparate treatment. (1) Disparate impact is the disproportionately adverse effect of neutral policies on a group of individuals within a protected identity. The following practices could create a disparate impact when not job-related or consistent with business necessity:

- Requiring physical characteristics for employment, such as being a certain height, maintaining a certain weight or passing a physical strength test
- Using arrest records or criminal backgrounds to screen out job applicants
- Requiring or prohibiting the wearing of specific articles of clothing

(2) Disparate treatment is the adverse treatment of an individual based on a protected identity, rather than individual merit, that unreasonably interferes with, denies or limits an individual's ability to participate in or benefit from the university's educational offerings, employment, and other programs and activities (social or residential, etc.). Treatment that does not constitute unlawful discrimination still may be inappropriate and prohibited by other university policies. The following non-exhaustive list of actions could constitute discrimination when based on a protected identity:

- Failing or refusing to hire or allow participation by an individual in a university activity
- Terminating or removing an individual from employment or an educational program
- Verbally harassing, abusing or demeaning a targeted individual in a manner that is sufficiently severe and/or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions or living conditions by creating an intimidating, hostile or offensive environment

Discriminatory harassment

A form of discrimination that involves unwelcome conduct directed against a person based on one or more of that person's protected identities, which is so severe, pervasive or persistent that it interferes with an

individual's employment, academic performance or participation in university programs or activities, and creates a university environment that a reasonable person would find intimidating, hostile or abusive. Offensive conduct based on an individual's protected identity may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work or school performance.

Employee

Any person (faculty and/or staff) with a direct employment relationship with VCU, including those who work on a part-time or temporary basis. An individual can hold a status as both a student and employee. Cases arising under this policy will be addressed consistent with the role principally held by such individuals in the context of the alleged incident.

Equal Opportunity

The right of all persons to be treated and evaluated fairly based upon their abilities rather than their protected identities.

Protected Activity

Filing a good faith discrimination complaint or report under university policy, filing a good faith external discrimination complaint, participating in a related disciplinary process or opposing in a reasonable manner an action believed to constitute a violation of this policy.

Protected Identity

The categories of protection against discrimination identified in this policy are: 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, and disability. Definitions of these protected identities are included to further clarify their meaning within this policy.

Age

Individuals aged 40 years and older are protected from adverse treatment in employment based on age, in accordance with the Age Discrimination in Employment Act of 1967. The Age Discrimination Act of 1975 prohibits discrimination based on any age in university programs or activities.

Color

A person's pigmentation, complexion, or skin shade or tone. Color discrimination can occur between persons of different races or ethnicities, or between persons of the same race or ethnicity.

Disability

For an individual, a documented physical or mental impairment that substantially limits one or more major life activity, a record of such an impairment, or being regarded as having such an impairment.

Gender Expression

External manifestations of gender, such as those expressed through one's name, pronouns, clothing, haircut, behavior, voice or body characteristics.

Gender Identity

One's internal sense of one's gender or lack of gender. Unlike gender expression (see above) gender identity is not visible to others.

Genetic Information (including Family Medical History)

Information about an individual that includes the individual's genetic tests, the genetic tests of family members, the manifestation of a disease or disorder in family members of such individual (i.e. family medical history), the use of genetic services and participation in genetic research, which includes genetic testing and counseling or education, by the individual or any family member of the individual.

Marital Status

The actual or potential state of being married or not married.

National Origin (including Ethnicity)

Where an individual (or their ancestors) is from or the physical, cultural, ancestral, racial, linguistic, or other social characteristics of a particular group of people.

Parenting Status

The actual or potential state of being a parent or not being a parent.

Political Affiliation

A person's association with a particular political party or ideology, or lack of such an association.

Race

Categories of race recognized by federal law are: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. These categories are based upon the grouping of people related to their shared personal characteristics (such as hair texture, skin color, or certain facial features) and cultural characteristics (such as language or group identity) that can span multiple countries or territories.

Religion

Beliefs, practices, and observances that are theistic in nature as well as non-theistic moral or ethical beliefs as to what is right and wrong which are sincerely held. Religion includes not only traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism, but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.

Sex (including Pregnancy, Childbirth and Related Medical Conditions)

A classification based on anatomy, sex organs, chromosomes, and hormones. Sex includes, but is not limited to, pregnancy, childbirth, or related medical conditions and sex stereotyping.

Sexual Orientation

An individual's physical, romantic and/or emotional attraction to the same and/or different genders. Sexual orientation includes an individual's lack of sexual attraction (asexuality).

Veteran

A person who has served in any branch of the United States Armed Forces, National Guard or Reserve. "Protected veterans" is a special grouping defined by federal law and includes disabled veterans, recently separated veterans, active duty wartime or campaign badge veterans and armed forces service medal veterans.

Reasonable Accommodation

Reasonable accommodation allows individuals to enjoy the benefits and privileges of employment, education, and access to university programs and services equal to those enjoyed by other individuals. A reasonable accommodation may only be denied if the accommodation is determined to cause undue hardship on the university (e.g., require the removal of an essential job function, require lowering of performance or production standards, compromise safety, etc.). Accommodations under this policy may be related to disabilities, pregnancy/childbirth or religious beliefs and should be requested as soon as possible following the guidance noted in the "Reasonable Accommodation" section below.

Respondent

The student, employee or third party who is reported to have committed discrimination, discriminatory harassment or retaliation.

Retaliation

Retaliation is any adverse action taken against an individual or group of individuals for protected activity.

Retaliation may also include action taken because an employee inquired about, discussed or disclosed their own compensation or the compensation of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by VCU, or (c) consistent with VCU's legal duty (e.g. under the Virginia Freedom of Information Act) to furnish information.

Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic or VCU-controlled living environment of an individual; or if they hinder or prevent the individual from effectively carrying out their VCU responsibilities. The university's [Duty to Report and Protection from Retaliation](#) policy addresses retaliation directed at employees that is not related to protected identity as defined under this policy.

Third Party

Any individual who is not a VCU student, faculty member or staff member (i.e., contractors, vendors, ticket holders, invited guests, alumni/ae or local residents).

Contacts

Equity and Access Services ("EAS") officially interprets this policy. EAS 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:

Laura Walsh Rugless
Director of Equity and Access Services & Title IX Coordinator
Phone: 804-828-1347
Email: equity@vcu.edu

Equity and Access Services
Virginia Commonwealth University
1001 Grove Ave
Box 842549
Richmond, Virginia 23284-3022
Phone: 804-828-1347
Email: equity@vcu.edu
Fax: 804-828-7201
TDD: 804-828-1420
Website: equity.vcu.edu

Policy Specifics and Procedures

1. INTRODUCTION: Under these procedures, students, employees, applicants for employment and third parties may report and seek resolution of complaints of discrimination or retaliation. These procedures offer two forms of resolution for reports: (1) Informal Resolution, which includes a variety of informal options and channels for resolving reports, and (2) Formal Resolution, which includes a formal investigation.

A. Manager's Responsibility to Prevent and Respond to Discrimination (including Discriminatory Harassment) and Retaliation

Under this policy, managers are responsible for all of the following:

- Knowing and understanding this policy
- Explaining this policy to persons under their supervision
- Taking appropriate action to prevent discrimination and retaliation and attempting to resolve incidents reported under this policy
- Being receptive to concerns and complaints of discrimination and/or retaliation
- Taking appropriate action (in consultation with EAS) when they become aware of potential violations of this policy
- Following up with persons who make complaints of discrimination or retaliation to assure them that their complaints were investigated and to determine whether any remedial actions were successful
- Recognizing and reporting misconduct under this policy

Managers who do not fully perform their responsibilities under this policy may be rated unfavorably on their performance reviews and may be subject to disciplinary action, up to and including termination. For faculty, managers include department chairs, deans, other unit administrators and faculty who supervise student employees.

B. Status of Respondent Dictates Certain Procedures

The procedures for addressing allegations of discrimination and retaliation are based, in part, upon the nature of the Respondent's relationship to the university (student, employee or third party). In situations where the Respondent is both a student and an employee, (a) any Student-Respondent specific procedures will apply if the Respondent is a full-time student but not a full-time employee; (b) any Employee-Respondent procedures will apply if the Respondent is a full-time employee but not a full-time student; and (c) in cases where there is a question as to the predominant role of the Respondent, the director of EAS will determine which procedures apply based on the facts and circumstances (such as which role predominates in the context of the alleged conduct). Further, where a Respondent is both a student and an employee, the Respondent may be subject to any of the sanctions applicable to students or employees. The university's ability to take appropriate corrective action against a third party will be determined by the nature of the relationship of the third party to the university. The director of EAS will determine the appropriate manner of resolution consistent with the university's commitment to a prompt and appropriate process, consistent with federal law, federal guidance and this policy.

C. Privacy

The university will make reasonable efforts to protect the privacy of participants in this process while balancing the need to gather information to assess the report, to ensure due process and to take steps to eliminate discrimination and retaliation, prevent its recurrence and remedy its effects. Privacy means that information related to a report of discrimination or retaliation will be shared within a limited circle of university employees who "need to know" in order to assist in the assessment, investigation and resolution of the report. All employees who are involved in the university's response receive specific training and guidance about safeguarding private information. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the [university's FERPA statement](#), and the Virginia Freedom of Information Act ("FOIA"). The privacy of an individual's medical and related records generally is protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA or by Virginia's Health Records Privacy statute, Va. Code § 32.1-127.1:03. Access to an employee's personnel records in Virginia may be restricted in accordance with the FOIA, the university's Records Management Policy and, where applicable, state personnel policy.

2. LOCAL/MANAGEMENT RESOLUTION PROCEDURES: Students and employees are encouraged to attempt to resolve complaints directly through the relevant administrative structure of the academic department or employment unit. Certain behavior that may not yet rise to the level of potential violation of this policy will be more appropriately and efficiently resolved through one of the many forms of Local/Management Resolution outlined below. On the other hand, some reports of discriminatory or retaliatory conduct, particularly those implicating violence or particularly severe harassment, may not be appropriate for resolution under the Local/Management Resolution Procedures and the university reserves the right to forward a report to the appropriate department or unit for formal investigation at any time.

If a Complainant is not satisfied with Local/Management Resolution, they may seek EAS Resolution. There is no requirement to pursue a Local/Management Procedure before initiating the EAS Procedures.

Local/Management Resolution Procedures may involve individual and/or community remedies that are designed to address a report of discriminatory or retaliatory conduct, such as:

- One-on-One Communication: If a Complainant wishes to address a situation with a Respondent without the direct involvement of another party, the Complainant may communicate directly with the Respondent. This option would be appropriate if the Complainant does not feel threatened, there is no risk of physical harm, the Respondent is not aware or reasonably would not be aware that the conduct is unwelcome (in the case of potential harassment), and/or the Complainant reasonably believes the Respondent will be receptive to the communication. Complainants are NOT required to engage in one-on-one communication before seeking assistance from a university party or other help.
- Resolution with the Assistance of a University Party: A Complainant may seek assistance in informally resolving a report of discriminatory or retaliatory conduct from (i) the Complainant's manager if the Complainant is an employee; (ii) the Respondent's manager if the Respondent is an employee; (iii) Human Resources for the department and/or unit; (iv) [VCU Human Resources Employee Relations](#) or if the report involves an employee of the Health System, the Health System Department of Human Resources ; (v) [Office of the Provost](#) (Faculty); (vi) [Office of the Ombudsperson](#); (vii) [EAS](#); (viii) Departmental leadership; (ix) [Dean of Students Office](#) (Students); (x) [Student Accessibility and Educational Opportunity \("SAEO"\)](#) (formerly Disability Support Services); (xi) [Division of Academic Success \("DAS"\)](#) or (xii) Other applicable offices. Any of the foregoing university parties should consult with EAS before taking action to resolve a report of discriminatory or retaliatory conduct.
- Interventions and Remedies: Resolution may also include other interventions and remedies, such as broad-based educational programming or training for relevant individuals or groups; one or more sanctions for Respondent(s), if warranted and in accordance with relevant disciplinary procedures, and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of this policy.

3. EAS RESOLUTION PROCEDURES: Complainants may [file a complaint with EAS](#), regardless of whether resolution through local/management procedures or any other procedure have been attempted. EAS responds to complaints in accordance with the procedures outlined below.

A. FILING A COMPLAINT

1. A written complaint may be filed with EAS by any present or former student, present or former employee, applicant for admission or employment or any other participant in the university's programs or activities (such as vendors or university event attendees) who believes that they have been subject to discriminatory or retaliatory conduct.

2. Reports of sexual assault, sexual exploitation, intimate partner violence (including stalking), sexual or gender-based harassment, complicity (with such behaviors), or retaliation (for reporting such conduct) are governed by the university's [Sexual Misconduct/Violence and Sex/Gender Discrimination](#) policy and will be resolved pursuant to the procedures set forth in that Policy. If a complaint alleges multiple policy violations, including one of the aforementioned types of prohibited conduct, it will be addressed in accordance with the procedures of the Sexual Misconduct/Violence and Sex/Gender Discrimination policy. Complaints of discrimination which do not allege sexual assault, sexual exploitation, intimate partner violence (including stalking), sexual or gender-based harassment, complicity (with such behaviors), or retaliation (for reporting such conduct) will be resolved pursuant to the procedures set forth in this Preventing and Responding to Discrimination policy. Reports of sexual assault, sexual exploitation, intimate partner violence (including stalking), sexual or gender-based harassment, complicity (with such behaviors), or retaliation (for reporting such conduct) may be made through the university's Title IX [online reporting system](#) or by [contacting the Title IX Coordinator or one of the Deputy Title IX Coordinators](#).
3. Generally, complaints under these procedures must be filed with EAS by employees and third parties within 300 days of the most recent alleged discriminatory or retaliatory conduct and by students within 180 days of the most recent alleged discriminatory or retaliatory conduct. EAS retains discretion to accept complaints filed outside of these timeframes for good cause. A Complainant may also file a formal charge of discrimination, harassment and/or retaliation with a state or federal agency authorized by law to receive such complaints.
4. When filing a complaint, whenever possible, individuals should use the EAS [online incident reporting form](#). EAS will also accept written complaints through the following other methods:
 - Email to equity@vcu.edu
 - Hand-delivery to the EAS office located at Moseley House, 1001 Grove Avenue, Richmond, Virginia, 23284
 - Mail to Virginia Commonwealth University, Equity and Access Services, Box 842549, Richmond, Virginia, 23284-2549
 - Fax to (804) 828-7201
 - [VCU's Helpline](#)

If a reasonable accommodation or other assistance is needed to file a complaint, individuals may contact EAS at (804) 828-8058. Complaints should include: (1) the Complainant's name and contact information; (2) the name(s) of the Respondent(s); (3) an explanation of the conduct believed to constitute discriminatory or retaliatory conduct with

approximate date(s) of when the action(s) occurred; and (4) a brief description of why the Complainant believes that the alleged conduct at issue is based on one or more protected identities.

B. RECEIPT OF COMPLAINT AND INITIAL ASSESSMENT

1. Upon receipt of a complaint, EAS will first assess the allegations within five business days to determine whether interim measures, pending resolution of the matter, may be appropriate. Interim measures may include, but are not limited to, a safety plan, schedule change, temporary removal of the Respondent from the workplace or academic program, if warranted, and other workplace and/or academic accommodations. In making this assessment, EAS will consider the totality of the circumstances, the nature and severity of the allegations, and whether the allegations implicate a potential, ongoing safety threat to the Complainant or the community. EAS will consult with university administrators in determining appropriate interim measures, as applicable.

C. INTAKE AND PRELIMINARY INQUIRY

1. To determine whether the complaint states a potential violation of this policy, EAS will assess the allegations based on an intake meeting with the Complainant and, if needed, preliminary inquiry.
 - a. Intake: Upon receipt of a complaint, EAS will conduct intake with the Complainant to review the Policy and the information that the Complainant has provided.
 - b. Preliminary Inquiry: If needed, EAS will gather information beyond what the Complainant is able to provide.
2. After the intake and preliminary inquiry are complete, EAS will evaluate the available information and determine the appropriate next steps for resolution.
 - a. No basis for resolution under this policy: If EAS determines that (i) the Complainant's allegations do not state a violation of this policy, (ii) the information gathered during the preliminary inquiry stage does not support the allegation(s) or (iii) there is not a sufficient basis to raise a plausible question of discrimination to investigate further, EAS shall provide a written explanation of this decision to the Complainant and suggested resources and processes that were followed for the investigation/resolution.
 - b. Potential basis for resolution under this policy: If EAS concludes that the allegations of the complaint state a potential Policy violation, EAS will notify the Complainant that it has accepted the complaint for resolution under these procedures.

D. INFORMAL RESOLUTION

1. If EAS accepts the complaint for resolution, a party may request Informal Resolution in place of an investigation and Formal Resolution, upon the agreement of both parties. The university, however, has the discretion to determine whether the nature of the reported

conduct is appropriate for Informal Resolution, to determine the type of Informal Resolution that may be appropriate in a specific case and to refer a report for Formal Resolution at any time.

2. Participation in Informal Resolution is voluntary. The university will not require the parties to engage in Informal Resolution, will not require the parties to directly confront one another and will allow the parties to withdraw from Informal Resolution at any time. The university may decline the request for Informal Resolution in any particular case and may terminate an ongoing Informal Resolution process at any time. Pursuing Informal Resolution does not preclude later use of Formal Resolution if the Informal Resolution fails to achieve a resolution acceptable to the parties and the university or if a party fails to comply with the terms of any agreement resulting from the Informal Resolution. Where a party withdraws from Informal Resolution, Informal Resolution is otherwise terminated for any reason or an agreement is breached by either party, any statements or disclosures made by the parties during the course of the Informal Resolution may be considered in a subsequent investigation and Formal Resolution.
3. Informal Resolution may include:
 - a. Assistance of a Mediator: If a Complainant requests assistance in informally resolving a report of discrimination or retaliation, the director of EAS can arrange to have a trained mediator facilitate a meeting or meetings between the parties. The availability of this form of Informal Resolution, and any resolution reached through such form of Informal Resolution, is subject to the agreement of the director of EAS, the Complainant and the Respondent. Management or other university officials may be involved in this process as needed and as appropriate.
 - b. A Written Agreement between the Parties: Informal Resolution agreements may involve a wide range of interventions, remedies or agreed-upon actions to be undertaken by the parties. Management or other university officials may be involved in this process where appropriate. If an agreement resolving the complaint is accepted by the university and the parties, the terms of the agreement will be put in writing and signed by the parties. At this point, the agreement will be implemented and the matter will be considered resolved and closed. If an agreement is not reached or if a party fails to comply with the terms of the Informal Resolution, the case may proceed to an investigation and Formal Resolution under these Procedures.
 - c. Resolution Completed Within 30 Business Days: Informal Resolution should be pursued in the interest of resolving concerns with due diligence. Informal Resolution will be completed within 30 business days of initiation or as soon as is

reasonably practical thereafter. The parties will be notified if an extension is required.

- d. Records: EAS will maintain records of all reports and conduct referred for Informal Resolution along with copies of all agreements reached through the Informal Resolution process.

E. FORMAL RESOLUTION/INVESTIGATION

1. If EAS determines that Informal Resolution is not suitable, or if an Informal Resolution is not agreed to by both parties or is not successful, EAS will conduct an investigation in accordance with the following procedures.
2. Presumption of Non-Responsibility and Participation by the Parties: The investigation is a neutral fact-gathering process. The Respondent is presumed not to be responsible; this presumption may be overcome only where the Investigator concludes, by a preponderance of the evidence, that there is sufficient evidence that the Respondent violated this policy. Neither a Complainant nor a Respondent is required to participate in the investigation or any form of Resolution under the Policy, but both must be given the opportunity to participate in the investigation. Recognizing that a Respondent may face parallel criminal charges, the Investigator will not draw any adverse inference from a decision by the Respondent not to participate in the investigation. The investigation and Resolution, however, may proceed, and a finding of responsibility and imposition of any sanction(s) may occur without the participation of the Respondent or the Complainant.
3. Standard of Evidence: VCU applies the preponderance of the evidence standard when determining whether this policy has been violated. "Preponderance of the evidence" means that it is more likely than not that a Policy violation occurred.
4. Prior or Subsequent Conduct: Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive or absence of mistake. For example, evidence of a pattern of discrimination or retaliation by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation. Such prior or subsequent conduct also may constitute a violation of other university policies, in which case it may be subject to additional sanctions.
5. Relevance: The Investigator has the discretion to determine the relevance of any evidence offered and to include or exclude certain types of evidence. In general, the Investigator will

not consider statements of personal opinion or statements as to any party's general reputation or character. The Investigator may consider direct observations or reasonable inferences from the facts.

6. Credibility: The Investigator has the discretion to assess and make findings and conclusions that take into account the credibility and truthfulness of all persons interviewed.
7. Obligation to Provide Truthful Information: All university community members are expected to provide truthful information in any report or proceeding under this policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of discrimination or retaliation is prohibited and subject to disciplinary sanctions under the [Code of Conduct](#), [Student Code of Conduct](#) or other applicable policy or standards of conduct for employees. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not substantiated later.
8. Right to Adviser: Both the Complainant and the Respondent have the right to be accompanied by an adviser of their choosing. The adviser may be anyone, including an attorney, who is not otherwise a party or witness. While the adviser may provide support and advice, the adviser may not speak on behalf of the party or otherwise directly participate in, or in any manner disrupt, any proceeding or process under this policy. The university reserves the right to remove any individual whose actions are disruptive to the proceedings.
9. Anonymity: Where the Complainant has requested anonymity, that no investigation occur, and/or that no disciplinary action be taken, the university will seek to honor this request. However, in these instances, the university's ability to meaningfully investigate and respond to a report may be limited. Where the university determines that it must move forward with an investigation despite a Complainant's request for anonymity, the university will make reasonable efforts to protect the privacy of the Complainant to the extent possible. However, certain actions that may be required as part of the university's response will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the university will notify the Complainant that it intends to move forward with an investigation. In no event will the Complainant be required to participate in any such actions undertaken by the university.
10. Requests for No Investigation: Where the Complainant requests that no investigation occur, the university will seek to honor this request. In such instances, the report of the alleged violation of this policy will be documented and retained by the university, in

accordance with applicable law. At any time within the 300 day time frame set under this policy, the Complainant may request that the report be re-opened and pursued under these Procedures. The director of EAS or designee also may determine that an investigation re-open under these Procedures at any time based on information suggesting the presence of a health or safety risk to individuals or the university community.

11. Notice of the Investigation: Following intake and determination that the allegations state a violation of the Policy, EAS will provide notice to the appropriate individuals and offices, as follows:
 - a. EAS will provide notice to the Complainant and the Respondent(s), simultaneously and in writing, of the commencement of the investigation. Such notice will: (a) name the Complainant and the Respondent; (b) specify the nature of the alleged discriminatory or retaliatory conduct; (c) explain that the complaint will be investigated in accordance with these procedures; (d) identify the Investigator; (e) explain the university's prohibition against Retaliation; (f) provide a copy of the Policy; and (g) other requirements pertinent to the investigation.
 - b. Depending upon the circumstances of the case, including either party's status as a student or employee, EAS may notify other appropriate individuals at the university, such as Student Affairs, management, Human Resources, etc. Such notice will inform these individuals that: (a) a complaint has been filed alleging that the Respondent has engaged in conduct prohibited by the Policy; (b) the report will be investigated in accordance with the Policy's procedures; (c) they are obliged to monitor the relevant environment, depending on the facts of the case, for Retaliation; and (d) information related to the report is private and sensitive and will only be shared as needed to either obtain information pertinent to the investigation or for the university to address any concerns regarding safety or Retaliation.
12. Interviews with the Parties: Following issuance of the Notice of the Investigation, EAS will meet with the parties separately to conduct formal recorded interviews. The interview with the Complainant may have occurred prior to the issuance of the Notice.
 - a. During the investigation, the parties will have an opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information and to submit questions that they believe should be directed by the Investigator to each other or to any witness. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and witnesses and will gather other relevant and available evidence and information, including electronic or other records of communications between the parties or witnesses

(via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones) and medical records (subject to the consent of the applicable party). The investigation conducted by EAS may further include, but is not limited to:

- i. Interviewing material witnesses
 - ii. Reviewing relevant files and records
 - iii. Comparing the treatment of the Complainant to that of others similarly situated in the department or unit
 - iv. Reviewing applicable policies and procedures
 - v. Following-up with the parties as new evidence is collected, as appropriate, and permitting the parties to provide additional information to the record
 - b. Any party who requires accommodations to participate in this process can make this request through the director of EAS.
13. Timeframe for Investigation: The timeframe for investigation of a complaint may vary to ensure the integrity and completeness of the investigation, to accommodate the availability of witnesses, to account for university breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. Investigations will be completed without undue delay and within 60 business days or as soon as is reasonably practical thereafter.
14. Investigation Report and Notification of Investigation Outcome: Upon conclusion of the investigation, EAS shall prepare a written investigation report, which will summarize the evidence gathered during the investigation and will include a determination as to whether there is sufficient information, by a preponderance of the evidence, to support a finding that the Respondent(s) engaged in the alleged discriminatory or retaliatory conduct in violation of the Policy. Based on the investigation report, EAS shall issue a written Notification of Investigation Outcome to the parties and may include the appropriate management executive in the parties' chains of command or administrators with appropriate authority (for example, Dean of Students, Dean of School, and Vice President or equivalent).
15. Finding of Policy Violation: Upon conclusion of the investigation process EAS shall refer findings of Policy violations as follows:
- a. Student Respondent: A finding of discrimination against a Student Respondent shall be referred in writing by EAS to the Office of Student Conduct & Academic Integrity for adjudication under the [Student Code of Conduct](#). A Student Respondent who is employed by the university also may be subject to (b) below.

- b. Employee Respondent: A finding of discrimination against an Employee Respondent shall be referred in writing by EAS to the appropriate management executive to determine a sanction in accordance with the appropriate disciplinary procedures or steps of progressive discipline identified in the Working @ VCU: "Great Place" HR Policies and guidelines. Nothing in the procedures prevents the executive from implementing disciplinary action against a Respondent where the investigation report demonstrates the Respondent engaged in other conduct prohibited by the university, regardless of whether the Respondent has been found responsible for violating this policy.
- c. Rights under other laws: Nothing in this policy abrogates post-adjudication rights as provided by state and federal law (i.e., State Grievance Procedure, under Chapter 30 (§ 2.2-3000 et. seq.) of Title 2.2 of the Code of Virginia; the Office for Civil Rights; and/or the Equal Opportunity Employment Commission).

16. Release of Information

- a. Under FERPA, records and information contained in those records directly related to an identifiable student, including the final investigation report, statements of one party that are shared with the other party in the process and any documents prepared by the university, constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law.
- b. Under FOIA and Commonwealth of Virginia Department of Human Resource Management ("DHRM") Policy 6.05, personnel information contained in records, including the final investigation report, statements of one party that are shared with the other party in the process and any documents prepared by the university, may not be disclosed outside of the proceedings, except as may be required or authorized by law.
- c. The university does not impose any restrictions on the parties regarding disclosure of records or information from their personal experience about the incident, their participation in these Procedures or the outcome.

4. REASONABLE ACCOMMODATION

A. Reasonable Accommodation for Individuals with Disabilities

VCU is committed to ensuring accessibility and equal access to its information, programs, and activities, including its technologies and web pages. VCU will provide reasonable accommodation to enable qualified individuals with disabilities to perform jobs, participate in classes or other university functions, or access university information, including information delivered through digital or online methods. More information regarding reasonable accommodation for qualified individuals with disabilities can be found in the [Accessibility and Reasonable Accommodation for Individuals with Disabilities Policy](#).

B. Reasonable Accommodation for Pregnancy/Childbirth/Parenting

To ensure a pregnant or parenting student's access to VCU's educational program, when necessary, VCU will make adjustments to the regular program that are reasonable and responsive to the student's temporary pregnancy status. For pregnant employees and job applicants, VCU will provide any reasonable accommodation that enables the individual to perform their job or apply for a job, absent undue hardship upon the university. Employees may request accommodation for pregnancy/childbirth through their manager. Job applicants may request accommodation for pregnancy/childbirth through human resources for the hiring department/unit. For VCU-sponsored events, visitors may request accommodation through the VCU office or department responsible for the event. Visitors may also contact VCU's Accessibility Administrator (ADA/Section 504 Coordinator). Should pregnancy or childbirth result in a disabling condition, the Accessibility and Reasonable Accommodation for Individuals with Disabilities policy will apply.

C. Reasonable Accommodation for Religious Beliefs

VCU supports an environment that respects religious observances, practices and belief and is committed to providing reasonable accommodation for religious, ethical and moral beliefs and needs of students and employees. The university will reasonably accommodate students' and employees' religious beliefs or practices to the extent possible. Each semester, students must provide advance written notification to instructors of intent to observe religious holidays, according to the [VCU Bulletin](#). The deadlines for notification are listed in the [VCU Academic Calendar](#). Employees may request religious accommodation through their manager. For VCU-sponsored events, visitors may request accommodation through the VCU office or department responsible for the event.

5. OTHER STATE AND UNIVERSITY FORMAL GRIEVANCE PROCEDURES

- A. [University Faculty Mediation and Grievance Procedure*](#)
- B. [University and Academic Professionals Grievance Procedure*](#)
- C. Commonwealth of Virginia Grievance Procedure for Classified Staff
<https://law.lis.virginia.gov/vacode/title2.2/chapter30/>
- D. [Students with Disabilities Grievance Procedure](#)

*Complaints of discrimination cannot be grieved under this Procedure.

6. ADMINISTRATIVE REVIEW

- A. EAS retains discretion to conduct an Administrative Review into allegations of discriminatory or retaliatory conduct, in the absence of a complaint. In determining whether to initiate an Administrative Review, EAS will consider all known information, including (1) the nature and the

severity of the allegations; (2) whether the allegations are amenable to resolution through other channels, such as Human Resources or management; (3) the history of prior complaints against the same individuals, department and/or area; (4) the expressed wishes, if known, of the affected individual(s); and (5) any other pertinent information.

B. Upon initiation of an Administrative Review, EAS will notify the head of the department/unit/area and the relevant human resources professional or Dean of Students of the commencement and scope of the review. Administrative Reviews may include interviewing witnesses and reviewing pertinent documents. EAS shall then produce a written report outlining the findings of the Administrative Review and as appropriate, any recommended action items, to the executive responsible for the department/unit/area. The same level of privacy applicable in complaint investigations will apply to Administrative Reviews.

7. EXTERNAL COMPLAINTS

A. Individuals also have the right to file complaints with one of the following federal or state agencies. Please be advised that separate deadlines and time limitations for filing complaints with the external agencies may apply, and EAS's investigation may not toll or otherwise suspend these deadlines or time limitations. Please contact the agencies for more information about the applicable deadlines.

- U.S. Equal Employment Opportunity Commission
 - <https://www.eeoc.gov/>
 - 1-800-669-4000
 - 1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only)
 - 1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing Callers only)
 - info@eeoc.gov
- U.S. Department of Education Office for Civil Rights
 - <https://www2.ed.gov/about/offices/list/ocr/index.html>
 - 1-800-421-3481
 - ocr@ed.gov
- Commonwealth of Virginia Division of Human Rights
 - <https://www.oag.state.va.us/programs-initiatives/human-rights>
 - (804) 225-2292
 - human_rights@oag.state.va.us
- Commonwealth of Virginia Office of Equal Employment and Dispute Resolution (OEEDR)
 - <http://www.dhrm.virginia.gov/equal-employment-opportunity>
 - Equal Employment Opportunity: (804) 225-2136
 - Employment Dispute Resolution: (804) 786-7994

Forms

1. [Equal Opportunity Incident Reporting Form](#)
2. [VCU Helpline](#)

Related Documents

1. VCU Policy: [Sexual Misconduct/Violence and Sex/Gender Discrimination Policy](#)
2. VCU Policy: [Duty to Report and Protection from Retaliation Policy](#)
3. VCU Policy: [Creating and Maintaining Policies and Procedures Policy](#)
4. [FERPA statement](#)
5. [Code of Conduct](#)
6. VCU Policy: [Student Code of Conduct](#)
7. [Working @ VCU: "Great Place" HR Policies](#)
8. [Progressive Discipline Guidelines](#)
9. DHRM Policy Standards of Conduct 1.60
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol1_60.pdf?sfvrsn=2
10. DHRM Policy Equal Employment Opportunity 2.05
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol2_05eeo.pdf?sfvrsn=2
11. DHRM Policy Workplace Harassment 2.30
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol2_30wkplaceharrass.pdf?sfvrsn=2
12. Commonwealth of Virginia State Grievance Procedure for State Employees, VA Code § 2.2-3000, et seq. (2001)
<https://vacode.org/2.2-3001/?q=law>
13. DHRM Policy Personnel Records Disclosure 6.05
http://web1.dhrm.virginia.gov/itech/hrpolicy/pol6_05.html
14. VCU Policy: [Accessibility and Reasonable Accommodation for Individuals with Disabilities Policy](#)

VCU is committed to a policy of nondiscrimination under the following laws and regulations:

1. Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 (2018) and regulations (29 C.F.R. Part 1625)
<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title29-section631&f=treesort&num=0&saved=%7CKHRpdGxIOjI5IHNIY3Rpb246NjMxIGVkaXRpb246cHJlbGltKSBPUIAoZ3JhbnVsZWlkOIVTQy1wcmVsaW0tdGI0bGUyOS1zZWNOaW9uNjMxKQ%3D%3D%7CdHJlZXNvcnQ%3D%7C%7C0%7Cfalse%7Cprelim>
2. Age Discrimination Act of 1975, 29 U.S.C. § 6101 and regulations (29 C.F.R. Part 1626)
<http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title42-section2000d&num=0&edition=prelim>
3. Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, et seq. and regulations (28 C.F.R. Part 35)
<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title42-section12112&f=treesort&num=0&saved=%7CKHRpdGxIOjQyIHNIY3Rpb246MTIxMTEgZWRpdGI>

%7CZ3JhbnVsZWkOIVTQy1wcmVsaW0tdGI0bGU0Mi1jaGFwdGVyMjEtc3ViY2hhcHRlcyY%3D%7C%7C%7C0%7Cfalse%7Cprelim

13. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and regulations (34 C.F.R. § 106.1 et seq. [2017])
<http://uscode.house.gov/view.xhtml?hl=false&edition=prelim&path=%2Fprelim%40title20%2Fchapter38&req=granuleid%3AUSC-prelim-title20-section1681&num=0&saved=L3ByZWxpUB0aXRsZTIwL2NoYXB0ZXIzOA%3D%3D%7CZ3JhbnVsZWkOIVTQy1wcmVsaW0tdGI0bGUyMC1jaGFwdGVyMzgz%3D%7C%7C%7C0%7Cfalse%7Cprelim>
14. The Virginians with Disabilities Act, VA Code § 51.5-41 (2013)
<https://law.lis.virginia.gov/vacode/51.5-1/>
15. Virginia Fair Employment Contracting Act of 1975, VA Code § 2.2-4200 (2001)
<https://law.lis.virginia.gov/vacodepopularnames/fair-employment-contracting-act/>
16. Virginia Human Rights Act, VA Code § 2.2-3900 (2001)
<https://law.lis.virginia.gov/vacode/title2.2/chapter39/section2.2-3900/>
17. Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and regulations (34 C.F.R. Part 99)
<https://www.gpo.gov/fdsys/granule/USCODE-2011-title20/USCODE-2011-title20-chap31-subchaplIII-part4-sec1232g>

Revision History

This policy supersedes the following archived policies:

Approval/Revision Date	Title
-------------------------------	--------------

Initial Approval Date: 03/26/2009, 11/15/2013 12/12/2014	<i>Affirmation of VCU's Equal Opportunity Policy</i> <i>Affirmation of VCU's Equal Opportunity Policy</i> <i>Affirmation of VCU's Equal Opportunity-Interim</i>
--	---

FAQ

1. What is the role of EAS?

[EAS](#) leads, coordinates and support civil rights compliance, including Title IX, for the university community. EAS is responsible for addressing concerns about violations of this policy, which includes conducting discrimination complaint investigations on behalf of the university.

2. Which other offices at the university provide resources that may address my concern?

[VCU Human Resources](#) provides confidential assistance to university employees, managers and faculty, to help resolve work-related problems. Employee Relations assists in areas ranging from counseling and mediation, to policies or assessments.

The university's [Ombudsperson](#) is a designated confidential and informal dispute resolution practitioner for students and employees. The ombudsperson is an advocate for fairness. The ombudsperson is independent of VCU's normal reporting and managerial processes.

The [Division for Inclusive Excellence](#) is responsible for actualizing diversity initiatives that foster a welcoming community that supports all individuals regardless of protected identity.

The [Office of Multicultural Student Affairs](#) ("OMSA") assists traditionally underserved and/or underrepresented student populations (i.e. race, ethnicity, sexual orientation, and gender) through advising, support, program development, retention, mentoring and by promoting an appreciation of diversity throughout the campus community.

[Student Accessibility and Educational Opportunity](#) ("SAEO") serves VCU students with documented disabilities who are registered for classes on the Monroe Park Campus.

The [Division for Academic Success](#) ("DAS") offers disability and academic support services to students in the VCU Health Sciences schools: Allied Health Professions, Dentistry, Medicine, Nursing and Pharmacy.

The [Division of Student Affairs Bias Response Team](#) works continuously to create and promote an environment free from racism, sexism, ageism, heterosexism, homophobia, ableism, and xenophobia. The Bias Response Team is comprised of staff from the Dean of Students Office, Office of Multicultural Student Affairs, University Counseling Services, Office of Student Conduct and Academic Integrity, Equity and Access Services and Inclusive Excellence.

The [Integrity and Compliance Office](#) ("ICO") serves as a point of contact for ethics and compliance inquiries and concerns, particularly issues of universitywide significance or impact. ICO provides guidance and support to every university member with managing compliance requirements and self-monitoring. ICO also provides guidance on policy needs, assessment, creation and approval processes.

The [Office of Faculty Affairs](#) provides university-level, strategic leadership and coordination of faculty affairs and faculty-related human resources across the Monroe Park, MCV and VCU-Qatar campuses.

3. What can be done to address inappropriate behavior that does not constitute discrimination?

Behavior that would not constitute discrimination under this policy still may be inconsistent with university values or other university or departmental standards of conduct and may be addressed through other processes. For example, conduct that communicates hostile, derogatory or negative connotations about a particular culture may be addressed as a bias incident or may result in a student conduct or employee disciplinary process where appropriate. However, students and individuals generally enjoy the freedom of speech protected by the First Amendment, including

speech that others may find offensive. To the extent that the First Amendment applies to particular speech or conduct, VCU will act accordingly.

4. What are some examples of pregnancy-related or childbirth-related medical conditions that are protected from discrimination under this policy?

Pregnancy-related or childbirth-related medical conditions include, but are not limited to:

- Disorders directly related to pregnancy, such as preeclampsia (pregnancy induced high blood pressure), placenta previa, and gestational diabetes
- Symptoms such as back pain
- Complications requiring bed rest
- The after-effects of a delivery
- Lactation
 - Certain adverse actions against a lactating employee, including but not limited to the denial of an adequate time and place to express milk, will be considered sex discrimination under this policy.
 - [The Fair Labor Standards Act](#) (“FLSA”) requires the university to provide reasonable break time for an employee to express breast milk for nursing children each time such employee has need to express the milk, for up to one year after the child’s birth. The FLSA also requires the university to provide employees a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public that may be used to express breast milk. A list of available lactation rooms on the Monroe Park Campus and the Health Sciences campus is [available here](#).

Accommodations may be requested as noted above in the definition section about accommodations.

5. Are students and employees shielded from the consequences of poor performance or misconduct if they raise an allegation of discrimination or file a discrimination claim with an enforcement agency?

No. Participating in a protected activity, such as filing a complaint or participating in an investigation, does not give students or employees permission to neglect their job duties, violate university rules or do anything that would otherwise result in consequences for poor performance or misconduct.

6. I am having difficulty with my request for accommodation. What other steps should be taken to resolve a concern regarding denial of an accommodation?

First, please refer to “Reasonable Accommodation” in the Definitions section of this policy and to the Reasonable Accommodation section of this policy. If a student believes that they are being denied reasonable accommodation by an instructor, they should raise the concern with their department chair or dean. Department chairs and deans should consult the Office of the Provost as needed. For disability accommodations, the student also may raise the concern with the applicable disability support office, as outlined in Section 7.01 of the Accessibility and Reasonable Accommodation for

Individuals with Disabilities Policy. Employees may raise concerns with human resources or upper-level management.

If the concern is not resolved through these steps, the next recourse is to file a complaint alleging denial of a reasonable accommodation with EAS pursuant to this policy.

7. Are students and employees required to report potential violations of this policy?

VCU expects that all members of our university community will timely report actual or suspected violations of laws, regulations, and policies, as stated in the university's [Duty to Report and Protection from Retaliation Policy](#). However, managers, human resource officials and other employees with managerial responsibilities have a special duty to recognize and report misconduct. Additionally the Sexual Misconduct/Violence and Sex/Gender Discrimination policy sets forth reporting requirements for Responsible Employees, including student employees when they are acting in their capacity as a university employee.

8. How can my department address underrepresentation in the workforce without engaging in discrimination by considering applicants' protected identities?

Under no circumstances can protected identity (e.g. race, sex, national origin, etc.) be considered in hiring decisions. Departments should engage in active and targeted recruitment of qualified candidates for all open positions so that their applicant pools include women, racial and ethnic minorities, individuals with disabilities, and protected veterans, at least in proportion to their availability in the labor market. Information about availability is provided in the university's annual Affirmative Action Plans. The premise of affirmative action planning is that over time, with effective recruitment and retention practices and absent discrimination, the workforce will reflect the available labor pool. [VCU Human Resources](#) provides leadership and services to recruit, retain and develop an exceptional and diverse workforce. Additional resources for Faculty hiring are available from the [Office of Faculty Recruitment and Retention](#) ("OFRR").

9. May a university employee bring a complaint of discrimination under the university's grievance procedures?

No. The university's grievance procedures are not available to faculty or university and academic professionals for complaints of discrimination. Note, however, the state grievance procedure is available for complaints of discrimination for 1) current classified staff or 2) former classified staff who chose to convert to university and academic professionals and who elect the state grievance procedure.