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# Virginia Tech Sexual Harassment and Sexual Violence Investigation Procedures

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## **I. Notice of Non-Discrimination and Statement of Compliance with Title IX**

### **A. Scope of Procedures**

This document outlines the procedures used to investigate reports of sexual harassment and sexual violence involving students at Virginia Tech. It does not constitute policy but serves only as a guidance and is subject to change. It does not confer any rights onto any party involved in an investigation, nor does it create any responsibilities for the University.

### **B. Notice of Non-Discrimination**

Virginia Tech does not discriminate against employees, students, or applicants on the basis of age, color, disability, gender, gender identity, gender expression, national origin, political affiliation, race, religion, sexual orientation, genetic information, veteran status, or any other basis protected by law. For inquiries regarding non-discrimination policies, contact the Director of Compliance at 540-231-2010 or Virginia Tech, North End Center, Suite 2300 (0318), 300 Turner St. NW, Blacksburg, VA 24061.

### **C. The Role of the Title IX Coordinator**

The university has designated Dr. Frank Shushok, Senior Associate Vice President of Student Affairs (email: fshushok@vt.edu; phone: 231-8069) as the university's Title IX Coordinator. The Title IX Coordinator is responsible for monitoring compliance with Title IX. Questions regarding Title IX, as well as concerns and complaints of non-compliance, may be directed to him.

The Title IX Coordinator is responsible for receiving complaints of sexual harassment, sexual violence, stalking, or intimate partner violence for student respondents. When there is a student respondent, or when the complainant is a student and the alleged assailant's identity is unknown, the Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence involving students;
- Knowledgeable and trained in university policies and procedures and relevant state and federal laws;
- Available to inform any individual, including a complainant, a respondent, or a third party, about the courses of action available at the university, both informally and formally, and in the community;
- Available to provide assistance to any university employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, stalking, or intimate partner violence;
- Responsible for monitoring full compliance with all procedural requirements, record keeping, and timeframes outlined in these procedures; and
- Responsible for overseeing training, prevention, and educational efforts and annual reviews of climate and culture.

The Title IX Coordinator is also responsible for coordinating a Title IX Advisory Group, which charged with coordinating the review, investigation, and resolution of all reports to ensure

consistent responsiveness, and the implementation of interim measures to support the individuals involved and to protect the university community. Virginia Tech is committed to using a consistent and informed response to create a culture of accountability.

The university has also designated Andrew Tevington, Director of Compliance in the Office of Equity and Access (email: [equityandaccess@vt.edu](mailto:equityandaccess@vt.edu); phone: 540-231-2010), as the Deputy Title IX Coordinator. When there is a complaint involving faculty or staff, or an incident involving minors on campus, the Title IX Coordinator is responsible for oversight of the resolution.

### **C. Inquiries and/or Complaints about Procedures**

Inquiries or complaints concerning the application of Title IX at Virginia Tech may be referred to the university's Title IX Coordinator and/or the United States Department of Education:

#### **Interim Title IX Coordinator**

Dr. Frank Shushok, Title IX Coordinator  
 Senior Associate Vice President for Student Affairs  
 New Hall West, Suite 160 (0428)  
 190 West Campus Drive  
 Blacksburg, VA 24061  
 Telephone: 540-231-8069  
 Email: [fshushok@vt.edu](mailto:fshushok@vt.edu)

#### **United States Department of Education**

Office of Civil Rights  
 (800) 421-3481  
 Email: [ocr@ed.gov](mailto:ocr@ed.gov)

### **D. Links to Relevant Federal Laws**

These procedures described in this document relate to the university's policies and procedures under the following federal laws. Additional information about Title IX, the Clery Act, the Campus SaVE Act, and the Family Educational Rights and Privacy Act (FERPA) can be found at the following links:

<b>Title IX</b>	<a href="http://www.dol.gov/oasam/regs/statutes/titleix/htm">http://www.dol.gov/oasam/regs/statutes/titleix/htm</a>
	<a href="http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html">http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html</a>
<b>Clery Act</b>	<a href="http://cleryact.info/home.html">http://cleryact.info/home.html</a>
<b>Campus SaVE Act</b>	<a href="http://www.cleryact.info/campus-save-act.html">http://www.cleryact.info/campus-save-act.html</a>
<b>FERPA</b>	<a href="http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html">http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html</a>

## **II. Confidentiality and Information Sharing**

### **A. Reporting on Campus**

Any university employee who is not listed below as a *confidential resource* is required to share a report of sexual harassment, sexual violence, stalking, or intimate partner violence involving a student with the university's Title IX Coordinator. The Title IX Coordinator's designee will conduct an initial assessment of the incident or behavior, the complainant's desired course of action, and the necessity for any interim remedies or accommodations to protect the safety of the complainant or the community.

### **B. Confidential Resources**

Information shared with a designated confidential campus or community professional cannot be revealed to anyone without express permission (with very limited exceptions). The university does not require reports of sexual violence made to these *confidential resources* to be shared. Anyone wishing to seek confidential assistance may speak with professionals in the Cook Counseling Center, Schiffert Health Center, Virginia Tech Women's Center, the Women's Resource Center of the New River Valley, Lewis Gale Hospital at Montgomery (Blacksburg), or Carillion New River Valley Medical Center (Radford).

### **C. Maintaining Privacy**

The university is committed to protecting the privacy of all individuals involved in a report of sexual harassment, sexual violence, stalking, and intimate partner violence. In any report, the university will make every effort to protect all individuals' privacy, while also conducting a careful assessment of the allegation and taking any steps needed to eliminate the harassment, prevent its recurrence, and address its effects. The university will not release information from investigations, except as required or permitted by law and university policy.

### **D. Release of Information**

Virginia Tech complies with the Jeanne Clery Act, a federal law requiring universities that receive federal funding to share information about crime on campus and to inform the public of crime in or around campus. Under the Clery Act, the university must share anonymous statistical information about certain crimes that occurred on campus, including sexual assault, with the Virginia Tech Police Department. In addition, the law mandates that if a report of misconduct indicates a serious or immediate threat to the campus community, the Virginia Tech Police Department must determine if a timely notification to the community is needed to protect health or safety. The university may also share non-identifying information about reports in aggregate form, including data about outcomes and sanctions. At no time will the university release the name of the complainant or respondent to the general public without their express consent or as otherwise permitted or required by law.

In addition, Virginia state law requires the university to disclose information regarding some incidents of sexual violence to local law enforcement and the commonwealth prosecuting attorney. The need for disclosure will be determined on a case-by-case basis by a committee consisting of the Title IX Coordinator, University Counsel, and the Virginia Tech Police Department.

### **E. Request for Anonymous Reporting**

When a complainant requests for their report to remain confidential, the university will seek action consistent with the complainant's request when possible. The university will balance this request with its obligation to provide a safe and non-discriminatory environment for all Virginia Tech community members and to remain true to principles of fundamental equity that require notice and an opportunity to respond before action is taken against a respondent.

The university will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation or disciplinary action, but its ability to do so may be limited. The university will assess any barriers to proceeding, including retaliation, and will inform the complainant that Title IX prohibits retaliation and the university will take strong responsive action to protect the complainant.

When the university is unable to take action consistent with the request of the complainant, the Title IX Coordinator or their designee will communicate with the complainant about the university's chosen course of action, which may include the university choosing to seek disciplinary action against a respondent. When the university does seek disciplinary action against a respondent, the complainant's identity must be shared with the respondent.

## **III. Right to Report**

Virginia Tech encourages all students to seek medical attention and gather evidence to preserve the full range of options of resolution through the university, and/or civil, and/or criminal processes.

The university has a strong interest in supporting complainants and third-party reporters of sexual harassment, sexual violence, stalking, and intimate partner violence and encourages all individuals, even those who are not obligated by the university's Gender-Based Violence policy, to report any incident to the university, and to law enforcement.

Making a report under this policy means telling a university mandated reporter what happened—in person, by telephone, in writing, or by email. At the time a report is made, a complainant does not have to decide whether or not to request any particular course of action, nor does a complainant need to know how to label what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The university provides support that can assist each individual in making these important decisions, and to the extent legally possible, will respect an individual's autonomy in deciding how to proceed. In this process, the university will balance the individual's interests with its obligation to provide a safe and non-discriminatory environment for all members of the university community. The university will respond to any information it receives, whether from a complainant or third party against a named respondent.

The university will promptly review and respond to all reports of sexual harassment, sexual violence, stalking, or intimate partner violence in a manner that treats each individual with dignity and respect. The university will investigate each report with an earnest intent to understand the perspective and experiences of each individual involved in order to ensure prompt and equitable evaluation and resolution.

#### **A. Reporting to Law Enforcement**

The university encourages complainants to pursue criminal action for incidents of sexual harassment, sexual violence, stalking, and intimate partner violence that may also be crimes under state criminal statutes. The university will assist a complainant, at the complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process, to the extent permitted by law.

Individuals may also contact law enforcement directly. Contact information for the Virginia Tech Police Department (for on campus incidents) and the Blacksburg Police Department (for incidents that occur off campus) is listed at the end of this section.

The university's policy, definitions, and burden of proof may differ from Virginia criminal law. A complainant may seek resolution through the university's Title IX process, in addition to pursuing criminal and/or civil action, as these processes are not mutually exclusive. Law enforcement's determination whether or not to prosecute a respondent or the outcome of any criminal prosecution do not determine whether or how sexual harassment, sexual violence, stalking, or intimate partner violence will be addressed by the university. In addition, the university may conduct investigative and disciplinary proceedings prior to, simultaneously with, or following civil or criminal proceedings off campus.

Except when required by law, Virginia Tech will generally respect a complainant's choice whether or not to report an incident to local law enforcement, unless the university determines that there is an overriding issue with respect to the safety or welfare of the Virginia Tech community or is otherwise required by law. Where a report involves suspected abuse of a minor as defined by law, Virginia Tech is required by state law to notify law enforcement and/or the Child Protective Services in Virginia.

##### **Virginia Tech Police Department**

911 (Emergency number from a landline)

(540) 231-6411 (Central Dispatch; cell phone emergency number)

[www.police.vt.edu](http://www.police.vt.edu)

##### **Blacksburg Police Department**

911 (Emergency number)

(540) 961-1150 (Office; Central Dispatch)

#### **B. Campus Reporting Options**

Virginia Tech recognizes that a student or employee may choose to report sexual harassment, sexual violence, stalking, and intimate partner violence to any employee of the university. Under this policy, any employee, other than those recognized as a *confidential resource* described in Section II, who receives a report of sexual harassment, sexual violence, stalking, or intimate partner violence involving a student respondent, is required to share the report with the Title IX Coordinator. Based on these reports, the Title IX Coordinator will initiate an investigation of the incident(s).

## **C. Reporting Considerations**

### **1. Timeliness of Report, Location of Incident**

Virginia Tech encourages complainants and third-party witnesses to report sexual harassment, sexual violence, stalking, and intimate partner violence as soon as possible in order to maximize the university's ability to respond promptly and effectively. The university does not limit the timeframe for reporting. If the respondent is no longer a student, the university may not be able to take disciplinary action against the respondent. However, it will seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and address its effects.

An incident does not have to occur on campus to be reported to the university. Off campus conduct where university interests are involved may be covered under this policy.

### **2. Amnesty for Personal Use of Alcohol or Other Drugs**

Virginia Tech seeks to remove any barriers to reporting. Any student, whether the complainant or a third party, who reports sexual harassment, sexual violence, stalking, or intimate partner violence will not be charged for policy violations related to the personal ingestion of alcohol or other drugs.

### **3. Statement against Retaliation**

Retaliation is a violation of university policy. Virginia Tech recognizes that retaliation can take many forms; may be committed by or against an individual or a group; and may target complainants, respondents, or third parties.

An individual reporting sexual harassment, sexual violence, stalking, or intimate partner violence is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is not later substantiated.

### **4. False Reporting and Information**

The university takes the validity of information very seriously as a charge of sexual harassment, sexual violence, stalking, or intimate partner violence may have severe consequences.

A complainant or third party who makes a report that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action and may also violate state laws. This provision does not apply to reports made in good faith.

A respondent or witness who is later proven to have intentionally given false information during the course of an investigation or conduct proceeding may be also be subject to disciplinary action.

## **IV. Interim Measures**

### **A. Overview**

Upon receipt of a report of sexual harassment, sexual violence, stalking, or intimate partner violence, the university may impose reasonable and appropriate interim measures designed to eliminate a hostile environment and protect the parties involved. Virginia Tech will maintain consistent contact with the parties to ensure that all safety, emotional, and physical well-being concerns are addressed. Interim measures may be imposed without a formal disciplinary action in order to ensure the preservation of the educational experience and the overall university environment.

The following measures may applied to the complainant and/or the respondent to the extent reasonably available and warranted by the circumstances:

- Providing access to counseling services and assistance in setting up an initial appointment;
- Imposing a university “no-contact order”;
- Rescheduling exams and assignments;
- Providing alternative course completion options;
- Changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;
- Changing work schedules or job assignments;
- Changing a student’s housing assignment;
- Assisting with a housing relocation (in cooperation with Housing and Residence Life staff);
- Limiting an individual’s or organization’s access to certain university facilities or activities pending resolution of the matter;
- Facilitating a voluntary leave of absence;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Imposing an interim suspension; and/or
- Providing other remedies that can be tailored to the involved individuals to achieve the goals of these procedures.

A complainant or respondent may request an interim measure, or the university may choose to impose one at its discretion to ensure the safety of all parties, the broader university community, and/or the integrity of the investigative and/or resolution process.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. The university will take immediate and responsive action to enforce an interim measure and disciplinary sanctions can be imposed for failing to comply.

### **C. Interim Suspension**

The university retains the authority to impose an immediate interim suspension if needed to preserve the safety of persons or property. In this instance, the students will be afforded an interim suspension hearing and the opportunity to show why their continued presence on campus does not constitute a threat to themselves, others, or property. The interim suspension hearing is separate from a formal student conduct hearing. Students may be intermily suspended from the university or selected campus facilities with proper notice. More information about interim suspension can be found in the Hokie Handbook.

## **V. Title IX Inquiry, Investigation, and Resolution**

The Title IX Coordinator may enlist the Title IX Advisory Group to assist in the review, investigation, and/or resolution of a report. All members of the Title IX Advisory Group are specially trained.

### **A. Overview**

Upon receipt of a report, the university will conduct an initial Title IX inquiry. The goal of this inquiry is to provide an integrated and coordinated response to reports of sexual harassment, sexual violence, stalking, and intimate partner violence. The assessment will consider the nature of the report, the safety of the individual and of the campus community, the complainant's expressed preference for resolution, and the necessity for any interim remedies or accommodations to protect the safety of the complainant and the community.

Following this inquiry, the university may: 1) seek the implementation of interim measures that does not involve disciplinary action against a respondent; or 2) seek resolution by initiating an investigation to determine if disciplinary action is warranted. The goal of the investigation is to gather all relevant facts that will aid in determining if there is sufficient information to refer the report for disciplinary action using the university's Student Conduct procedures.

The resolution process is guided by the principles of equity and respect for all parties. Resources are available for all students, whether as complainants or respondents, to provide support and guidance throughout the investigation and resolution of the complaint.

### **B. Time Frames for Resolution**

The university seeks to resolve all reports of sexual harassment, sexual violence, stalking, and intimate partner violence, within sixty (60) days. All time frames expressed in these procedures are meant to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames, including extension beyond sixty (60) days. Such

circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, a complainant and respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution exceed this time frame, the university will notify all parties of the reason for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental equity with promptness.

At the request of law enforcement, the university may agree to defer its fact-gathering until after the initial stages of a criminal investigation. The university will nevertheless communicate with the complainant regarding Title IX rights, procedural options, and the implementation of interim measures to ensure safety and well-being. The university will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

### **C. Initial Title IX Inquiry**

The university will conduct an initial Title IX inquiry. The university will consider the complainant's desired resolutions. Where possible and as warranted by an assessment of the facts and circumstances, the university will seek action consistent with the complainant's request.

As part of the initial inquiry of the facts, the university will:

- Assess the nature and circumstances of the complaint;
- Address immediate physical safety and emotional well-being;
- Notify the complainant of their rights outside of the university, including reporting to law enforcement and accessing local resources;
- Assess the need for a timely warning under the Clery Act;
- Provide the complainant with information about on and off campus resources;
- Notify the complainant of the range of interim accommodations and remedies;
- Provide the complainant with an explanation of procedural options and Student Conduct resolution;
- Identify an adviser and/or support person for the complainant;
- Assess for pattern evidence or other similar conduct by respondent;
- Discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding; and
- Explain the university's policy prohibiting retaliation.

At the conclusion of the Title IX inquiry, the Title IX Coordinator will determine the appropriate manner of resolution, which may include interim measures or the initiation of a full Title IX investigation to determine if Student Conduct action is warranted. It is at the discretion of the Title IX Coordinator to determine which method of resolution is appropriate.

The determination as to how the university has decided to proceed will be communicated to the complainant in writing. Depending on the circumstances and requested resolution, the respondent may or may not be notified of the report or resolution. A respondent will be notified when the university seeks action that would impact them, such as the issuance of a no contact order, the initiation of an investigation, or the decision to impose some interim measures.

#### **D. Complainant Agency and Autonomy to Not Proceed**

In the event that a complainant does not wish to proceed with an investigation or Student Conduct resolution, the Title IX Coordinator will determine, based on the available information, including any investigative report, whether the investigation or Student Conduct resolution proceedings should nonetheless go forward.

In making this determination, the university will consider the following factors including but not limited to:

- Whether the complainant has requested confidentiality;
- Whether the complainant wants to participate in an investigation or Student Conduct hearing;
- The severity and impact of the conduct;
- The respective ages of the parties;
- Whether the respondent has admitted to the misconduct;
- Whether the respondent has a pattern of committing similar misconduct
- The existence of independent evidence; and
- The extent of prior educational interventions taken with the respondent.

#### **E. Investigation**

The Title IX Coordinator can initiate an investigation and designate an investigator who has specific training and experience investigating reports of sexual harassment, sexual violence, stalking, and intimate partner violence. The university will provide annual training for all investigators, and any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigator will gather information from the complainant, the respondent, and any other individuals who may have information relevant to the investigation. As part of the investigation, participants will have the opportunity to present statements, witnesses, and other information, including but not limited to, documents, communication between the parties, electronic records, and medical records as appropriate. In gathering the information, the investigator may consider prior reports of, or findings of responsibility for, similar conduct by the respondent to the extent such information is relevant. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character.

The investigation is designed to be prompt and equitable. The investigation will be thorough and impartial, and all individuals will be treated with appropriate sensitivity and respect for individual privacy concerns. Throughout the process, a complainant or respondent may have an advocate present at any meeting related to the investigation.

The university will seek to complete evidence gathering within thirty (30) business days of receiving the complaint, but this time frame may be extended depending on the complexity of the circumstances of each case. At the request of law enforcement, the university may agree to defer its investigation until the initial stages of a criminal investigation are complete. The University will nevertheless communicate with the complainant regarding the Title IX rights, procedural options and the implementation of interim measures to assure the safety and well-being of all affected individuals. The university will promptly resume its investigation as soon as law enforcement has released the case for review following the initial criminal investigation.

The university may use its discretion when choosing to interview witnesses or include specific information as evidence. Exclusions may be made for reasons including, but not limited to, relevance, confidentiality of the parties, and the need to limit a hostile environment.

Once evidence gathering is completed, the investigator will prepare a report setting forth the information gathered, which will be forwarded to the Title IX Coordinator. Upon receipt of the investigation report, the Title IX Coordinator or designee will notify all parties about next steps in the process, which may include referral to Student Conduct or closing the case. Copies of the report will be shared with the complainant and the respondent only when a referral to the Office of Student Conduct has been made.

### ***1. Consolidation of Investigation***

The Title IX Coordinator has the discretion to consolidate multiple reports against a single respondent into one investigation if the evidence related to each incident would be relevant in reaching a determination on the other incident.

### ***2. Student Groups, Organizations, and Teams***

When members of a student group, organization, or team are reported to be in violation of the Gender-Based Violence policy, an investigation may proceed against the group, organization, or team as an entity, against one or more involved individual members, or both. This decision will be made by the Title IX Coordinator based on the facts and circumstances of the alleged incident.

When an alleged violation of university policy occurs at a group, organization, or team sanctioned event, or when the group's leaders or officers encouraged, knew about, or should have reasonably known about the violation, the group, organization, or its officers, leaders, and membership may be held collectively and individually responsible.

In any such action, responsibility may be assigned to individuals and/or a group. Sanctions assigned to a particular individual will be proportionate to that person's involvement in the violation.

### ***3. Advisors and Attorneys***

During the investigation process, the complainant and respondent have the right to be assisted by an advisor. The advisor may accompany the complainant or respondent to any meeting. Generally, a witness may not serve as an advisor. An advisor can be any person of a student's choosing, including, but not limited to a parent, faculty member, counselor, advocate, or attorney. Any person who serves as an advisor can attend any meeting but may not speak on behalf of the student. The investigators, when appropriate, have the right at all times to determine what constitutes appropriate behavior on the part of an advisor. The university will not recognize or enforce agreements between the parties reached outside of these procedures.

### ***4. Prior Sexual History and Pattern Evidence***

A complainant's prior sexual history is not relevant and will not be admitted as evidence during an investigation. However, exceptions to this rule may exist where there is a current or ongoing relationship between the complainant and the respondent, and the respondent alleges consent. Then, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties, where the value of that information is not outweighed by the any potential harm to the complainant. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to warrant an exception. Any prior sexual history of the complainant with other individuals is not relevant and will not be permitted. The use of such information during adjudication will be determined by the Office of Student Conduct.

Where there is evidence of a pattern or conduct similar in nature by the respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant to the investigation. The determination of relevance will be based on an assessment of whether:

- The previous incident was substantially similar to the present allegation;
- The information indicates a pattern of behavior and substantial conformity with that pattern by the respondent; or
- The respondent was subject to a previous credible allegation and/or was previously found responsible for a policy violation.

Any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the investigator at the earliest opportunity. The university, through the investigator, may choose to consider this information.

### ***5. Content of Investigation Report***

The investigator will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the investigator will review all information

gathered to determine whether it is relevant given the nature of the allegation. In general, the investigator may redact information that is irrelevant, more prejudicial than probative, or immaterial. The investigator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts.

#### ***6. Reconsideration of the Determination Not to Proceed to Student Conduct***

Upon review of an investigation report, if the Title IX Coordinator determines that there is insufficient information to suggest that a policy violation may have occurred, the complainant and respondent will be notified in writing. If the complainant disagrees with this determination, they may seek a review by the Title IX Advisory Group by submitting a written request within five (5) business days.

The Title IX Advisory Group may agree with the finding, reverse the finding and refer the case for Student Conduct action, or request that additional investigative steps be taken. The Title IX Advisory Group will render a decision in writing, to both parties, within ten (10) business days of receipt of the request for review. The decision of the Title IX Advisory Group is final.

#### ***7. Determination to Proceed to Student Conduct Action***

Upon review of an investigation report, if the Title IX Coordinator determines that there is sufficient information gathered to suggest that a policy violation may have occurred, the Title IX Coordinator or designee will notify the complainant and the respondent and refer the report to Student Conduct for adjudication. Student Conduct will resolve the matter using preponderance of the evidence, as to whether the respondent is responsible for conduct in violation of university policy.

## **VI. Records**

The Title IX Coordinator will retain records of all reports, allegations, and complaints, regardless of how the matter is resolved. Complaints resolved through these procedures and not as part of the Student Conduct process are not part of a responding student's conduct file or academic record. They are, however, educational records and are protected and released pursuant to the Family Education Rights and Privacy Act (FERPA).

Virginia state law requires that the transcripts of respondents involved in violations of sexual misconduct must include a notation in certain circumstances. In cases where a student leaves the university during the course of an investigation for sexual misconduct, a notation regarding the investigation will appear on his or her transcript. That notation may be removed pursuant to the policies and procedures of the Office of Student Conduct.

For more information on records of matters resolved through the Office of Student Conduct, including notifications required when a student is determined responsible for sexual misconduct, please refer to the Hokie Handbook.

