

VCU Title IX Policies

Equity and Access Services

Updated September 2021

Learning Outcomes & Content Warning

Participants will review VCU's sexual harassment policies and the distinctions between them.

Participants will also review the options for resolution of alleged sexual harassment under each policy.

Two Policies, Similar Processes

Title IX Sexual Harassment | Sex-Based Misconduct

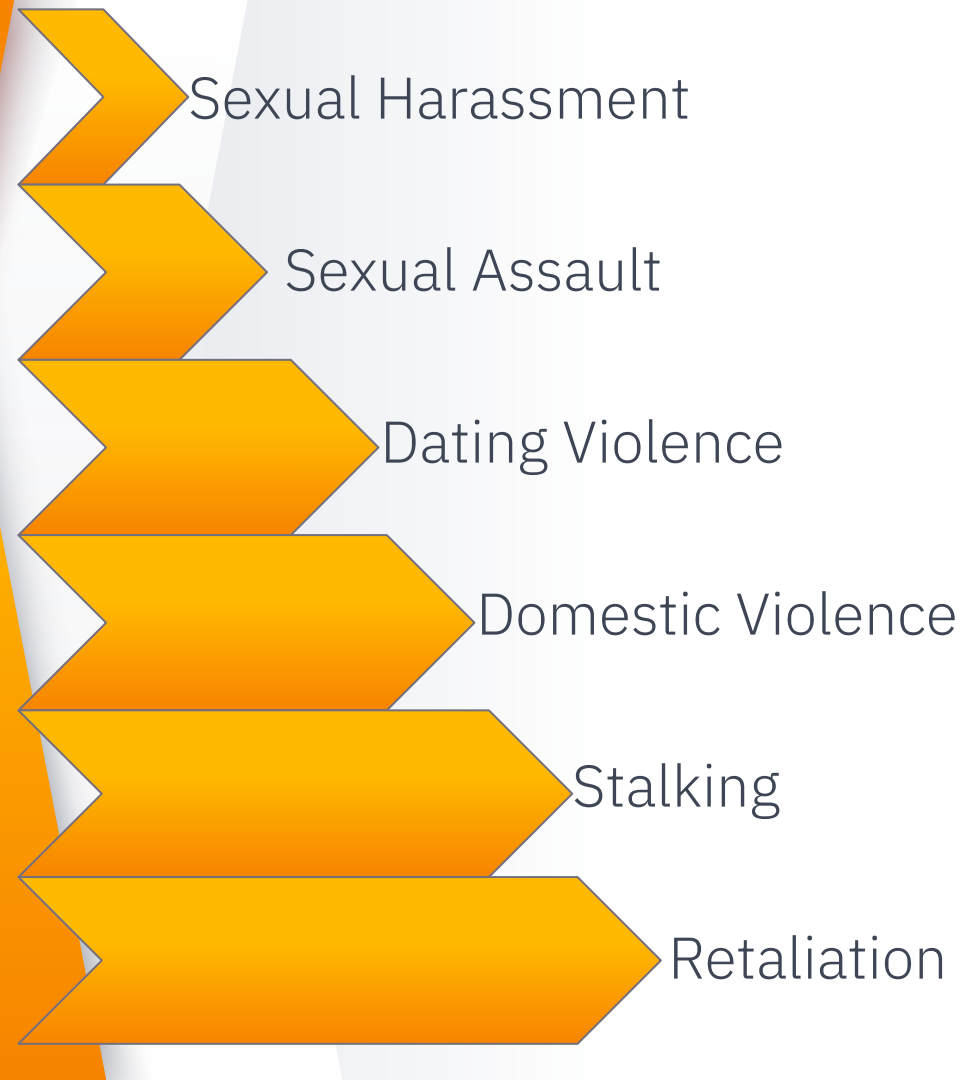
- ▶ Definitions
- ▶ Jurisdiction
- ▶ Resolution Processes
 - ▶ Appeals

Overview of Prohibited Conduct

Title IX and Sex-Based Misconduct

Title IX Definitions

Click on the arrows to learn more about each definition



“**Sexual Harassment**”

- ▶ Employee “quid pro quo”
- ▶ Unwelcome conduct that is so severe, pervasive, and objectively offensive such that it denies a person equal access to the educational program or activity
- ▶ Sexual assault, dating violence, domestic violence, or stalking

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“**Sexual Assault**”

- ▶ A forcible or nonforcible sex offense under the uniform crime reporting system of the FBI
- ▶ Rape, fondling, incest, statutory rape

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“Dating Violence

- ▶ Physical or sexual violence (or threats thereof) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

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“Domestic Violence

- ▶ Physical or sexual violence (or threats thereof) committed by a person who:

- ▶ Is Complainant’s current or former spouse or intimate partner
- ▶ Shares a child in common with the Complainant
- ▶ Is cohabitating with or has cohabitated with the Complainant
- ▶ Is similarly situated to a spouse of the Complainant, under Virginia law
- ▶ Is someone against a Complainant who is protected from that person’s acts under domestic or family laws of Virginia

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“ Stalking

- ▶ Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress

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“Retaliation

- ▶ Any materially adverse action taken against an individual or group of individuals for reporting an alleged violation of the policy, filing a formal complaint, filing an external complaint, participating or refusing to participate in an investigation or grievance process.

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Sex-Based Misconduct Definitions

Click on the arrows to learn more about each definition



Sexual Harassment



Sexual Exploitation



Sexual Assault



Dating Violence



Domestic Violence



Stalking



Retaliation

“Sexual Harassment

- ▶ Non-employee “quid pro quo”
- ▶ Unwelcome conduct that is so severe, pervasive, and objectively offensive such that it denies a person equal access to the educational program or activity
- ▶ Sexual assault, dating violence, domestic violence, or stalking

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“**Sexual Exploitation**”

- ▶ Taking non-consensual sexual advantage of another person, excluding behavior that constitutes one of the other forms of sex-based misconduct. Examples include, but are not limited to:

- Causing or attempting to cause incapacitation for the purpose of compromising another person’s ability to give affirmative consent to sexual activity;
- Allowing third parties to observe private sexual activity from a hidden location or through electronic means without the consent of all participants engaging in the sexual activity
- Engaging in voyeurism
- Recording or photographing private sexual activity and/or a person’s private body parts;
- Disseminating or posting images of private sexual activity and/or a person’s private body parts;
- Prostituting another person; or,
- Engaging in indecent exposure

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What's the difference?

What differences did you notice between the policy definitions of prohibited conduct?

Jurisdiction

The Where and Who



Title IX Jurisdiction

Location: in the context of a VCU program or activity (i.e. on-campus, VCU owned or controlled property, during an online class, etc.)

Complainants: VCU students, faculty, and staff

Respondents: current affiliates of VCU

Conduct: common prohibited conduct categories per the policies

Location: any, if the conduct effectively denies the Complainant access to VCU's educational program or activity or if the conduct of an affiliated respondent may have an effect on the university community

Complainants: Any

Conduct: includes sexual exploitation and a different definition of sexual harassment

Sex-Based Misconduct Jurisdiction

Formal Complaint

Formal resolution processes must begin with a formal complaint

A formal complaint must:

- ▶ Allege conduct that could constitute a violation of policy
- ▶ Include that the Complainant wishes to proceed with an investigation
- ▶ Include a digital signature from the Complainant

Self Check: Title IX or not?

A VCU student complainant alleges that she has been sexually harassed by another VCU student during multiple online class discussions.

Self Check: Title IX or not?

A J Sarge student complainant alleges that he was sexually assaulted by a VCU student in their shared off-campus apartment.

Resolutions & Appeals

Three options for Complainants...

Supportive Measures

Available regardless of interest in another resolution process. Includes no-contact directives, academic support, housing modifications, etc.

Informal Resolution

Parties may meet to agree upon a resolution to the complaint without a formal investigation. Facilitated by a third party, often includes mediation or other restorative practices.

Formal Resolution

A formal investigation into the allegations. Results in a preliminary report summarizing evidence and a final report (final report format differs by policy)

Resolution #1

Supportive Measures Only

Resolution #2

Informal Resolution

Resolution #3

Formal Resolution

Sanctions

Student Respondents

- ▶ Expulsion
- ▶ Revocation of degree
- ▶ Withholding degree
- ▶ Revocation of admission
- ▶ Suspension
- ▶ Deferred suspension
- ▶ Disciplinary probation
- ▶ Censure
- ▶ Campus ban
- ▶ Loss of university privileges

Employee Respondents

- ▶ Termination of employment
- ▶ Suspension/ administrative leave
- ▶ Loss of merit pay increase
- ▶ Counseling
- ▶ Written notice or warning
- ▶ Demotion
- ▶ Loss of supervisory title/ responsibilities
- ▶ Campus ban

Hearings

	Title IX	Sex-Based Misconduct
What information is included?	The investigator's Final Investigation Report	The investigator's Final Investigation Report
What triggers the hearing?	The investigator's Final Investigation Report	One or more parties contesting the investigator's findings
Who makes a decision?	Hearing panel	Investigator determines findings
Who talks to parties/witnesses?*	Hearing panel or parties' adviser	Hearing panel
Who has advisers?	Both parties are required to have an adviser	Both parties may bring an adviser
Who determines sanctioning?	Hearing panel	Designee (student affairs or HR)
What can they appeal?	Findings or sanctions	Findings

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Questions?