

RADFORD UNIVERSITY

Board of Visitors

**ANNUAL RETREAT
AUGUST 4-5, 2020
THE HOTEL ROANOKE & CONFERENCE CENTER
110 SHENANDOAH AVENUE, ROANOKE, VIRGINIA**

**DRAFT
MINUTES**

AUGUST 4, 2020

BOARD MEMBERS PRESENT

Mr. Robert A. Archer, Rector
Dr. Thomas Brewster
Dr. Jay A. Brown
Mr. Gregory A. Burton
Ms. Krisha Chachra
Dr. Rachel D. Fowlkes
Dr. Susan Whealler Johnston
Mr. Mark S. Lawrence
Dr. Debra K. McMahan
Ms. Nancy Angland Rice
Mr. David A. Smith
Ms. Georgia Anne Snyder-Falkinham
Ms. Lisa Throckmorton

BOARD MEMBERS ABSENT

Mr. James R. Kibler, Vice Rector
Ms. Karyn K. Moran

OTHERS PRESENT

Dr. Brian O. Hemphill, President
Ms. Karen Castele, Secretary to the Board of Visitors and Special Assistant to the President
Mr. Craig Cornell, Vice President for Enrollment Management (Presentation)
Mr. Chad A. Reed, Vice President for Finance and Administration (Presentation)
Ms. Ashley Schumaker, Chief of Staff and Vice President for Strategic Operations
Mr. Allen T. Wilson, Assistant Attorney General, Commonwealth of Virginia

WELCOME AND OVERVIEW

Mr. Robert A. Archer, Rector, began the Retreat at 1:05 p.m. in the Shenandoah Room of The Hotel Roanoke & Conference Center in Roanoke, Virginia. Rector Archer thanked everyone for taking their valuable time to travel to Roanoke and for being flexible due to the continuing impact of the COVID-19 pandemic. Rector Archer recalled previous Board of Visitors

discussions for the need for change due to an expected decline in high school students over the next decade, among other pressures. The structure of the University and what and how we teach have all been under consideration. Then earlier this year, we were faced with the on-going impact of the COVID-19 pandemic. It then became obvious that an emergency situation existed and that an accelerated process of evaluation and development of recommendations were in order. He continued by stating that the Board passed a resolution directing the President and his team to undertake a process of review and development of recommendations, working with stakeholders, to complete the process in a timely basis. Subsequently, President Hemphill announced the creation of two work groups, Academics and Services, who were tasked with evaluating the structure and programs to make recommendations that would not only look at budgetary concerns, but also will strategically set the University up for success going forward. Rector Archer expressed his appreciation to Administrative and Professional Faculty Senate President Ashlee Claud, Faculty Senate President Katie Hilden, Ph.D. and Staff Senate President Kristina Contreras for their leadership, understanding and support during the process.

Rector Archer stated that he could attest to how focused and how hard President Hemphill, his administration and others have been working on the Campus Reopening Plan, which was submitted to the State as required.

Rector Archer concluded by thanking President Hemphill for his work and for keeping him informed on all related matters. Rector Archer also thanked Chief of Staff and Vice President Ashley Schumaker and Secretary of the Board Karen Castele for their hard work on behalf of the University and the Board. And he expressed his appreciation to the Board for their unwavering perspective, support and friendship and that he looks forward to working with each member in the new year.

A YEAR IN REVIEW AND A LOOK FORWARD

President Brian O. Hemphill, Ph.D. reviewed with the Board of Visitors members the many significant accomplishments, events and new initiatives from 2019-2020, including: the establishment of Radford University Carilion; U.S. News & World Report rankings; the Highlander Discovery Institute event; the Venture Lab Ribbon Cutting; Hotel Project announcement; BB&T Leadership Development Program; Tech Talent Investment Program; Shelor Motor Mile Scholars Program; 2020-2030 Master Plan development; Academic Success Center creation; Reed and Curie Halls Renovation and Ribbon Cutting event; Appalachian College of Pharmacy partnership; and COVID-19 and Highlanders Rise response. While currently on hold, President Hemphill shared that the Center for Adaptive Innovation and Creativity project remains funded and progress will continue in the future. The presentation is attached hereto as *Attachment A* and is made a part hereof.

REVIEW OF PROTOCOL AND COMMUNICATION

Rector Archer and Chief of Staff and Vice President for Strategic Operations Ashley Schumaker provided a briefing on protocol, flow and Radford University staff commitments in responding to Board member information requests. The presentation is attached hereto as *Attachment B* and is made a part hereof.

THE FUTURE OF HIGHER EDUCATION PODCAST

President Hemphill shared a [podcast](#) titled, “Will COVID-19 Permanently Change Instruction and Costs in Higher Ed?” The podcast, produced by Jeff Selingo and Michael Horn, with guests John Katzman, founder and CEO of Noodle Partners, and Ben Nelson, founder and CEO of the Minerva Project, share their perspectives on how COVID-19 might transform higher education in the longer term and what institutions should be doing in response.

REENGINEERING RADFORD UNIVERSITY FOR THE FUTURE

President Hemphill shared with the Board members a presentation titled Reengineering Radford University for the Future, which provided a historic landscape of data in the nation, state and at Radford. The presentation included the national landscape of enrollment, enrollment trends occurring in the Commonwealth of Virginia and a closer look at historical enrollment at Radford University and each college. The presentation also included personnel growth at the University, as well as the affordability to attend. Additionally, information regarding growth markets was discussed. Vice Presidents Ashley Schumaker, Chad A. Reed and Craig Cornell were present to answer questions. The presentation is attached hereto as *Attachment C* and is made a part hereof.

CLOSED SESSION

Rector Archer requested a motion to move into closed session. Dr. Rachel Fowlkes made the motion that the Board of Visitors of Radford University convene a closed session pursuant to Section 2.2-3711 (A) Items 1, 6 and 8 under the Virginia Freedom of Information Act for the discussion of personnel matters; discussion or consideration of the investment of public funds where competition or bargaining is involved; and consultation with legal counsel regarding specific legal matters pertaining to personnel requiring the provision of legal advice by such counsel. Ms. Nancy Angland Rice seconded the motion. The Board of Visitors went into closed session at 4:58 p.m. Mr. Gregory A. Burton left the meeting at 5:40 p.m.

CLOSED SESSION

Following closed session, the public was invited to return to the meeting. Rector Archer called the meeting back to order at 6:25 p.m. On a motion made by Dr. Fowlkes and seconded by Ms. Lisa Throckmorton, the following resolution of certification was approved by a roll call vote.

Resolution of Certification

BE IT RESOLVED, that the Radford University Board of Visitors certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements under this chapter were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered by the Board.

<u>Roll Call</u>	<u>Vote</u>
Mr. Robert A. Archer, Rector	Yes
Dr. Thomas Brewster	Yes
Dr. Jay Brown	Yes
Ms. Krisha Chachra	Yes

Dr. Rachel D. Fowlkes	Yes
Dr. Susan Whealler Johnston	Yes
Mr. Mark S. Lawrence	Yes
Dr. Debra McMahan	Yes
Ms. Nancy Angland Rice	Yes
Mr. David A. Smith	Yes
Ms. Georgia Anne Snyder-Falkinham	Yes
Ms. Lisa Throckmorton	Yes

The resolution of certification was unanimously adopted.

The meeting recessed at 6:30 p.m. The Board of Visitors members reconvened for a reception and dinner in the Pocahontas Room at The Hotel Roanoke & Conference Center.

AUGUST 5, 2020

BOARD MEMBERS PRESENT

Mr. Robert A. Archer, Rector
 Dr. Thomas Brewster
 Dr. Jay A. Brown
 Ms. Krisha Chachra
 Dr. Rachel D. Fowlkes
 Mr. Mark S. Lawrence
 Dr. Debra K. McMahan
 Ms. Nancy Angland Rice
 Mr. David A. Smith
 Ms. Georgia Anne Snyder-Falkinham
 Ms. Lisa Throckmorton

BOARD MEMBERS ABSENT

Mr. James R. Kibler, Vice Rector
 Mr. Gregory A. Burton
 Dr. Susan Whealler Johnston

OTHERS PRESENT

Dr. Brian O. Hemphill, President
 Ms. Karen Castele, Secretary to the Board of Visitors and Special Assistant to the President
 Ms. Ashley Schumaker, Chief of Staff and Vice President for Strategic Operations
 Ms. Wendy Lowery, Vice President for Advancement and University Relations (Presentation)
 Dr. Susan Trageser, Vice President for Student Affairs (Presentation)
 Dr. Andrea Zuschin, Director of Institutional Equity (Presentation)
 Mr. Allen T. Wilson, Assistant Attorney General, Commonwealth of Virginia

CALL TO ORDER

Rector Robert A. Archer reconvened the Retreat at 9:00 a.m. in the Shenandoah Room of The Hotel Roanoke & Conference Center in Roanoke, Virginia.

COVID-19 PLANNING AND RESPONSE

Chief of Staff and Vice President for Strategic Operations Ashley provided an update to the Board of Visitors on the COVID-19 planning and response efforts. She shared information regarding the Early Opening Plan and the protocols in place to facilitate an environment that is healthy and safe for the students, faculty, staff and visitors. Vice President for Student Affairs Susan Trageser was present to answer questions. The presentation is attached hereto as *Attachment D* and is made a part hereof.

TITLE IX FEDERAL REGULATIONS AND DISCRIMINATION AND HARASSMENT POLICY APPROVAL

Director of Institutional Equity Andrea Zuschin, Ph.D. shared an update to the new Title IX regulations issued by the U.S. Department of Education and the changes to the Radford University's policy in order to comply with the new regulations. Following discussion, Rector Archer asked for a motion to approve the updated Discrimination and Harassment Policy. Mr. Mark Lawrence so moved, Ms. Nancy Angland Rice seconded and the motion carried unanimously. The presentation and resolution are attached hereto as *Attachment E* and *F*, respectively, and are made a part hereof.

CODE OF VIRGINIA REQUIREMENTS AND GIFT POLICY REVIEW

Vice President of Advancement and University Relations Wendy Lowery shared with the Board of Visitors a draft policy that would meet the requirements of HB 1529, which requires the governing board of each public institution of higher education to establish a policy for the acceptance of terms and conditions associated with any donation, gift or other private philanthropic support. The bill requires that the policy include an administrative process for reviewing, accepting and documenting terms and conditions associated with gifts that direct academic decision making and gifts of \$1 million or more that impose a new obligation on the institution. The policy will be voted on at the September Board of Visitors meeting. A copy of the draft policy is attached hereto as *Attachment G* and are made a part hereof.

SACSCOC REQUIRED ANNUAL SELF-EVALUATION

Chief of Staff and Vice President for Strategic Operations Ashley Schumaker reviewed with the Board of Visitors the importance of the self-evaluation process in order to remain effective in their roles in overseeing the University fulfilling its mission. Chief of Staff and Vice President Schumaker asked the Board of Visitors members to review the SACSCOC Principles of Accreditation handout in their notebooks, which further describes the required annual review. Chief of Staff and Vice President Schumaker thanked the Board of Visitors members for thoughtfully completing the self-evaluation survey provided to them the day before. She described that the responses were given points, one through five, with five being excellent. She added that all Board of Visitors members answered one question as "five" or excellent – "Ensures the administration involves the Board on high-profile issues that present significant risk to the University." Additionally, Chief of Staff and Vice President Schumaker reported that two questions each received a 4.9, which were 1) "Adheres to a comprehensive conflict-of-interest

policy and addresses conflicts appropriately” and 2) “Promotes trust among Board members through a culture based on openness and respect.” Chief of Staff and Vice President Schumaker added that the other responses were all above “Very Good.”

The presentation and handout are attached hereto as *Attachment H and I*, respectively, and are made a part hereof.

RESOLUTION APPROVAL

Chief of Staff and Vice President for Strategic Operations Ashley Schumaker shared with the Board of Visitors, as a follow up to the Resolution they passed in June, a clarification would help faculty know that Sections 1.8 (appeals) and 1.9 (grievances) of the Teaching and Research Faculty Handbook remain in effect for all matters except the budget reduction strategies addressed in the June 12, 2020 resolution. Following discussion, Rector Archer asked for a motion to approve the Resolution. Dr. Tom Brewster so moved, Dr. Deb McMahon seconded and the motion carried unanimously. The resolution is attached hereto as *Attachment J* and is made a part hereof.

WRAP UP

Rector Archer expressed his enjoyment in being together with the Board members and that the amount of work that has happened in recent months is amazing. He shared that there is still a lot of important work ahead for the Board, the President and the University team. Mr. Mark Lawrence added that he appreciated everyone being together and reinforced the importance of taking care of yourself and those around us.

ADJOURNMENT

With no further business to come before the Board, Rector Archer adjourned the Retreat at 12:36 p.m.

Respectfully submitted,

Karen Castele
Secretary to the Board of Visitors and Special Assistant to the President

A Year in Review and A Look Ahead

RADFORD
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Establishment of Radford University Carilion



Jefferson College
of Health Sciences
at CARILION CLINIC 

RADFORD
UNIVERSITY



CARILION CLINIC



U.S. News and World Report Rankings



A Year in Review and A Look Ahead

RADFORD UNIVERSITY

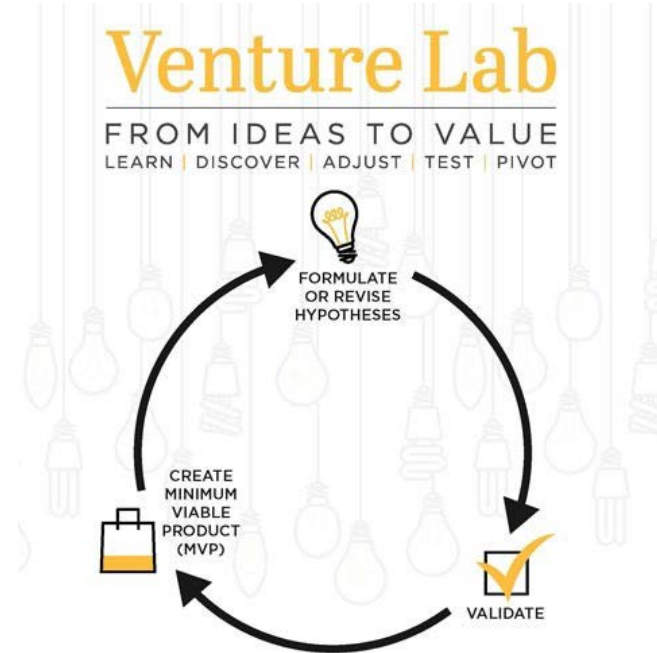
Highlander Discovery Institute Inaugural Event



A Year in Review and A Look Ahead

RADFORD UNIVERSITY

Venture Lab Ribbon Cutting



Hotel Project



BB&T Leadership Development Program



BB&T

 |  | Now Truist

Tech Talent Investment Program



Shelor Motor Mile Scholars Program



2020-2030 Master Plan



Academic Success Center



Reed Curie Renovation and Ribbon Cutting



Appalachian College of Pharmacy Partnership



COVID-19 Pandemic and Highlanders Rise



Center for Adaptive Innovation and Creativity



A Year in Review and A Look Ahead

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Protocol and Communication

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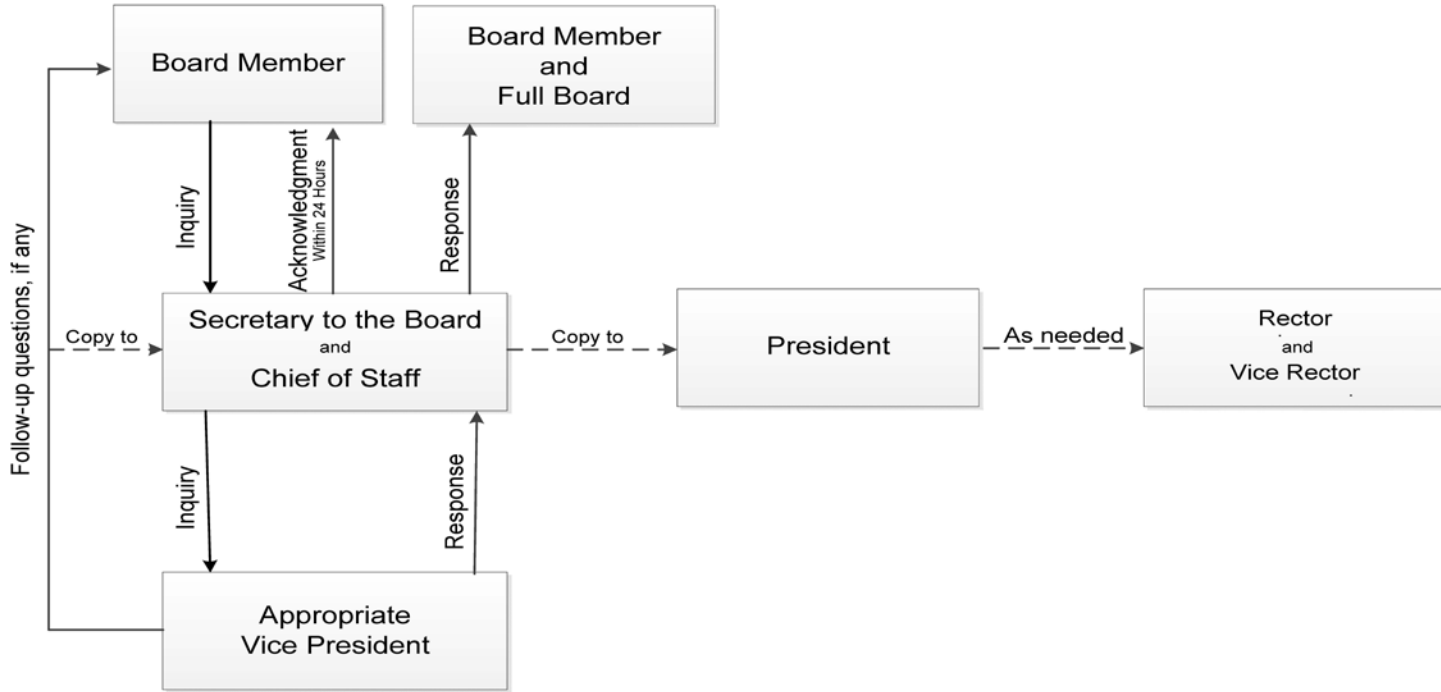
Roles and Responsibilities

- Board Bylaws
- Board Officers (Rector Bob Archer and Vice Rector Jim Kibler)
- Board Committees (Committee Chairs and Vice Chairs)
 - Executive Committee
 - Academic Excellence and Research Committee
 - Business Affairs and Audit Committee
 - Governance, Administration, and Athletics Committee
 - Student Success Committee
 - University Advancement, University Relations, and Enrollment Management Committee

Requests for Information

- **Contact Board Secretary (*If E-mail, Copy Rector, President and Chief of Staff*) for Data/Information Requests**
 - Acknowledgement/Response within 24 Hours
 - Follow-Up (If Needed) within 72 Hours
 - Additional Research and/or Discussion (If Needed) with Vice President and Other University Officials
- **Collected Data/Information to be Shared with Full Board of Visitors (*Exceptions May Apply*)**


Flow of Communication



Types of Communication

- **Regular Communication**
 - Meetings, Retreats, New Member Orientations, Etc.
- **Three Levels of Additional Communication with Board Members**
 - High-Level/Advance Notice
 - Exploratory/Anticipation
 - Regular Campus Updates

Discussion



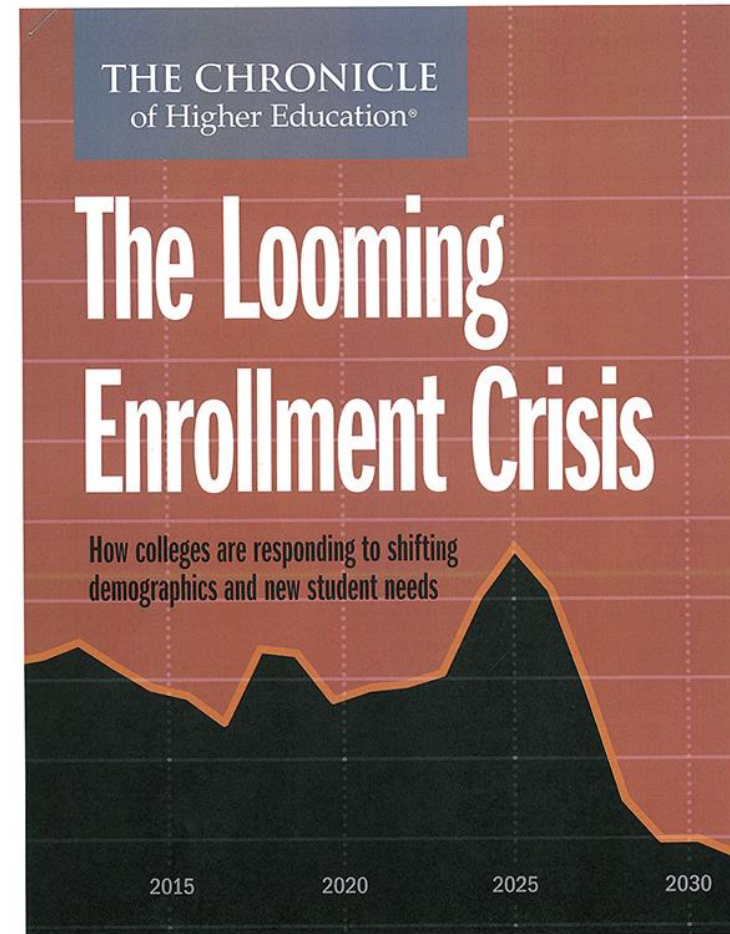
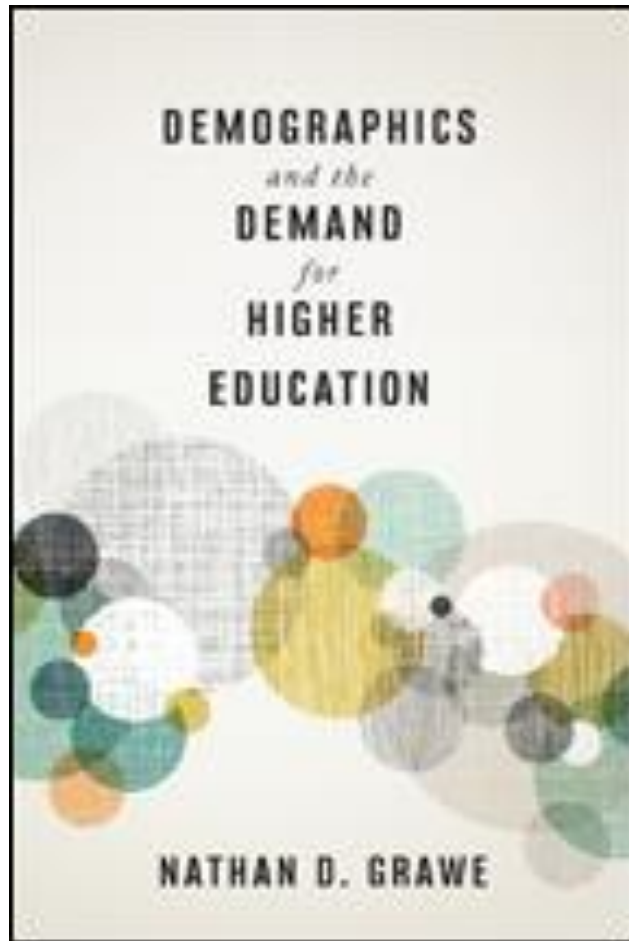
Reengineering Radford University for the Future

RADFORD UNIVERSITY

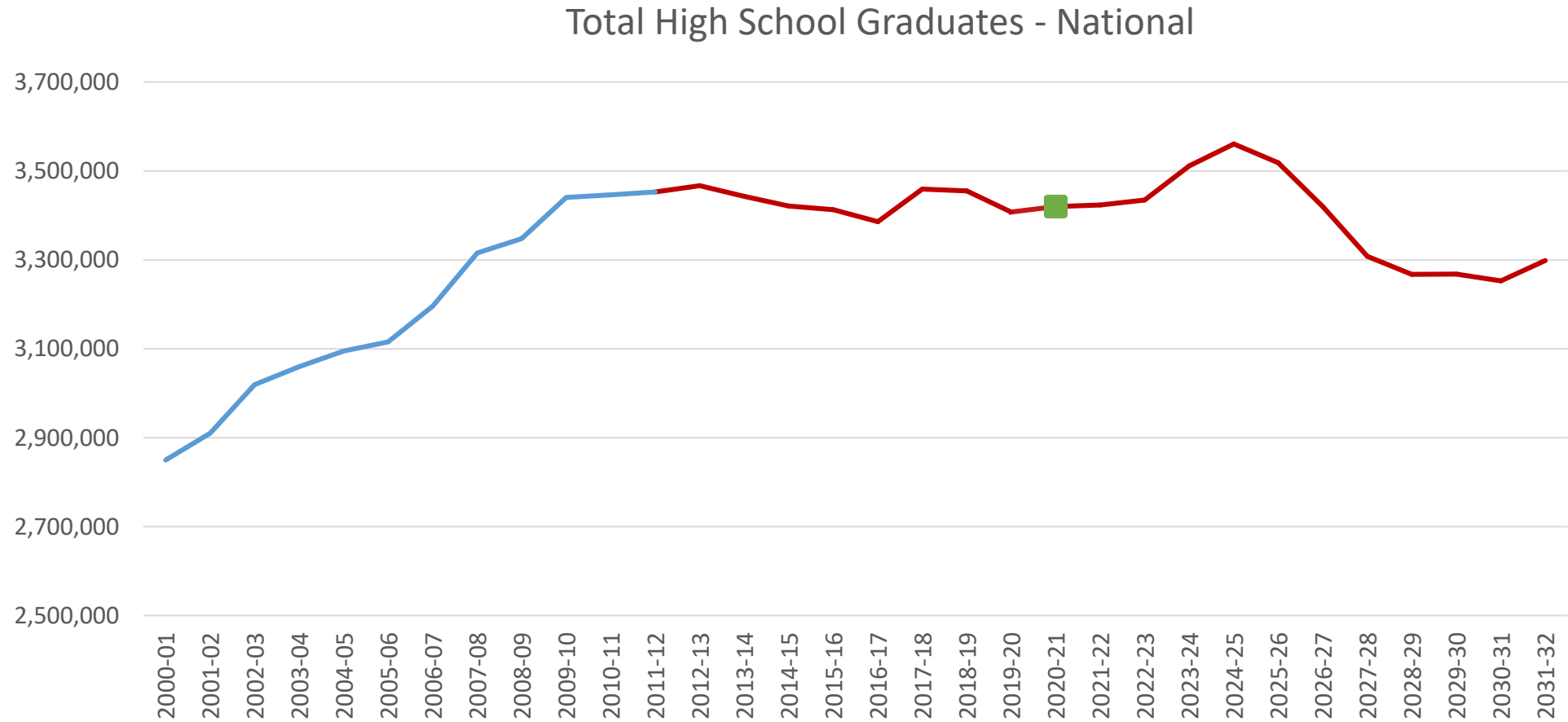


National Landscape of Enrollment

Publications and Research

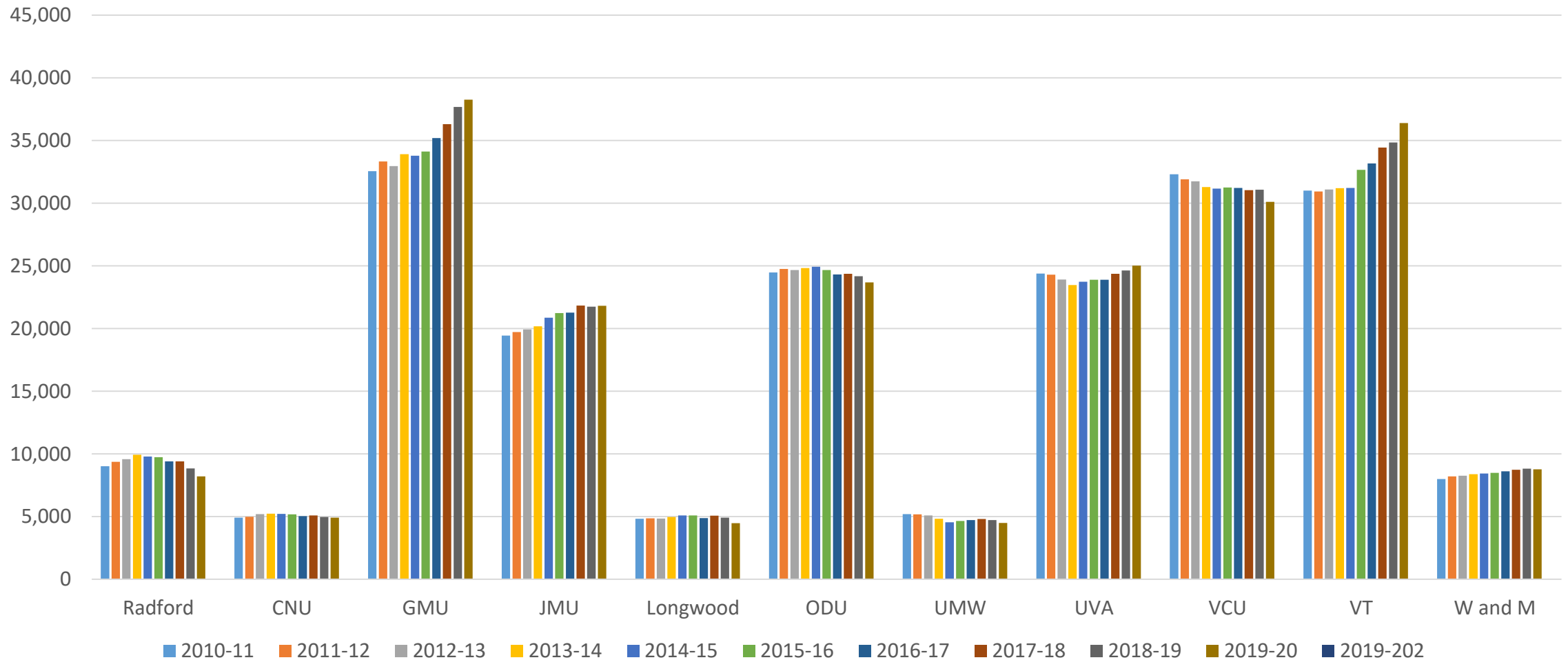


High School Graduates and Market Share - National

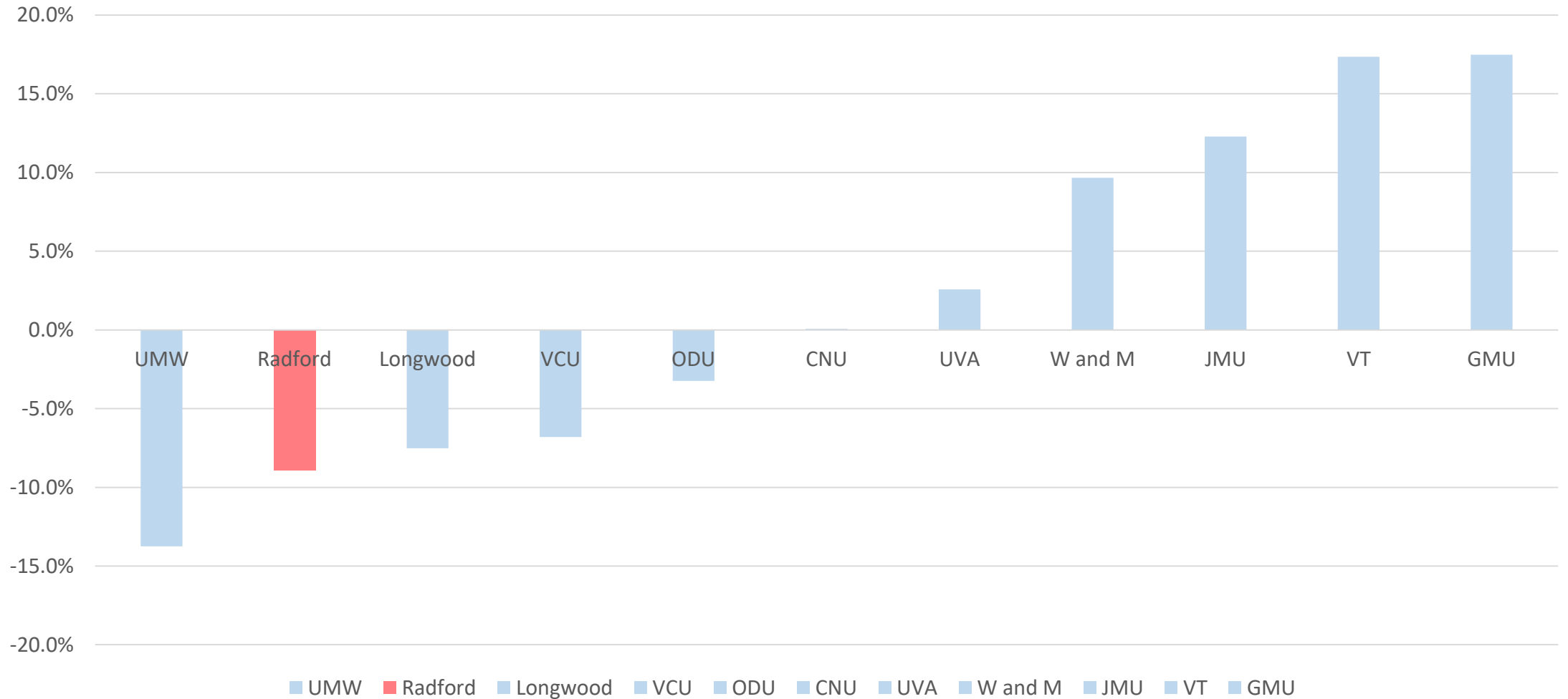


Virginia Competitive Set

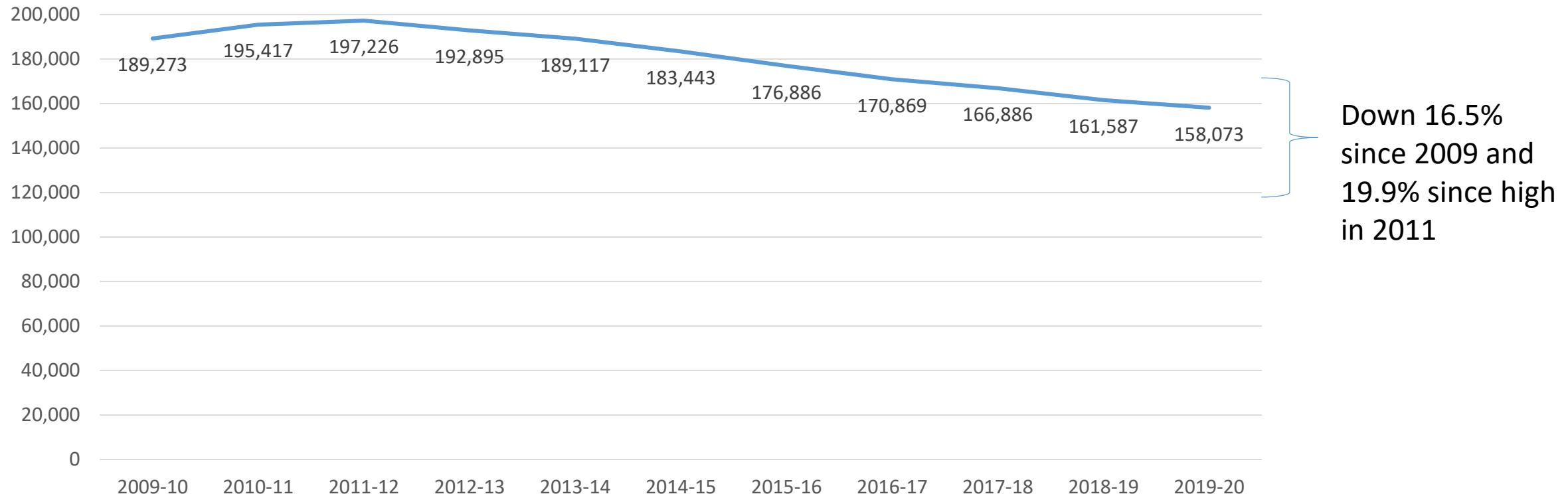
Public Institution Four-Year Fall Enrollment: 2010-2019



Public Institution Four-Year Percentage Change in Fall Enrollment: 2010-2019



Virginia Community College System Change in Fall Enrollment: 2010-2019



Source: https://research.schev.edu/enrollment/E2_Report.asp

Recent Campus Closures and Mergers

Delaware

Wesley College (2021)

Illinois

MacMurray College (2020)

Robert Morris University (2020)

Massachusetts

Pine Manor College (2022) (pending)

Nebraska

Nebraska Christian College (2020)

Ohio

Urbana University (Expected 2020)

Oregon

Concordia University of Portland (Expected 2020)

Tennessee

Watkins College of Art (Expected 2020)

Vermont

Marlboro College (Expected 2020)

Wisconsin

Holy Family College (Summer 2020)

School of Architecture at Taliesin (TBD)

More Campus Closures Coming...

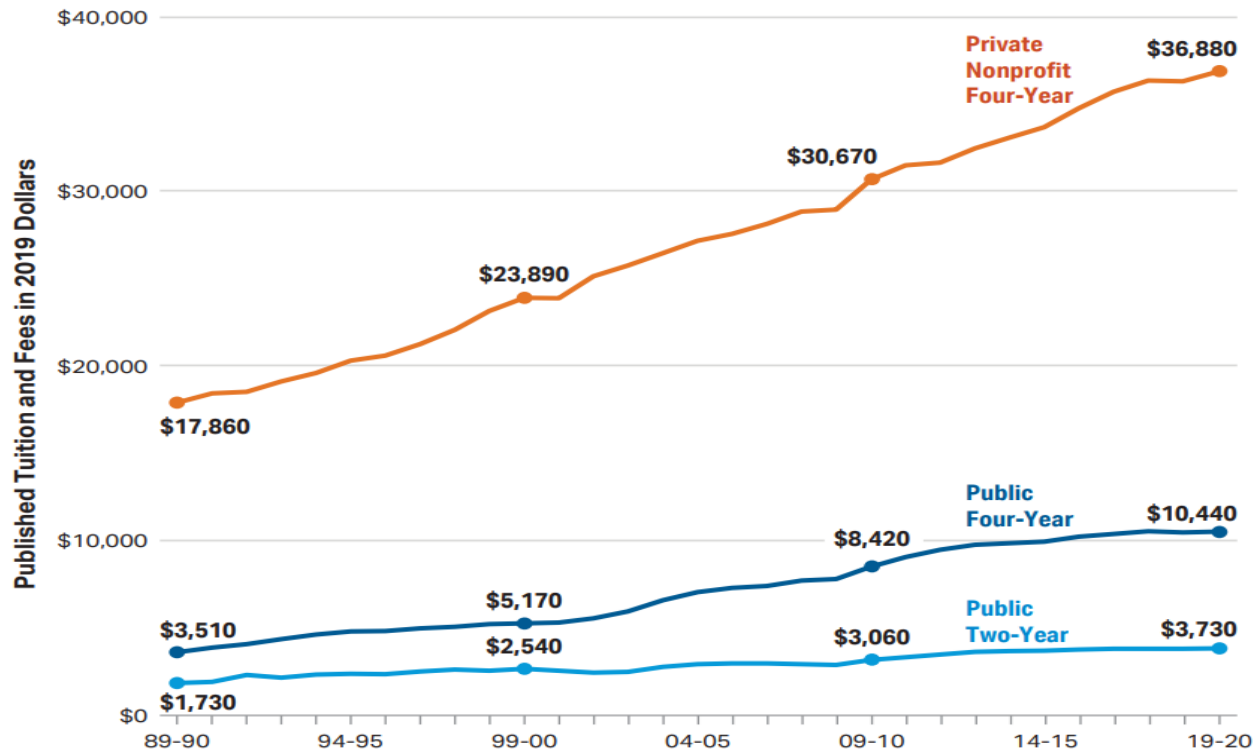
- “The Vermont State Colleges System, projecting a near-term operating deficit of up to \$10 million this fiscal year, announced plans last week for a “substantial transformation” of its colleges that included closing several campuses. Days later, the board deferred a vote on the plan amid public backlash.”
- “The Pennsylvania State System of Higher Education forecasts a \$52 million loss, even after federal stimulus money is applied.”
- “The University of Alaska system projects a \$35 to \$40 million loss.”
- “The University of Maine system is looking at a \$20 million short-term loss.”

Value Proposition: The Problem

- Rising Tuition Levels
 - *Tuition prices have been increasing at a rate that far outpaces inflation.*
- Growing Student Debt
 - *The resulting student loan debt from rising tuition continues to grow.*

Value Proposition: The Problem

FIGURE 3 Average Published Tuition and Fees in 2019 Dollars by Sector, 1989-90 to 2019-20



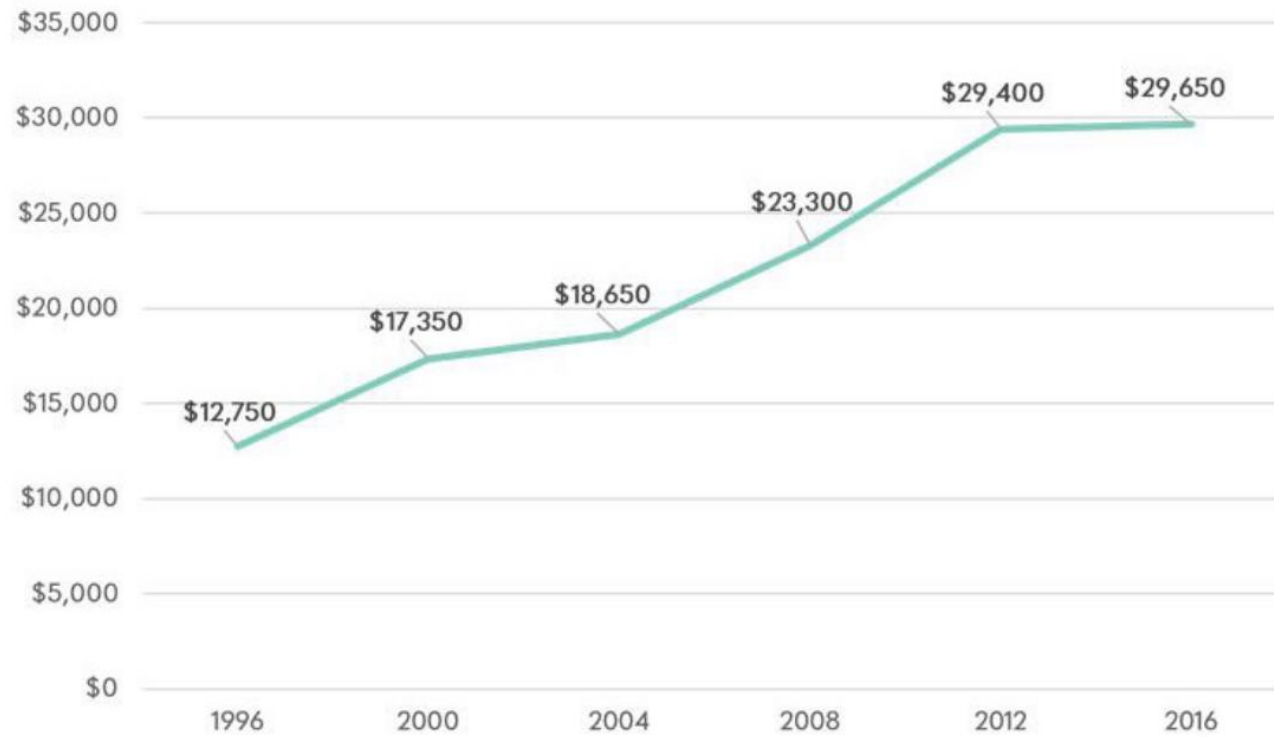
- The average published tuition and fee price at public two-year colleges was 49% of the average price at public four-year institutions in 1989-90 and 1999-00; it was 36% of the public four-year price in 2009-10 and 2019-20.
- The average published tuition and fee price at private nonprofit four-year institutions was 5.1 times the average price at public four-year institutions in 1989-90 and 3.5 times that price in 2019-20.

ALSO IMPORTANT:

- The increases in the net prices that students actually pay, after taking grant aid and tax benefits into consideration, have been smaller over the long term than increases in published prices. See Figures 8, 9, and 10 for details on estimated average net prices over time.
- The price increases reported in Table 2 are adjusted for inflation and are smaller than the unadjusted figures in Table 1.

Value Proposition: The Problem

**Average Debt of Graduating Seniors who Borrowed
(Current Dollars, All 4-Year Colleges)**



On a per-student basis, state spending fell by 24% between 2008 and 2012.

Colleges raised tuition to make up some of the revenue lost from state budget cuts.

In 2008, 36% of per-student funding came from tuition. And, by 2012, that share had grown to 47%.

Value Proposition: The Solution

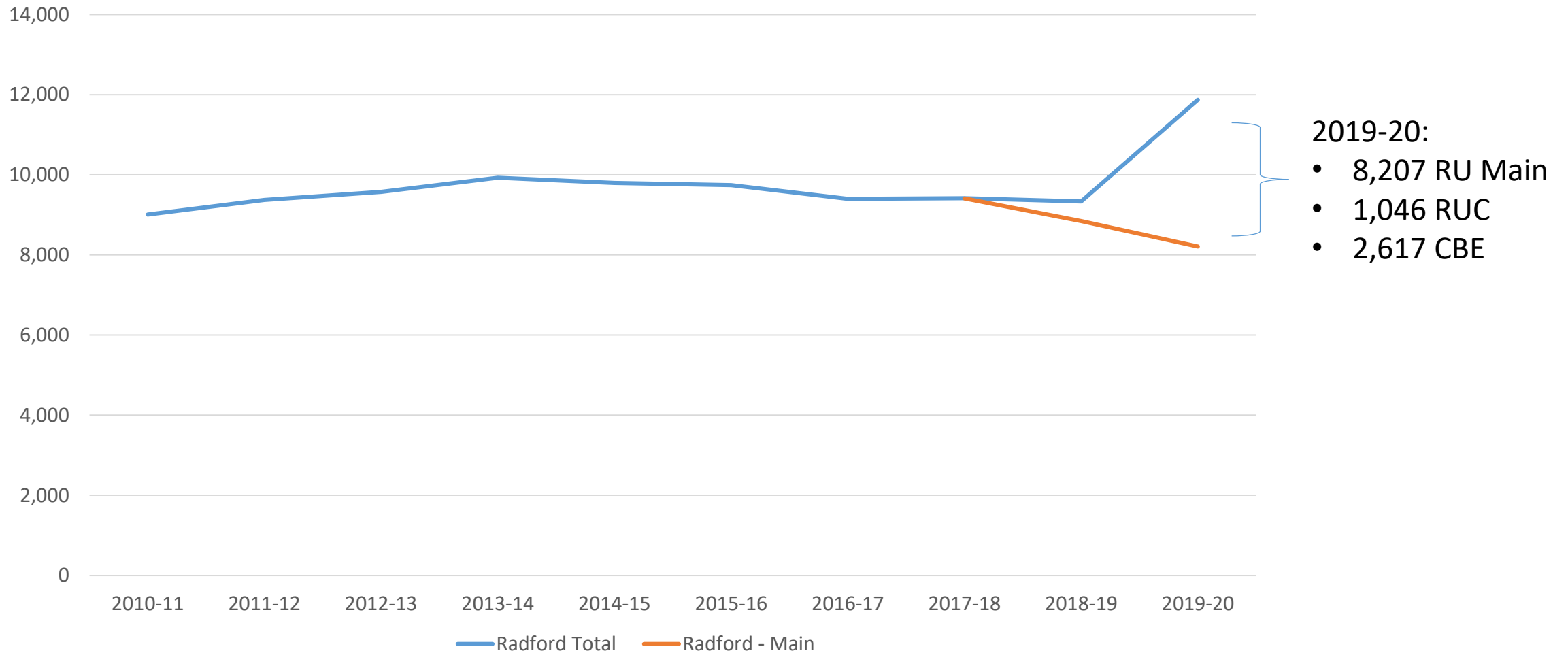
- Expanding access to college
- Reforming the cost/price structure



Context of

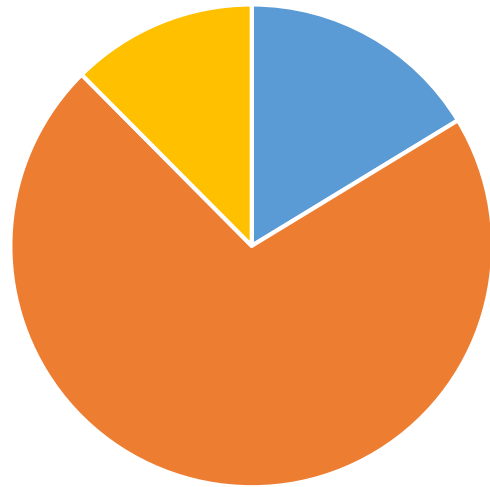
Radford University

Historical Trends: Total Enrollment



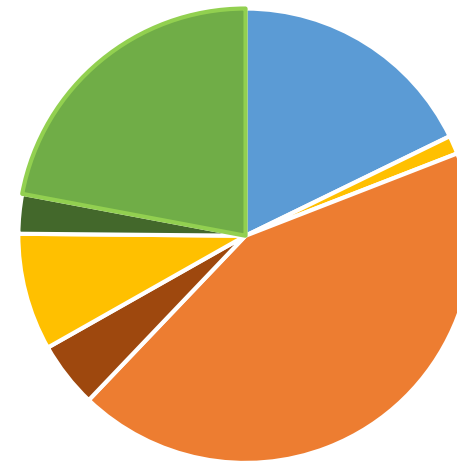
Historical Trends: Our Past and Present

Our Past – 10 Years Ago
2009 Fall Term Enrollments
N= 8,878



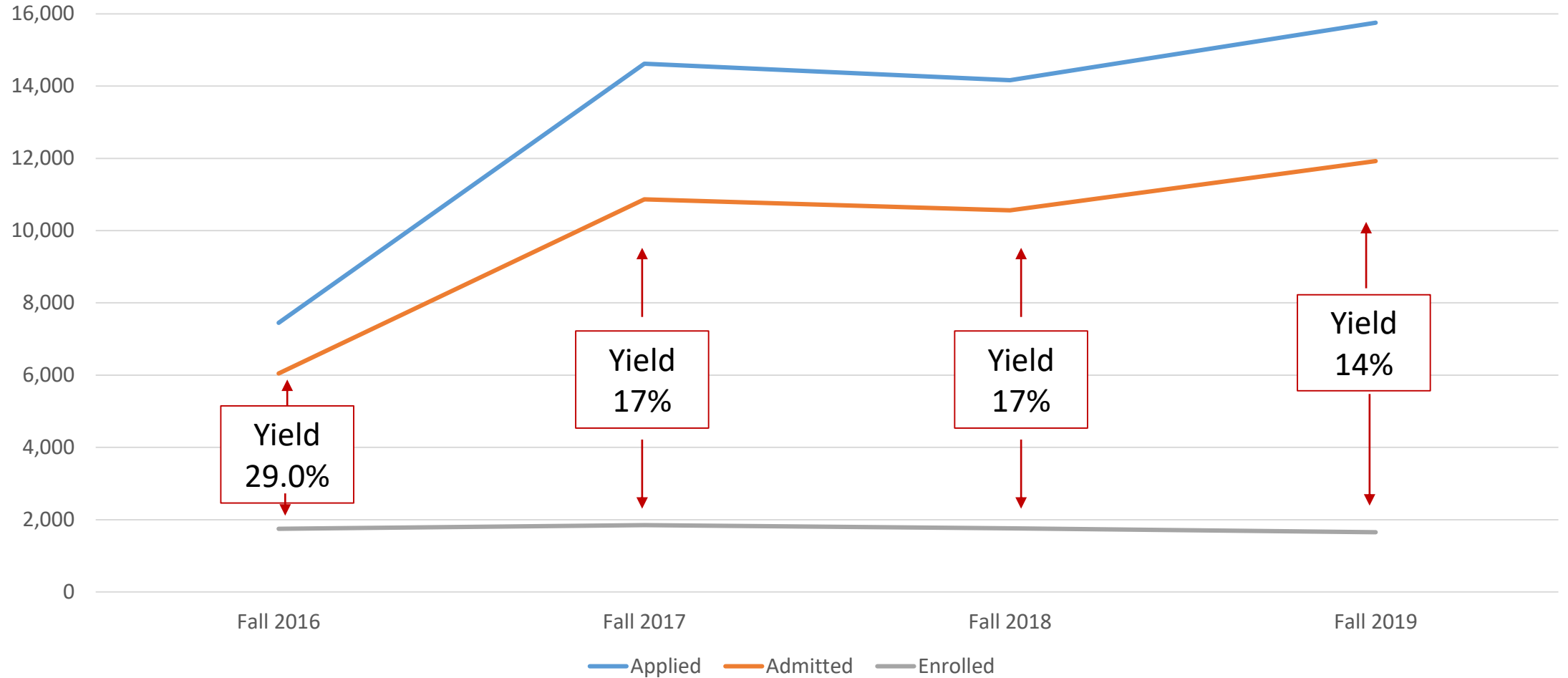
■ Freshman ■ Continuing Undergrad ■ Grad

Our Present - Today
2019- Fall Term Enrollments
N= 11,870



■ RU Freshman and Transfer ■ RUC Freshmen and Transfer
 ■ RU Continuing Undergraduate ■ RUC Continuing Undergraduate
 ■ RU Graduate ■ RUC Graduate
 ■ RU Competency- Based Education

Historical Trends: Freshman Enrollment



Historical Enrollment: Artis College of Science and Technology

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
Artis College of Science and Technology					
Undergraduate Certificate					
Cybersecurity Certificate	0	0	8	26	19
Geospatial Intelligence Certificate	0	0	0	4	2
Information Security Certificate	3	2	2	0	1
Sustainability and Environmental Studies Certificate	7	9	6	6	9
Undergraduate Certificate Total	10	11	16	36	31
Award of at least 1 but < 2 acad yrs					
Medical Laboratory Science Certificate	0	0	0	0	3
Award of at least 1 but < 2 acad yrs Total	0	0	0	0	3
Bachelor's Degree					
Anthropological Sciences	55	49	50	52	66
Biology	468	469	481	483	406
Biomedical Science	0	0	0	0	20
Chemistry	115	110	103	102	114
Computer Science and Technology	351	321	324	324	242
Cybersecurity	0	0	0	0	47
Geology	56	53	42	36	32
Geospatial Science	70	67	63	46	35
Information Science and Systems	105	78	86	86	67
Mathematics	80	82	73	55	47
Medical Laboratory Science	0	0	0	0	18
Physics	62	62	53	53	44
Bachelor's Degree Total	1,343	1,266	1,243	1,211	1,110
Master's Degree					
Data and Information Management	0	3	11	7	4
Master's Degree Total	0	3	11	7	4
Artis College of Science and Technology Total	1,345	1,272	1,263	1,247	1,138

Historical Enrollment: Davis College of Business and Economics

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
Davis College of Business and Economics					
Bachelor's Degree					
Accounting	208	183	165	154	137
Economics	94	112	112	80	42
Finance	223	264	243	211	205
Management	512	562	543	457	409
Marketing	435	411	395	335	255
Pre-Business	222	79	73	124	142
Bachelor's Degree Total	1,545	1,491	1,394	1,263	1,106
Post-Baccalaureate Certificate					
Business Analytics Certificate	0	0	0	0	7
Post-Baccalaureate Certificate Total	0	0	0	0	7
Master's Degree					
Business Administration	41	37	41	38	48
Master's Degree Total	41	37	41	38	48
Davis College of Business and Economics Total	1,586	1,528	1,435	1,301	1,158

Historical Enrollment: Waldron College of Health and Human Services

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
Waldron College of Health and Human Services					
Associate's Degree (Occ/Tech Credit)					
Occupational Therapy Assistant	0	0	0	0	40
Physical Therapy Assistant	0	0	0	0	67
Surgical Technology	0	0	0	0	16
Associate's Degree (Occ/Tech Credit) Total	0	0	0	0	123
Bachelor's Degree					
Communication Sciences and Disorders	105	81	82	74	88
Emergency Services	0	0	0	0	64
Health Sciences	0	0	0	0	55
Healthcare Management	0	0	0	0	19
Nursing	229	218	234	234	628
Pre-Nursing	512	524	547	532	483
Public Health	0	0	0	0	1
Respiratory Therapy	0	0	0	0	25
Social Work	210	201	183	182	183
Bachelor's Degree Total	1,056	1,024	1,046	1,022	1,545

Historical Enrollment: Waldron College of Health and Human Services

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
Waldron College of Health and Human Services					
Post-Baccalaureate Certificate					
Gerontology Certificate	0	1	0	0	0
Psychiatric Mental Health Nurse Practitioner Certificate	0	2	3	1	3
Post-Baccalaureate Certificate Total	0	3	3	1	3
Master's Degree					
Communication Sciences and Disorders	59	58	54	55	72
Family Nurse Practitioner	0	0	0	0	62
Healthcare Administration	0	0	0	0	34
Nursing Administration	0	0	0	0	11
Occupational Therapy	63	66	64	62	120
Physician Assistant	0	0	0	0	124
Social Work	102	112	114	112	113
Master's Degree Total	224	236	232	229	536
Doctor's Degree					
Health Sciences	0	0	0	0	39
Nursing Practice	39	51	50	38	34
Occupational Therapy	0	0	0	0	8
Physical Therapy	73	76	85	87	87
Doctor's Degree Total	112	127	135	125	168
Waldron College of Health and Human Services Total	1,392	1,388	1,414	1,377	2,372

Historical Enrollment: College of Education and Human Development

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
College of Education and Human Development					
Bachelor's Degree					
Allied Health Sciences	0	0	0	0	29
Athletic Training	146	91	91	41	14
Exercise, Sport, and Health Education	551	535	533	592	551
Interdisciplinary Studies	647	587	538	518	447
Nutrition and Dietetics	78	73	61	55	32
Recreation, Parks, and Tourism	231	225	197	155	147
Sport Management	0	0	0	0	26
Bachelor's Degree Total	1,653	1,511	1,419	1,360	1,244
Post-Baccalaureate Certificate					
Appalachian Studies Certificate	2	2	2	3	5
Autism Studies Certificate	1	5	3	0	0
Educational Technology Certificate	1	0	0	0	0
Mathematics Education Certificate	11	19	20	14	14
Post-Baccalaureate Certificate Total	15	26	25	17	19
Master's Degree					
Counseling and Human Development	52	62	65	61	63
Education	90	92	94	90	91
Educational Leadership	46	45	39	40	48
Literacy Education	15	10	12	14	13
Special Education	78	77	100	91	94
Master's Degree Total	281	286	310	296	309
No Degree Sought (Graduate)					
Licensure and Professional Certification	3	2	4	2	1
No Degree Sought (Graduate) Total	3	2	4	2	1
College of Education and Human Development Total	1,951	1,821	1,757	1,675	1,572

Historical Enrollment: College of Humanities and Behavioral Sciences

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
College of Humanities and Behavioral Sciences					
Bachelor's Degree					
Communication	276	272	287	276	223
Criminal Justice	640	630	657	604	533
English	123	124	131	126	105
Foreign Languages	32	26	28	20	20
History	104	96	102	92	89
Interdisciplinary Studies Liberal Arts	58	85	81	67	104
Media Studies	270	249	256	227	192
Philosophy and Religious Studies	19	17	23	18	25
Political Science	125	143	158	120	129
Psychology	558	563	573	561	541
Social Science	59	64	69	67	54
Sociology	75	70	67	47	50
Bachelor's Degree Total	2,260	2,250	2,324	2,144	1,996
Post-Baccalaureate Certificate					
Bioethics Certificate	2	2	0	0	0
Crime Analysis Certificate	1	1	1	1	2
Professional Writing Certificate	0	1	4	7	4
Teaching Language Arts in the Digital Age Certificate	0	0	2	0	2
Post-Baccalaureate Certificate Total	3	4	7	8	8

Historical Enrollment: College of Humanities and Behavioral Sciences

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
College of Humanities and Behavioral Sciences					
Master's Degree					
Corporate and Professional Communication	14	20	12	1	0
Criminal Justice	11	21	24	18	19
English	27	20	15	21	22
Psychology	46	61	59	42	47
Strategic Communication	0	0	8	18	18
Master's Degree Total	98	122	118	100	106
Post-Master's Certificate					
School Psychology	20	25	21	24	22
Post-Master's Certificate Total	20	25	21	24	22
Doctor's Degree					
Counseling Psychology	15	19	17	15	14
Doctor's Degree Total	15	19	17	15	14
College of Humanities and Behavioral Sciences Total	2,389	2,395	2,465	2,283	2,127

Historical Enrollment: College of Visual and Performing Arts

Major Enrollment by College					
Major	Fall 2015	Fall 2016	Fall 2017	Fall 2018	Fall 2019
College of Visual and Performing Arts					
Bachelor's Degree					
Art	236	224	203	194	191
Dance	69	59	47	51	51
Design	216	198	198	162	167
Music	131	130	142	146	132
Theatre	60	73	80	86	84
Bachelor's Degree Total	708	679	665	633	622
Post-Baccalaureate Certificate					
Design Thinking Certificate	1	2	1	2	0
Post-Baccalaureate Certificate Total	1	2	1	2	0
Master's Degree					
Art	28	28	37	37	40
Music	18	19	19	15	9
Master's Degree Total	46	47	56	52	49
College of Visual and Performing Arts Total	755	728	722	687	671

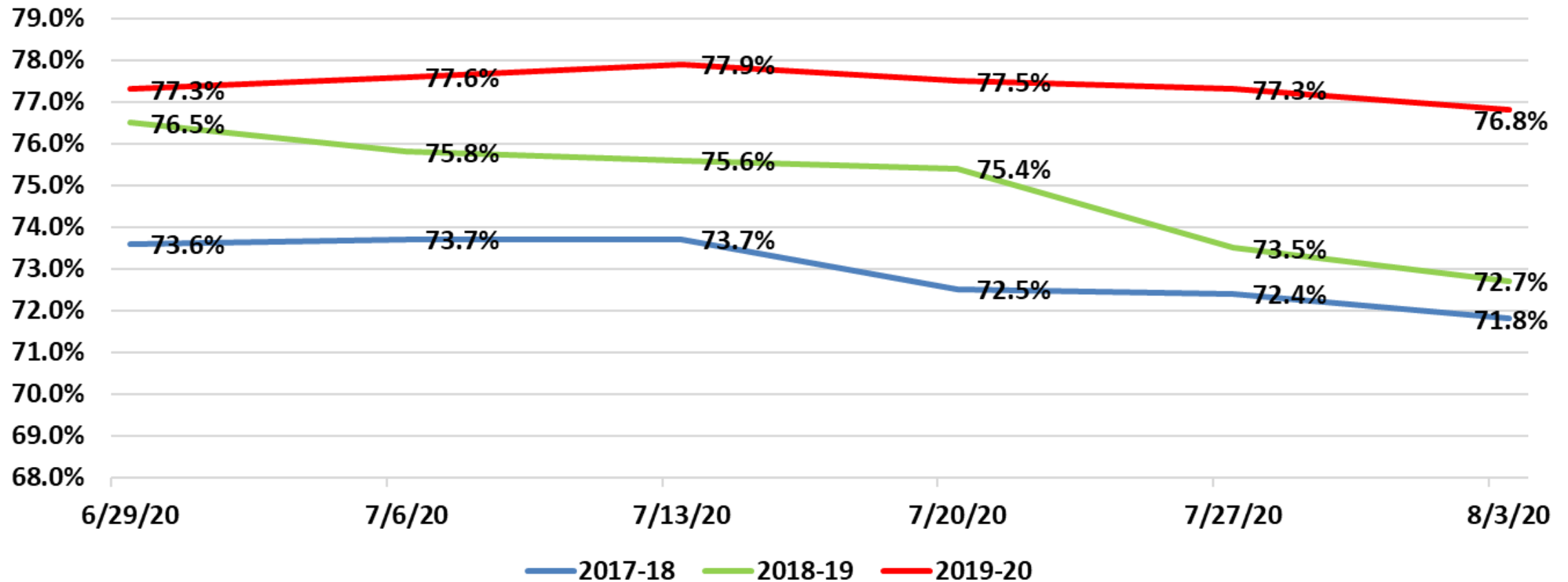
Historical Retention: New Freshmen

Term	Fall-to-Spring Retention	Fall-to-Fall Retention
Fall 1980	90.1%	75.8%
Fall 1981	89.3%	74.3%
Fall 1982	91.0%	77.3%
Fall 1983	89.0%	75.6%
Fall 1984	89.3%	71.8%
Fall 1985	87.7%	71.2%
Fall 1986	91.1%	76.8%
Fall 1987	91.6%	75.9%
Fall 1988	92.8%	78.3%
Fall 1989	89.4%	77.1%
Fall 1990	91.8%	77.2%
Fall 1991	88.6%	68.9%
Fall 1992	82.0%	68.5%
Fall 1993	83.5%	65.8%
Fall 1994	86.2%	67.7%
Fall 1995	91.5%	75.0%
Fall 1996	90.1%	75.5%
Fall 1997	89.6%	74.4%
Fall 1998	89.7%	76.2%
Fall 1999	88.6%	73.3%

Term	Fall-to-Spring Retention	Fall-to-Fall Retention
Fall 2000	91.8%	79.1%
Fall 2001	91.3%	77.5%
Fall 2002	90.1%	77.6%
Fall 2003	91.7%	75.9%
Fall 2004	91.0%	78.5%
Fall 2005	89.8%	73.8%
Fall 2006	89.6%	76.8%
Fall 2007	91.4%	78.1%
Fall 2008	93.2%	78.4%
Fall 2009	91.7%	76.0%
Fall 2010	90.4%	76.1%
Fall 2011	88.3%	74.3%
Fall 2012	89.2%	78.1%
Fall 2013	88.0%	74.6%
Fall 2014	88.3%	75.2%
Fall 2015	86.1%	74.3%
Fall 2016	88.6%	75.7%
Fall 2017	85.7%	70.9%
Fall 2018	90.7%	71.3%
Fall 2019	89.8%	N/A

Student Success and Retention

New Freshman Retention August 3, 2020



Personnel Growth

University Positions

E&G Budgeted Position Counts FY2008-09 to FY2020-21

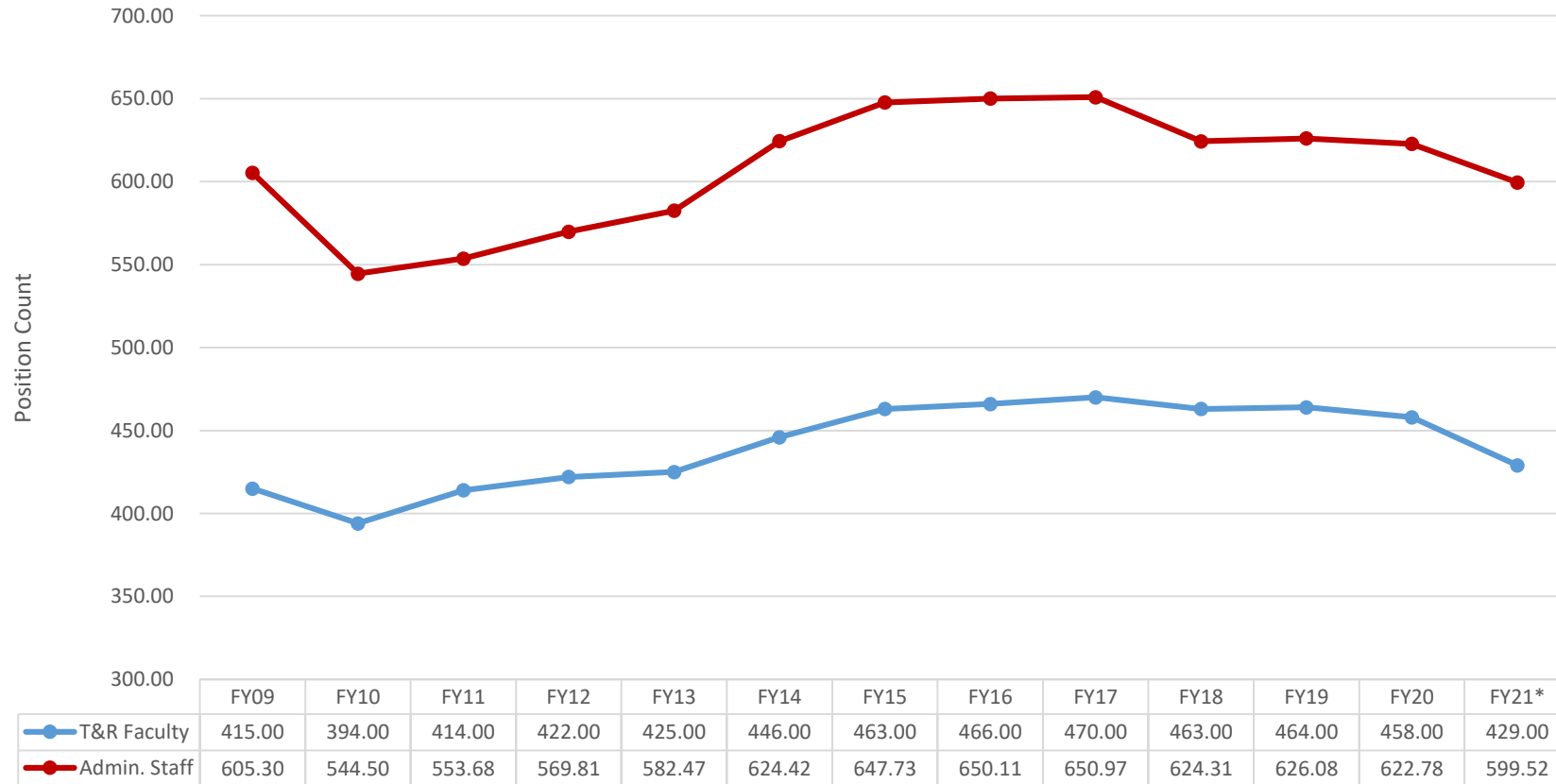
RUC
Merger

	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21*</u>	Change FY09 - FY21	Change FY09 - FY19
FTE Employees															
T&R Faculty	415.00	394.00	414.00	422.00	425.00	446.00	463.00	466.00	470.00	463.00	464.00	546.00	517.00	102.00	49.00
Admin. Staff	605.30	544.50	553.68	569.81	582.47	624.42	647.73	650.11	650.97	624.31	626.08	681.78	658.52	53.22	20.78
TOTAL	1,020.30	938.50	967.68	991.81	1,007.47	1,070.42	1,110.73	1,116.11	1,120.97	1,087.31	1,090.08	1,227.78	1,175.52	155.22	69.78
Change (Percent)															
T&R Faculty		-5.06%	5.08%	1.93%	0.71%	4.94%	3.81%	0.65%	0.86%	-1.49%	0.22%	17.67%	-5.31%	24.58%	11.81%
Admin. Staff		-10.04%	1.69%	2.91%	2.22%	7.20%	3.73%	0.37%	0.13%	-4.10%	0.28%	8.90%	-3.41%	8.79%	3.43%
TOTAL		-8.02%	3.11%	2.49%	1.58%	6.25%	3.77%	0.48%	0.44%	-3.00%	0.25%	12.92%	7.84%	15.21%	6.84%

*Preliminary position count for FY2021

University Positions - Main Campus Comparison

Main Campus - Multi-Year Position Summary





Responding
to the Storm

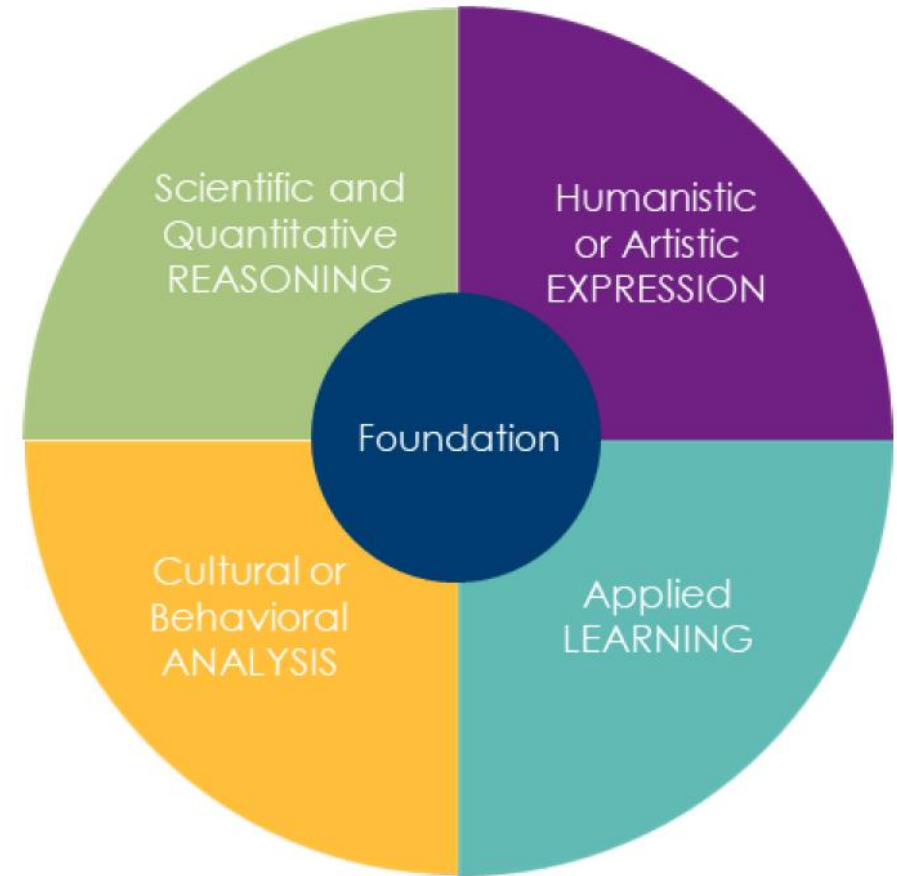
Market Research

- Signature Academic Programs
- Workforce Data (*U.S. Bureau of Labor Statistics*)
- External Partners (*Academic Partnerships*)

Academic Transformation



Student Focused





Envisioning the Future



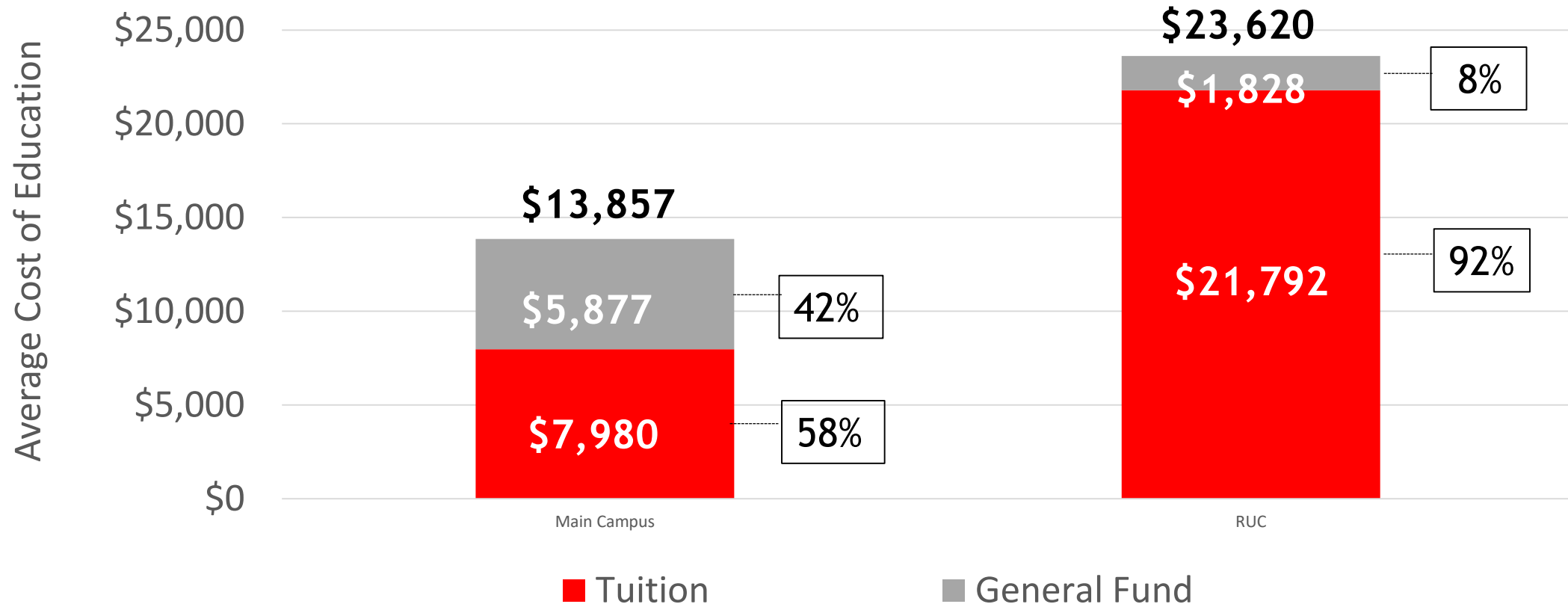
**The Path
Forward**

Programmatic Marketing



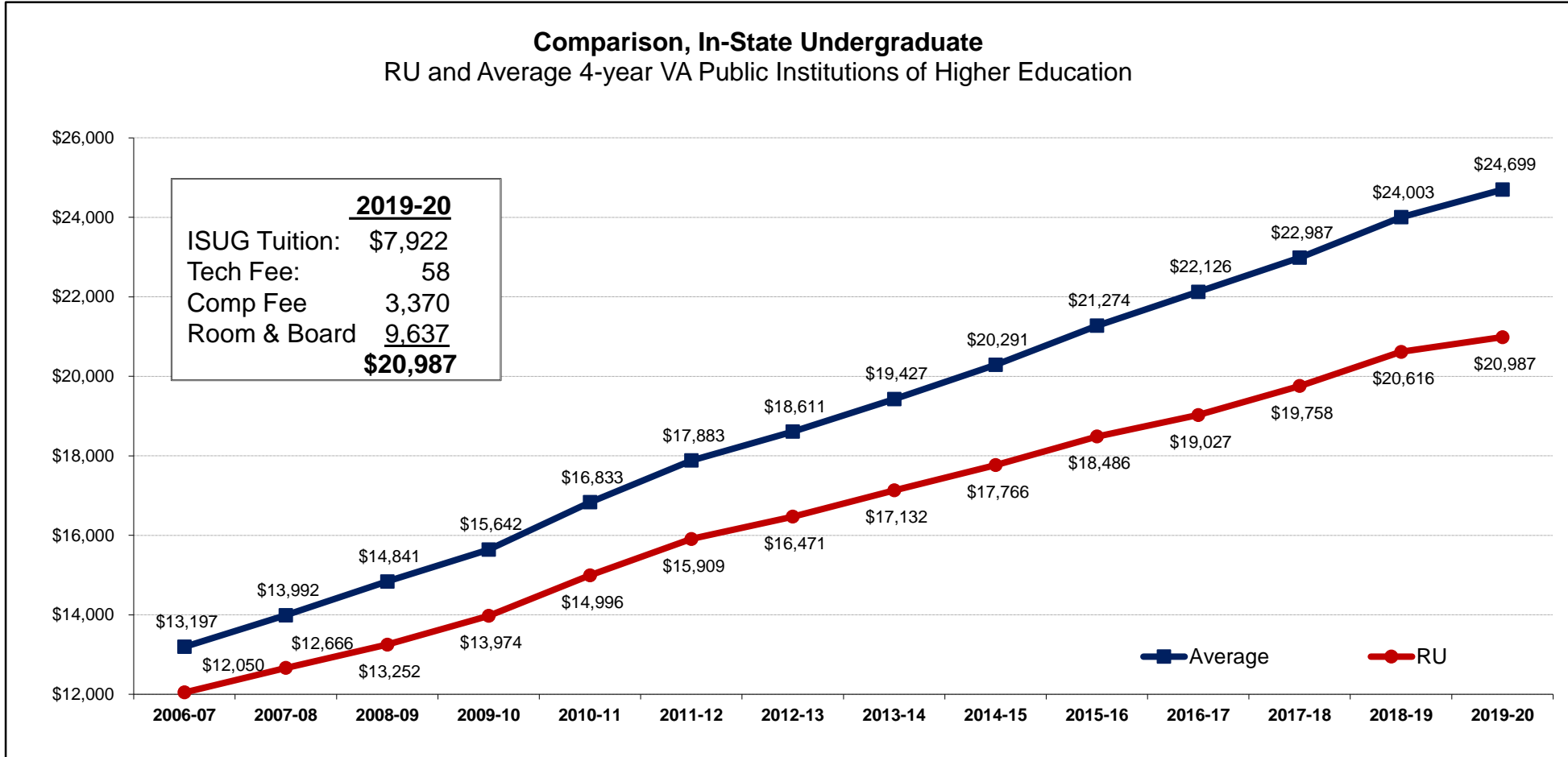
Affordability Focus

Main Campus and RUC Instructional Cost Make-Up



Main Campus Total Cost: Affordable Provider

Comparison, In-State Undergraduate
RU and Average 4-year VA Public Institutions of Higher Education



Rank	Inst.	2019-20
1	CWM	\$ 36,554
2	VMI	\$ 28,884
3	UVA	\$ 28,335
4	CNU	\$ 26,684
5	VCU	\$ 25,419
6	LU	\$ 25,188
7	GMU	\$ 24,269
8	UMW	\$ 23,940
9	JMU	\$ 23,144
10	VT	\$ 23,033
11	ODU	\$ 21,888
12	UVA-W	\$ 21,003
13	RU	\$ 20,987
14	VSU	\$ 20,698
15	NSU	\$ 20,466

Average = **\$24,699**

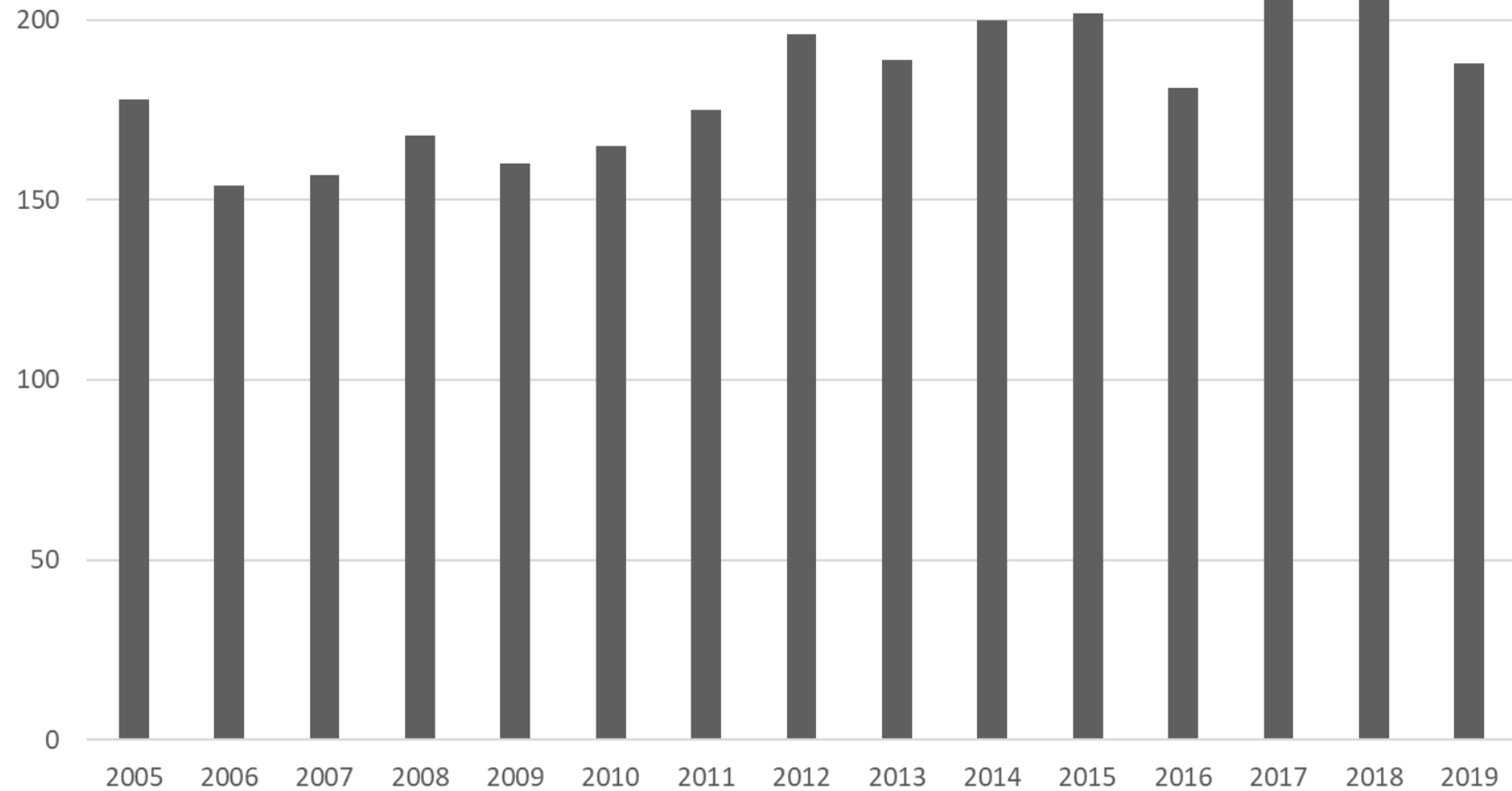


Growth

Markets

International Students: Fall 2005-2019

Enrollment



International Students: Fall 2019 Enrollment

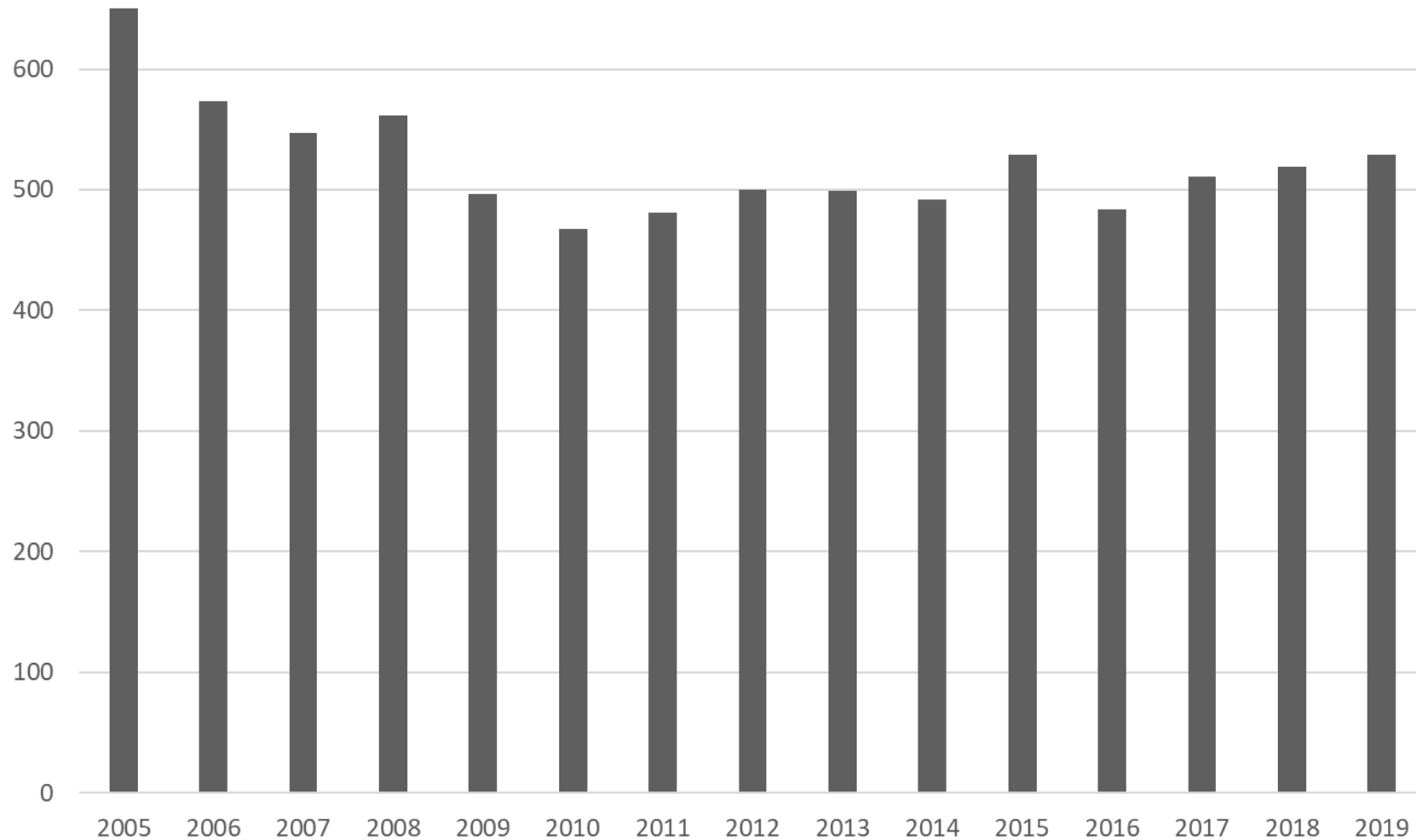
Fall 2019 Countries of Citizenship			
Nation of Citizenship	Resident Alien	Nonresident Alien	Total
Ethiopia	16	2	18
Ghana	15	1	16
Mexico	9	5	14
Unknown	12	0	12
Canada	2	8	10
Spain	1	7	8
China	2	4	6
El Salvador	3	3	6
France	0	5	5
Germany	3	2	5
India	4	1	5
United Kingdom	1	4	5
Brazil	1	3	4
Philippines	4	0	4
Saudi Arabia	0	4	4
Senegal	0	4	4

International Students: Strategic Plan

- **Strategic Enrollment Growth – Goal 6:** Radford University will grow international student headcount enrollment by 50 students annually through the 2023-2024 academic year.
 - Establish dual/double degree programs with international universities.
 - Launch worldwide, commission-based network of agents.
 - Implement an English language and culture program that will prepare students for Radford University degree programs.

Out-of-State Students: Fall 2005-2019

Undergraduate Enrollment



Out-of-State Students: Fall 2019

Undergraduate Enrollment

Fall 2019 Out-of-State Enrollment	
State	Undergraduate
Maryland	117
North Carolina	71
District of Columbia	65
Pennsylvania	28
West Virginia	28
New York	23
Georgia	22
New Jersey	22
Florida	19
Tennessee	15
California	13
Connecticut	13
State Unknown	10
Texas	9
South Carolina	8
Delaware	5
Massachusetts	5

Fall 2019 Out-of-State Enrollment	
State	Undergraduate
Missouri	5
Ohio	5
Alabama	4
Kentucky	4
New Hampshire	4
Colorado	3
Illinois	3
Maine	3
New Mexico	3
Arizona	2
Mississippi	2
Oregon	2
Vermont	2
Wisconsin	2
APO/FPO Addresses	2
Arkansas	1
Hawaii	1

Fall 2019 Out-of-State Enrollment	
State	Undergraduate
Kansas	1
Louisiana	1
Michigan	1
Montana	1
Nebraska	1
Nevada	1
Oklahoma	1
US Territories	1
Total (All)	529
Total (MD, DC, WV, and NC)	281

Out-of-State Students: Strategic Plan

- **Strategic Enrollment Growth – Goal 3:** Radford University will grow out-of-state freshman student headcount enrollment by three percent annually through the 2023-2024 academic year.
 - Focus out-of-state recruitment efforts in Maryland, Washington, D.C., West Virginia and North Carolina.
 - Increase the visibility of Radford University with out-of-state freshman students through an enhanced portfolio of traditional, digital, mobile, web, social media and virtual reality marketing tools and resources.

Other Growth Markets

- Latino Students
- CBE Delivery
- High-Demand Programs

Q&A



COVID-19 Planning and Response

RADFORD
UNIVERSITY

Planning and Response Groups

- **President's Cabinet**
- **Leadership Council**
- **Emergency Management Team**
- **COVID-19 Contingency Planning Group**
- **COVID-19 Working Group**

Early Opening Plan

- **June 1, 2020**
 - *E-mail Announcement*
 - *Executive Summary*
- **State Requirements and SCHEV Review**
 - *July 6, 2020 Submission*
 - *July 23, 2020 Certification*

Guidance Documents

- **CDC**
 - *Interim Guidance for Administrators of U.S. Institutions of Higher Education*
 - *Considerations for Institutes of Higher Education*
- **ACHA**
 - *Considerations for Reopening Institutions of Higher Education in the COVID-19 Era*
- **VDH**
 - *COVID-19: Role of Public Health and Colleges/Universities in Preparedness and Response Efforts*

Physical Distancing

Enhanced Cleaning and Disinfecting Protocols

Student Testing

Symptom Tracking

Move-In Process and Update

Visitor Registration

Contact Tracing

COVID-19 Alternative Work Arrangement

COVID-19 Alternate Learning Arrangement

Slow the Spread. Do the Five.

Healthy Highlanders

COVID-19 Planning and Response

RADFORD
UNIVERSITY

August 2020 Board of Visitors Retreat



Policy Title: Discrimination and Harassment Policy	Effective Date: TBD
Policy Number: GEN-PO-1002	Date of Last Review: 8/5/2020
Oversight Department: Office of Institutional Equity	Next Review Date: 8/1/2023

1. PURPOSE

- A. Radford University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law.
- B. The purpose of the Discrimination and Harassment Policy, hereafter "Policy," is to establish clearly and unequivocally that Radford University prohibits discrimination harassment and retaliation by individuals subject to its control or supervision and to set forth procedures by which such allegations shall be filed, investigated, and adjudicated.

2. APPLICABILITY

- A. This Policy applies to on-campus conduct involving students, employees, faculty and staff, visitors to campus (including, but not limited to, individuals participating in camps and programs, volunteers, non-degree seeking students, exchange students, and other students taking courses or participating in programs at Radford University), and contractors working on campus who are not Radford University employees, as well as to students, visiting students, employees, faculty, and staff participating in Radford University-sponsored activities off campus. This Policy is applicable to any conduct that occurs off campus that has continuing effects that create a hostile environment on campus or that effectively denies a person equal access to Radford University's education program. This Policy applies to discrimination and harassment occurring against a person in the United States.

Allegations of on-campus or off-campus violations of this Policy should be reported to the Title IX Coordinator in accordance with the guidance below and the Discrimination and Harassment Grievance Procedures (see Section 5). This Policy replaces and supersedes the Radford University Sexual Harassment Policy and Nondiscrimination Statement, as well as any and all references related to discrimination and harassment that may be contained in other Radford University policies, including the Standards of Student Conduct.

B. Academic Freedom and Free Speech

This Policy does not allow curtailment or censorship of constitutionally protected expression, which is valued in higher education and by Radford University. In addressing all reports of alleged violations of this Policy, Radford University will take all permissible actions to ensure the safety of students and employees while complying with any and all applicable guidance regarding free speech rights of students and employees. This Policy does not in any way apply to curriculum and curriculum decisions or abridge the use of particular textbooks or curricular materials.

3. DEFINITIONS

Appellant means an individual who appeals either the final determination of a case or the Title IX Coordinator's dismissal of a Formal Complaint.

Appellee means an individual who is the non-appealing party in an appeal.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, discrimination, harassment, or other possible violation of this Policy.

Consent is knowing, voluntary, and clear permission, by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent may be withdrawn at any time. Consent cannot be obtained by force, physical violence, threat, coercion, or intimidation. A person who is impaired or incapacitated is unable to give consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.

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

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

Discrimination is inequitable and unlawful treatment based on an individual's protected characteristics or statuses -- race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, disability, or any other status protected by law -- that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an

educational program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Exculpatory Evidence means evidence that is favorable to the Respondent in an allegation that supports an unsubstantiated finding.

Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment, harassment, or discrimination against a Respondent and requesting that the Office of Institutional Equity investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in, or attempting to participate in, the education program or activity of Radford University. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission through the submission form provided on the Radford University website, official Radford University email that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

Formal Investigation means an investigation conducted by the Title IX Coordinator into allegations that discrimination or harassment occurred.

Free Expression is communicative conduct or activity protected by the First Amendment including, but not limited to, public speeches, demonstrations, marches, protests, and picketing, as well as any lawful free expression activity as defined in the Radford University Free Expression Policy. Free expression does not include commercial activity.

Inculpatory Evidence is evidence that tends to show involvement in an act or evidence that can establish responsibility for an action and may support a substantiated finding.

Informal Resolution means a resolution facilitated by the Title IX Coordinator as an alternative to a Formal Investigation.

Harassment is a form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of their protected characteristics or statuses. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment violates this Policy when it creates a hostile environment, as defined below.

Hostile Environment may be created by oral, written, graphic or physical conduct that is sufficiently severe, persistent, or pervasive, and objectively offensive that it interferes with, limits, or denies the ability of an individual to participate in or benefit from Radford University’s education programs, services, opportunities, or activities, or the individual’s employment access, benefits, or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent, or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individual’s education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a “reasonable person” in the same situation as the person subjected to the conduct, and (e) the nature of higher education.

Preponderance of the Evidence is a standard that requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that an alleged violation occurred.

Reasonable Person is a person similarly situated to the Complainant.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, discrimination, harassment, or other conduct that may be in violation of this Policy.

Responsible Employees must report to the Title IX Coordinator all relevant information received about an incident of conduct that potentially is in violation of this Policy and without delay. If necessary, the report may be made after addressing any immediate needs of the victim.

“Responsible Employee” includes all Radford University employees. A Responsible Employee is considered confidential and is not required to make a report if the Responsible Employee obtained, within the scope of their employment at Radford University, the information through any communication considered privileged under state or federal law, or in the course of providing services as a licensed health care professional, an employee providing administrative support for such health care professionals, a professional counselor, an accredited rape crisis or domestic violence counselor, campus victim support personnel, a member of clergy, or an attorney.

Retaliation is intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sexual harassment, discrimination, or harassment, but arise out of the same facts or circumstances as a report or Formal Complaint of discrimination, or harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. Neither Radford University nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation, provided that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith. Action is generally deemed adverse if it would deter a reasonable person in the same circumstance from opposing practices prohibited by this Policy. Retaliation may result in disciplinary or other action independent of the sanctions, remedies, or supportive measures imposed in response to the underlying allegations of discrimination or harassment. Retaliation prohibited by this Policy includes any discrimination, intimidation, threat, or coercion against the Title IX Coordinator, or staff of the Office of Institutional Equity, for purposes of interfering with their job responsibilities.

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

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following: 1) An employee of Radford University conditioning the provision of an aid, benefit, or service of Radford University on an individual’s participation in unwelcome sexual conduct; 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Radford University’s education program or activity; or 3) Sexual assault, dating violence, domestic violence, or stalking.

Sexual Exploitation is a form of sexual harassment that includes, but is not limited to: causing the incapacitation of another person for the purpose of compromising that person’s ability to consent to sexual activity; prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensual recording or photographing private sexual activity and/or a person’s intimate body parts, or distribution of photos or other images of an individual's sexual activity or intimate body parts; non-consensual voyeurism or allowing third parties to observe private sexual

activity from a hidden location or through electronic means; knowingly transmitting HIV or an STD/STI to another; or exposing one's genitals to another in non-consensual circumstances.

Sexual Violence is a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent.

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: i) fear for his or her safety or the safety of others; or ii) suffer substantial emotional distress.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant and Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Radford University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Radford University's educational environment, or deter sexual harassment, discrimination, or harassment. Supportive measures may include referral and coordination of counseling and health services, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties (e.g., no-contact orders), changes in work or housing locations, bans from campus or areas of campus, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Radford University must maintain as confidential any supportive measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Sexual Misconduct includes alleged sexual assault, dating violence, domestic violence, stalking, and sexual harassment incidents not otherwise covered by Title IX.

Title IX Incidents include sexual assault, dating violence, domestic violence, stalking and sexual harassment incidents alleged to have occurred on-campus, off-campus as part of Radford University's education program, or at an off-campus location controlled by a recognized student organization.

4. POLICY

A. Policy

Any question of discrimination or harassment will be addressed with efficiency and energy and in accordance with this Policy and the Radford University Discrimination and Harassment Grievance Procedures (see Section 5). This Policy and the Discrimination and Harassment Grievance Procedures also address reports of retaliation against those who have opposed practices prohibited by this Policy, those who have filed or reports under this Policy, and those who have testified or otherwise participated in enforcement of this Policy. Further, the Discrimination and Harassment Grievance Procedures address reports that an individual's free expression was violated.

Questions regarding discrimination prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-4644 (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

Radford University recognizes that there may be circumstances in which an individual may need the services of the Office of Institutional Equity and, if needed, the University will make arrangements to ensure that appropriate accommodations are provided, to the extent necessary and available, to aid in understanding and/or complying with this Policy. Requests for accommodations must be made to the Title IX Coordinator.

B. Reporting

- 1.** Any person may report sexual harassment, discrimination, or harassment, whether or not the person reporting is the person alleged to be the victim of such misconduct. Individuals receiving reports of sexual harassment, discrimination, or harassment should immediately notify the Title IX Coordinator after addressing the immediate needs of the victim. Individuals should not undertake any independent efforts to determine whether or not the report has merit before reporting it to the Title IX Coordinator.
- 2.** A report may be made in person, by mail, by telephone, or by email, using the contact information below. A report may also be made by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. The Title IX Coordinator will also accept, without comment or need for explanation, a sealed envelope addressed to "Title IX Coordinator." The envelope, at a minimum, needs only contain a piece of paper with the name and contact information of the individual wishing to make a report. Such a report may be made at any time (including during non-business hours) by using the telephone number, or email address, or by mailing to the office address listed for the Title IX Coordinator.

Radford University's Title IX Coordinator's contact information is as follows:

Dr. Andrea Zuschin
Director of Institutional Equity and Title IX Coordinator
azuschin@radford.edu

Office of Institutional Equity
Radford University (Radford)
615 Fairfax Street
P.O. Box 6988
Radford, VA 24142
(540) 831-5307 (Main)

Radford University Carilion (Roanoke)
101 Elm Avenue, SE
Roanoke, VA 24013
(540) 224- 4644

- 3. Mandatory Employee Reporting:** All employees, other than the confidential employees detailed in the definition of Responsible Employee in Section 3 of this Policy, who receive information regarding a report of discrimination or harassment must report any relevant information about the alleged incident to the Title IX Coordinator without delay after addressing the needs of the victim. No Radford University employee shall undertake any independent efforts to determine whether or not the report has merit or can be

substantiated before reporting it to the Title IX Coordinator. The Radford University Police Department will follow departmental procedures.

4. **Reports Made by Students:** Students should report possible discrimination or harassment to the Title IX Coordinator. Students are not restricted to reporting to student contacts and may report to anyone listed in this Policy or any supervising staff or faculty member. Other than reports made to confidential sources in accordance with the definition of Responsible Employee in Section 3 of this Policy, reports must be forwarded to the Title IX Coordinator.
5. **Reports Made by Visitors or Contractors:** Visitors, including visiting students, and employees of contractors working on campus should report possible discrimination or harassment to the Title IX Coordinator.
6. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this Policy and the Discrimination and Harassment Grievance Procedures (see Section 5). Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this Policy and the Discrimination and Harassment Grievance Procedures is prohibited and subject to conduct charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy. This provision does not apply to reports made or information provided in good faith, even if the facts as alleged are not later substantiated by a preponderance of the evidence.
7. Individuals can also submit a report through the Confidential Reporting and Silent Witness link on the Radford University Police Department webpage: <http://www.radford.edu/content/police/home/forms/witness.html> or by leaving an anonymous message with the Radford University Police Department at 540- 831-STOP (7867). As will be the case with all reports, however made, the Complainant will be contacted promptly for an informational meeting with the Title IX Coordinator.
8. Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of the Discrimination and Harassment Policy are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s) and any witness(es), promptly after an incident.
9. There is no time limit for filing a report of discrimination or harassment. However, Complainants should report as soon as possible to maximize Radford University's ability to respond. Failure to report promptly could result in the loss of relevant evidence and impair Radford University's ability to adequately respond to the allegations.

C. Criminal Reporting

If a victim is in immediate danger or needs immediate medical attention, contact 911, the Radford University Police Department (RUPD) at (540) 831-5500 (blue light emergency phones on Radford University's main campus connect directly to RUPD) or, at Radford University Carilion, Carilion Clinic Police at (540) 981-7911. Some conduct in violation of this Policy may also be a crime under Virginia law. Individuals are encouraged to report incidents of discrimination and harassment to law enforcement, even if the reporting individual is not certain if the conduct constitutes a crime. Radford University will provide assistance to victims

in notifying law enforcement if the victim so chooses. Crimes dealing with minors must be reported to law enforcement.

D. Criminal Process and Coordination

If a victim is physically or mentally incapacitated for at least ten (10) calendar days, and thereby unable to report the incident to law enforcement, the Title IX Coordinator will make such a report. Radford University will comply with all requests by the Radford University Police Department, Carilion Clinic Police, or local law enforcement for cooperation in investigations. Such cooperation may require the Title IX Coordinator to temporarily suspend the fact-finding aspect of an investigation detailed in the procedures below while the Radford University Police Department, Carilion Clinic Police, or the local law enforcement agency gathers evidence. The Title IX Coordinator will promptly resume the investigation as soon as notified by the Radford University Police Department, Carilion Clinic Police, or local law enforcement agency that it has completed the evidence gathering process. Otherwise, the investigation will not be altered or precluded on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

E. Confidentiality and Requests Not to Pursue Title IX Investigation

1. Radford University will keep confidential the identity of any individual who has made a report, or who has filed a Formal Complaint, any Complainant, any Respondent, and any witness, except as may be permitted by the Family Education Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
2. Radford University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this Policy wishes to keep a report confidential, it must be made to a licensed medical provider, counselor or individual under professional supervision of a licensed counselor, or professional sexual assault advocate. These individuals will encourage victims to make a report to the Radford University Police Department, the Carilion Clinic Police Department, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above who are able to maintain confidentiality of reports. Other Radford University responsible employees receiving reports of conduct in violation of this Policy are mandated reporters but will maintain privacy to every extent possible without compromising Radford University's ability to investigate and respond in accordance with applicable law and regulations. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation. If the Complainant requests confidentiality, or that an investigation not be conducted, Radford University may be limited in the actions it is able to take and its ability to respond while respecting the request. The Complainant will be asked to sign a statement stating a desire for confidentiality or that an investigation not be pursued and the Title IX Coordinator will take all reasonable steps to respond to the report consistent with the request.
3. Notwithstanding a Complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to local law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the

implementing regulations of FERPA, 34 C.F.R. 99.36, and as detailed in the Sexual Violence Threat Assessment provisions below.

F. Sexual Violence Threat Assessment

1. Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent, that is alleged to have occurred (i) against any students; or (ii) on campus, in or on a Radford University building or property, or on public property that is on campus or immediately adjacent to and accessible from campus, the Title IX Coordinator shall promptly inform a review committee of the report, including personally identifying information.
 - a. The review committee shall be comprised of, at a minimum, the Title IX Coordinator, a representative of law enforcement, and a student affairs representative. The review committee may consult other Radford University officials depending on whether the accused individual is a student, faculty, or staff member and the circumstances of the report. The review committee shall be advised by the Office of the Attorney General.
 - b. Within 72 hours of receipt of the report, the review committee shall meet to review the information and shall continue to meet as necessary as new information becomes available. If the criteria in Paragraph a. are met, the review committee shall convene regardless of whether or not the victim has notified the Radford University Police Department, Carilion Clinic Police, or local law enforcement or whether or not the victim has requested that Radford University proceed with a Title IX investigation.
 - c. The review committee may obtain law enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records, and known facts and circumstances of the reported incident and other evidence known to Radford University, including the Radford University Police Department, Carilion Clinic Police, and local law enforcement. The review committee shall be considered to be a threat assessment team established pursuant to Virginia Code § 23.1-805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act, (Virginia Code § 2.2-3700 et seq.). The review committee shall comply with the Family Educational Rights and Privacy Act in conducting its review.
 - d. In addition to the available information detailed in Paragraph c. above, the review committee shall consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:
 - i. Other sexual misconduct reports about the same individual;
 - ii. Prior arrests or reports of misconduct at another institution or a history of violent behavior;
 - iii. Threats of further sexual misconduct against the reporting individual or others;
 - iv. A history of failing to comply with a no-contact order issued by Radford University officials;
 - v. Allegations of multiple perpetrators in the same incident;

- vi.** Use of physical violence in the reported incident or a prior incident. Examples of physical violence include, but are not limited to, hitting, punching, slapping, kicking, restraining, or choking;
- vii.** Reports or evidence of a pattern of perpetration, including a pattern of the accused individual using alcohol or drugs to facilitate sexual misconduct or harassment;
- viii.** Use of a weapon in the reported incident or a prior incident; and
- ix.** A victim under the age of 18 or who is significantly younger than the accused individual.

The review committee shall also consider whether means exist to obtain evidence other than investigation by law enforcement or the Office of Institutional Equity, such as security camera footage, eyewitness reports from security personnel, or physical evidence.

- e.** If, based on a consideration of all factors, the review committee determines that there is a significant and articulable threat to the health or safety of one or more individuals and that disclosure of the information to law enforcement, including personally identifying information, is necessary to protect the health and safety of one or more individuals, the law enforcement representative shall immediately disclose such information to the law enforcement agency that would be responsible for investigating the incident, for the purpose of investigation and other actions by law enforcement. If the review committee cannot reach a consensus, the law enforcement representative may make the threat determination. Upon any disclosure to law enforcement under this paragraph, the Title IX Coordinator shall notify the victim that such disclosure is being made. The provisions of this paragraph shall not apply if the law enforcement agency responsible for investigating the alleged incident is located outside the United States.
- f.** If information is disclosed to law enforcement under Paragraph e. or if the review committee determines that sufficient factors exist to proceed with a Formal Investigation, despite the stated desires of the victim for confidentiality or not to proceed with a Formal Investigation, the Title IX Coordinator may proceed with a Formal Investigation under these procedures. In those situations, the Title IX Coordinator will notify the victim that Radford University is overriding the victim's request for confidentiality in order to meet its obligations but, other than the disclosure under Paragraph e., if made, the information will only be shared with individuals who are responsible for handling Radford University's response to incidents of sexual violence. Radford University will ensure that any information maintained by Radford University is maintained in a secure manner.
- g.** If the reported incident would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, as determined by the law enforcement member or any other member of the review committee, the law enforcement member or any other member of the review committee, shall inform other members of the review committee, and shall notify, within 24 hours, the attorney for the Commonwealth or other prosecutor responsible for prosecuting the incident and provide the information received without disclosing personally

2. To the extent possible, Radford University will seek the consent of the Complainant before offering supportive measures to the greatest degree possible.
3. Radford University may remove a Respondent from an educational program or activity on an emergency basis, provided that the University undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, discrimination, or harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. Radford University may temporarily reassign or place on administrative leave any employee alleged to have violated this Policy, pending investigation. Leave will be administered in accordance with appropriate employment policies.
4. Radford University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

I. Disciplinary Immunity

Ensuring the safety of individuals who report violations of this Policy is Radford University's primary concern. In compliance with Virginia Code §23.1-808, and in order to facilitate reporting, Radford University will provide disciplinary immunity to a person who reports to any individual employed by the institution that an act of sexual violence, or any other incident violating this Policy, which occurred on campus, in or on a non-campus building or property, or on public property as such terms are defined in Virginia Code § 23.1-806. Disciplinary immunity means that, if the institution determines, as a result of any investigation relating to such alleged act of sexual violence or other violation of this Policy, the reporting individual committed a separate, unrelated, nonviolent act that violates the Radford University Standards of Student Conduct, that person is immune from disciplinary action for such violation. Disciplinary immunity may also be offered to individuals who intervene to help others before a violation of this Policy occurs and to individuals who receive assistance or intervention.

5. PROCEDURES

A. Purpose

These procedures provide a prompt and equitable resolution for reports of discrimination and harassment prohibited by the Radford University Discrimination and Harassment Policy. Any person who believes he or she has been subjected to discrimination or harassment on any of these bases may file a report with Radford University as outlined in these procedures.

These procedures also address 1) any reports of retaliation against individuals who have filed reports of discrimination and harassment, who have opposed discriminatory practices, and those who have testified or otherwise participated in investigations or proceedings arising from reports of discrimination and harassment; and 2) reports of violation of the Radford University Free Expression Policy. Questions regarding discrimination and harassment prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-4644 (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

B. Written Explanation of Rights and Options

- 1.** When the Title IX Coordinator receives a report that a Complainant has been a victim of discrimination or harassment, the Title IX Coordinator will promptly contact the Complainant to share and provide a written explanation of rights and options, which shall include:
 - a.** Notification of resources, including information on contacting the local sexual assault crisis center or other victim support service, both within Radford University and in the local community.
 - b.** Options for, available assistance in, and how to request supportive measures, regardless of whether the Complainant chooses to report the crime to law enforcement, or file a Formal Complaint.
 - c.** The procedures for Title IX, including filing a Formal Complaint, Formal Investigation, and Informal Resolution procedures, dismissal of cases, adjudication, appeals, and disciplinary sanctions and remedies.

Three factors determine the category of the case and, thus, the route by which the case is adjudicated. The determining factors are 1) whether the alleged incident is considered “sexual harassment,” 2) the location where the alleged incident occurred, and 3) the Respondent’s affiliation with Radford University (e.g., student, employee). Parties to a case will be notified simultaneously of the category in which their case falls. The categories are “Title IX Case,” “Student Conduct Referral Case,” and “Non-Title IX/Non-Student Case.” Parties to a case will be informed of the proper category for their case and will be informed if the category changes as investigators learn more information. Cases will be identified and adjudicated as follows:

- i.** The case will be categorized as a “Title IX Case” and will be referred to a Decision Maker for a live hearing, with a document review as appeal, if
 - (a)** The allegation is sexual harassment, and
 - (b)** The incident(s) alleged occurred either on campus, off campus as part of Radford University’s education program or activity, or at an off-campus location controlled by a recognized student organization.Refer to “Title IX Case Process” in Section 5.C.b.viii. and Appeal Document Review in Section 5.E.4. below.
- ii.** The case will be categorized as a “Student Conduct Referral Case” and will be dismissed as a Title IX Case. However, the Title IX Coordinator will continue the fact-finding process and will refer the case for adjudication to the Office of Student Standards and Conduct, with appeal through that same process, if
 - (a)** The Respondent is a student, and
 - (b)** The allegation does not fall within the definition of sexual harassment, or
 - (c)** The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on campus, nor within Radford University’s education program or activity, nor at an off-campus location controlled by a recognized student organization.

Refer to “Student Conduct Referral Case” in Section 5.C.b.vi. below.

- iii. The case will be categorized as a “Non-Title IX/Non-Student Case” and will continue to be processed in the Office of Institutional Equity, with a live appeal option, if
 - (a) The Respondent is a Radford University employee or non-student, and
 - (b) The allegation is violation of this Policy that does not fall within the definitions of sexual harassment, or
 - (c) The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on campus, nor within Radford University’s education program or activity, nor at an off-campus location controlled by a recognized student organization.

Refer to “Non-Title IX/Non-Student Case” in Section 5.C.b.vii. and Appeal Hearing in Section 5.E.3. below

- d. The right to bring a trusted advisor of their choice with them to the meetings with the Office of Institutional Equity. The advisor may be, but is not required to be, an attorney. The role of such advisors shall be limited to advice and consult, except during a live hearing with a Decision Maker. During a live hearing with a Decision Maker, the advisor’s role is also to conduct cross-examination on behalf of the party. Other than a live hearing with a Decision Maker, neither the advisor for the Complainant nor the advisor for the Respondent shall be permitted to question parties or witnesses, raise objections or make statements or arguments at any meetings or proceedings during an investigation or any hearing.
- e. Procedures Complainants should follow if a crime has occurred, including information about:
 - i. The importance of seeking medical attention and of the collection and preservation of evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order;
 - ii. How and to whom the alleged offense should be reported;
 - iii. Options about the involvement of local law enforcement, and the Radford University Police Department, and Carilion Clinic Police, including the Complainant’s option to:
 - (a) Notify proper law enforcement authorities,
 - (b) Have assistance with notifying law enforcement authorities, if the Complainant so chooses; and
 - (c) Decline to notify such authorities.
- f. The Respondent is presumed not responsible for the alleged conduct until the determination at the end of the grievance process.
- g. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this Policy and the Discrimination and Harassment Grievance Procedures. Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this Policy and the Discrimination Harassment Grievance Procedures is prohibited and subject to

conduct charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy.

- h.** If an incident contains any actions or allegations that are a violation of the Radford University Standards of Student Conduct, and that do not fall within the scope of this Policy, then the portion of the case where the Standards of Student Conduct applies may be referred to that office for adjudication and resolution.
- i.** If, in the course of an investigation, the Title IX Coordinator decides to investigate allegations about the Complainant or Respondent that were not included in the notice provided to the parties, if known, then the Title IX Coordinator will provide notice of the additional allegation(s) to the parties whose identities are known.
- j.** Both parties may inspect and review evidence relevant to the Formal Investigation and/or Informal Resolution.
- k.** The Complainant's right to decline to participate in a Title IX investigation and the Title IX Coordinator's ability to pursue a Formal Complaint and Formal Investigation.
 - i.** The Title IX Coordinator has discretion to sign a Formal Complaint and initiate an investigation under the following conditions:
 - (a)** The Title IX Coordinator has received multiple reports of potential sexual harassment, harassment, or discrimination against the same Respondent,
 - (b)** The Title IX Coordinator determines that circumstances surrounding an allegation (e.g., violence, use of weapons, threats, serial predation) warrant an investigation.

Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the investigation.

- ii.** The Title IX Coordinator may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation, hearing, or resolution the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled in or employed by Radford University; or specific circumstances prevent the Office of Institutional Equity from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. The dismissal of a Formal Complaint may be appealed (see Section 5.E.4.).
 - iii.** The University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of a Formal Complaint of sexual harassment or other discrimination or harassment. The University may not require the parties to participate in an Informal Resolution process and may not offer an Informal Resolution unless a Formal Complaint is filed.
- l.** Information about how Radford University will protect the confidentiality of Complainants and other parties, including how Radford University will:

- i. Complete publicly available recordkeeping, including reporting and disclosures required by the Clery Act, without the inclusion of personally identifying information about the Complainant;
 - ii. Maintain as confidential, any supportive measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of Radford University to provide the supportive measures; and
 - iii. Ensure confidentiality of investigative files as education records protected by FERPA, including that the process for the Sexual Violence Threat Assessment in accordance with Virginia Code § 23.1-806 could, if the incident poses to members of the Radford University community a health or safety emergency, as defined by the FERPA regulations, lead to disclosure of personally identifying information to the law enforcement agency that would be responsible for investigating the incident and other appropriate parties whose knowledge of the information is necessary to protect the health and safety of the Complainant or other individuals.
- m. Any incidents of retaliation as defined in Section 3 should be reported to the Office of Institutional Equity without delay.
2. On receipt of a Formal Complaint from a Complainant, the Title IX Coordinator will provide written notice and written explanation of rights and options to the Respondent, which shall include:
- a. Notice of the allegations of sexual harassment, discrimination, or harassment potentially constituting a violation of this Policy, including sufficient details known at the time and with notice provided for the Respondent to prepare a response prior to an initial interview. Sufficient details will include the identities of the parties involved in the incident, if known, the conduct allegedly constituting a violation, and the date and location of the alleged incident, if known. The notice will also provide contact information for the Title IX Coordinator and a date by which the Respondent must contact the Title IX Coordinator, so the Respondent may receive additional information.
 - b. Notification of resources, both within Radford University and in the local community.
 - c. The procedures for Title IX, including filing a Formal Complaint, Formal Investigation, and Informal Resolution procedures, dismissal of cases, adjudication, appeals, and disciplinary sanctions and remedies.

Three factors determine the category of the case and, thus, the route by which the case is adjudicated. The determining factors are 1) whether the alleged incident is considered "sexual harassment," 2) the location where the alleged incident occurred, and 3) the Respondent's affiliation with Radford University (e.g., student, employee). Parties to a case will be notified simultaneously of the category in which their case falls. The categories are "Title IX Case," "Student Conduct Referral Case," and "Non-Title IX/Non-Student Case." Parties to a case will be informed of the proper category for their case and will be informed if the category changes as investigators learn information. Cases will be identified and adjudicated as follows.

- i. The case will be categorized as a “Title IX Case” and will be referred to a Decision Maker for a live hearing, with a document review as appeal, if
 - (a) The allegation is sexual harassment, and
 - (b) The incident(s) alleged occurred either on campus, off campus as part of Radford University’s education program or activity, or at an off-campus location controlled by a recognized student organization.

Refer to “Title IX Case Process” in Section 5.C.b.viii. and Appeal Document Review in Section 5.E.4. below.

- ii. The case will be categorized as a “Student Conduct Referral Case” and will be dismissed as a Title IX Case. However, the Title IX Coordinator will continue the fact-finding process and will refer the case for adjudication to the Office of Student Standards and Conduct, with appeal through that same process, if
 - (a) The Respondent is a student, and
 - (b) The allegation does not fall within the definition of sexual harassment, or
 - (c) The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on campus, nor within Radford University’s education program or activity, nor at an off-campus location controlled by a recognized student organization.

Refer to “Student Conduct Referral Case” in Section 5.C.b.vi. below

- iii. The case will be categorized as a “Non-Title IX/Non-Student Case” and will continue to be processed in the Office of Institutional Equity, with a live appeal option, if
 - (a) The Respondent is a Radford University employee or non-student, and
 - (b) The allegation is violation of this Policy that does not fall within the definitions of sexual harassment, or
 - (c) The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on campus, nor within Radford University’s education program or activity, nor at an off-campus location controlled by a recognized student organization.

Refer to “Non-Title IX/Non-Student Case” in Section 5.C.b.vii. and Appeal Hearing in Section 5.E.3. below

- d. The right to bring a trusted advisor of their choice with them to the meetings with the Office of Institutional Equity. The advisor may be, but is not required to be, an attorney. The role of such advisors shall be limited to advice and consult, except during a live hearing with a Decision Maker. During a live hearing with a Decision Maker, the advisor’s role is also to conduct cross-examination on behalf of the party. Other than a live hearing with a Decision Maker, neither the advisor for the Complainant nor the advisor for the Respondent shall be permitted to question parties or witnesses, raise objections or make statements or arguments at any meetings or proceedings during an investigation or any hearing.

- e. The Respondent is presumed not responsible for the alleged conduct until the determination at the end of the grievance process.
- f. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this Policy and the Discrimination and Harassment Grievance Procedures. Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this Policy and the Discrimination and Harassment Grievance Procedures is prohibited and subject to conduct charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy.
- g. If an incident contains any actions or allegations that are a violation of the Radford University Standards of Student Conduct, and that do not fall within the scope of this Policy, then the portion of the case where the Standards of Student Conduct applies may be referred to that office for adjudication and resolution.
- h. If, in the course of an investigation, the Title IX Coordinator decides to investigate allegations about the Complainant or Respondent that were not included in the notice provided to the parties, if known, then the Title IX Coordinator will provide notice of the additional allegation(s) to the parties whose identities are known.
- i. Both parties may inspect and review evidence relevant to the Formal Investigation and/or Informal Resolution.
- j. The Complainant's right to decline to participate in a Title IX investigation and the Title IX Coordinator's ability to pursue a Formal Complaint and Formal Investigation.
 - i. The Title IX Coordinator has discretion to sign a Formal Complaint and initiate an investigation under the following conditions:
 - (a) The Title IX Coordinator has received multiple reports of potential sexual harassment, harassment, or discrimination against the same Respondent,
 - (b) The Title IX Coordinator determines that circumstances surrounding an allegation (e.g., violence, use of weapons, threats, serial predation) warrant an investigation.

Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the investigation.

- ii. The Title IX Coordinator may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation, hearing, or resolution the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled in or employed by Radford University; or specific circumstances prevent the Office of Institutional Equity from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. The dismissal of a Formal Complaint may be appealed (see Section 5.E.4.).
- iii. The University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal

Complaints of sexual harassment discrimination or other discrimination or harassment. The University may not require the parties to participate in an Informal Resolution process and may not offer an Informal Resolution unless a Formal Complaint is filed.

- k. Information about how Radford University will protect the confidentiality of Complainants and other parties, including how Radford University will:
 - i. Complete publicly available recordkeeping, including reporting and disclosures required by the Clery Act, without the inclusion of personally identifying information about the Complainant;
 - ii. Maintain as confidential, any supportive measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of Radford University to provide the supportive measures; and
 - iii. Ensure confidentiality of investigative files as education records protected by FERPA, including that the process for the Sexual Violence Threat Assessment in accordance with Virginia Code § 23.1-806 could, if the incident poses to members of the Radford University community a health or safety emergency, as defined by the FERPA regulations, lead to disclosure of personally identifying information to the law enforcement agency that would be responsible for investigating the incident and other appropriate parties whose knowledge of the information is necessary to protect the health and safety of the Complainant or other individuals.
- l. Any incidents of retaliation as defined in Section 3 should be reported to the Office of Institutional Equity without delay.
- 3. Witnesses will be informed of resources on campus and in the community; the investigation and resolution process, including how to file a Formal Complaint; and how their information will be used in any report. As with all members of the Radford University community, witnesses are expected to provide truthful information in any report or proceeding under this Policy and the Discrimination and Harassment Grievance Procedures.

C. Investigation and Resolution

- 1. After being informed of their Written Explanation of Rights and Options, a Complainant may choose to file a Formal Complaint. The Complainant will be asked to indicate what allegation(s) they want to pursue and which route of resolution they wish to take. There are two possible methods for investigation and resolution of a Formal Complaint alleging violations of the Discrimination and Harassment Policy: Informal Resolution and Formal Investigation.
- 2. In all cases, Radford University will ensure that the Title IX Coordinator, investigators, Decision Maker, or any person designated to facilitate any process, not have a conflict of interest or bias for or against complainants or respondents generally, or an individual Complainant or Respondent, in the investigation and resolution of reports and will strive to avoid the appearance of conflict of interest.
- 3. In all investigations and resolutions, there is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made

at the conclusion of the grievance process. All relevant evidence, both inculpatory and exculpatory, will be objectively evaluated, and determinations of credibility may not be based on a person's status as a Complainant, Respondent, or Witness. In neither the Formal Investigation nor the Informal Resolution may Radford University require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

4. Radford University will treat Complainants and Respondents equitably by offering supportive measures to a Complainant, by providing remedies to a Complainant where a determination of responsibility for sexual harassment, discrimination, or harassment has been made against the Respondent, and by following the grievance process before imposing disciplinary sanctions or other actions that are not supportive measures against a Respondent.
5. Parties will be provided an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Parties will not be restricted from their ability to discuss the allegations under investigation or to gather and present relevant evidence. Parties will be provided with the same opportunities to have others present during any meeting or grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding. The role of such advisors shall be limited to advice and consult, except during a live hearing with a Decision Maker. During a live hearing with a Decision Maker, the advisor's role is also to conduct cross-examination on behalf of the party. Other than a live hearing with a Decision Maker, neither the advisor for the Complainant nor the advisor for the Respondent shall be permitted to question parties or witnesses, raise objections or make statements or arguments at any meetings or proceedings during an investigation or any hearing. All hearings will be closed to the public.
6. The Title IX Coordinator will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
7. The Title IX Coordinator must investigate the allegations in a Formal Complaint; however, the Title IX Coordinator may also dismiss a Formal Complaint if the conduct alleged in the Formal Complaint 1) would not constitute sexual harassment, discrimination, or harassment, even if proved; 2) did not occur in Radford University's education program or activity; or 3) did not occur against a person in the United States. Such dismissal does not preclude action under another provision of Radford University's code of conduct. If the Title IX Coordinator dismisses the Formal Complaint, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) to the parties simultaneously.
8. The Title IX Coordinator may consolidate Formal Complaints as to allegations of sexual harassment, discrimination, or harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment, discrimination, or harassment arise out of the same facts or circumstances. Where a grievance process involves more

than one Complainant or more than one Respondent, references in this section to the singular “party,” “complainant,” or “respondent,” include the plural as applicable.

9. If a Formal Investigation is requested, at any time prior to reaching a determination regarding responsibility, the Title IX Coordinator may facilitate an Informal Resolution process that does not involve a full investigation and adjudication, provided that the Title IX Coordinator provides written notice as outlined in Section 5; obtains the parties’ voluntary, written consent to the Informal Resolution process; and the Informal Resolution process is not offered or facilitated to resolve allegations that an employee sexually harassed or otherwise discriminated against a student.

a. Informal Resolution

- i. For alleged violations of the Discrimination and Harassment Policy, the Complainant and the Respondent have the option to proceed under an informal procedure, when deemed permissible by the Title IX Coordinator and when the allegations are not that an employee sexually harassed or otherwise discriminated against a student.
- ii. If the Complainant, the Respondent, and the Title IX Coordinator all agree that an Informal Resolution should be pursued, the Title IX Coordinator shall attempt to facilitate a resolution that is agreeable to all parties. Prior to beginning the Informal Resolution process, the Title IX Coordinator must obtain the parties’ voluntary, written consent to the process.
- iii. Upon initiating an Informal Resolution, the Title IX Coordinator will provide the parties written notice of the following:
 - (a) the allegations;
 - (b) either party has the right to withdraw from the Informal Resolution process at any time prior to agreeing to a resolution and may resume a Formal Investigation process with respect to the Formal Complaint;
 - (c) if an Informal Resolution is pursued and a resolution is reached, parties may not request a Formal Investigation arising from the same allegations;
 - (d) any agreement between parties as part of the Informal Resolution will be provided to the parties in writing. Any violation of the agreement should be reported by the parties to the Title IX Coordinator; and
 - (e) the record of the Informal Resolution will be maintained per the Policy.
- iv. Under this procedure, the Title IX Coordinator will gather information and evidence only to the extent fact-finding is needed to resolve the conflict and to protect the interests of all parties, Radford University, and the campus community. Typically, an Informal Resolution will be completed within 30 business days of confirmed delivery of the Formal Complaint. If an extension is necessary, all parties will be notified of the expected resolution time frame and the reason for the extension. If at any point during the Informal Resolution process, the Complainant, the Respondent, or the Title IX Coordinator wish to suspend the Informal Resolution and proceed through the Formal Investigation, such request will be granted.

- v. Any resolution of a Formal Complaint through an Informal Resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent and the responsibility of Radford University to prevent, address, and remedy alleged violations of the Discrimination and Harassment Policy. Informal Resolution remedies may include providing training; providing counseling to an individual whose conduct, if not ceased, could rise to the level of discrimination or harassment; confidential briefing of the Respondent's work supervisor; or use of processes and sanctions set forth in Radford University's code of conduct. There shall be no right of appeal afforded to the complainant or the respondent following Informal Resolution.

b. Formal Investigation

- i. If a Complainant asks for a Formal Investigation, the Title IX Coordinator will conduct a prompt, adequate, reliable, and impartial investigation of the Formal Complaint. The Complainant is not required to submit a written report to the Title IX Coordinator to commence a Formal Investigation. The Complainant may provide additional supporting documents, evidence, or recommendations of witnesses to be interviewed during the course of the Formal Investigation. The Complainant must also disclose if a Formal Complaint has been filed with another Radford University office, or a state or federal entity for the same offense.
- ii. Typically, a Formal Investigation, not including the time necessary for potential appeals, will be completed within 45 business days of receipt of notice. If extension is necessary, all parties will be notified of the expected time frame and the reason for the extension. Only the Title IX Coordinator, or a trained investigator designated by the Title IX Coordinator, shall conduct the investigation.
- iii. Both Complainants and Respondents will be provided an equal opportunity to inspect and review any evidence obtained as part of an investigation, that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The Title IX Coordinator will send to each party and the party's advisor, if any, the Draft Investigative Report and the evidence subject to inspection and review in an electronic format or hard copy. The parties will have ten (10) business days to submit a written response to the Draft Investigative Report, which the investigator will consider prior to completion of the Final Investigative Report. Radford University will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, and for purposes of cross-examination.
- iv. The investigator will create a Final Investigative Report that fairly summarizes relevant evidence. At least ten (10) business days prior to a hearing, the Title IX Coordinator will send the Final Investigative Report to each party and the party's advisor, if any, in an electronic format or a hard copy.

- v. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Radford University and not on the parties provided that the University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process.

vi. Student Conduct Referral Case

If the criteria for a "Student Conduct Referral Case" are met, the case will be dismissed as a Title IX Case. However, the Title IX Coordinator will continue the fact-finding process and will refer the case for adjudication to the Office of Student Standards and Conduct for adjudication and appeal. On receiving notice of the referral, the Office of Student Standards and Conduct will contact the parties in the case to notify them of the policies and procedures that will be followed for adjudication, appeal, and implementation of sanctions (if any).

vii. Non-Title IX/Non-Student Case

- (a) Using information learned from interviews and gathered as evidence during the Formal Investigation, the Title IX Coordinator will determine whether there is a preponderance of the evidence to substantiate the alleged violation of the Policy. A Respondent will not be found in violation of the Policy absent a finding of preponderance of evidence that the violation occurred.
- (b) If the Title IX Coordinator finds, by a preponderance of the evidence that violation of the Policy did occur, the Title IX Coordinator's written report will contain recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, remedies for the Complainant and the community. The written report also will contain the Title IX Coordinator's recommendation on sanctions. If supportive measures have been taken, the Title IX Coordinator shall include a recommendation regarding continuation, suspension or modification of any such supportive measures. The Title IX Coordinator shall provide the written report to both the Complainant and Respondent. Notwithstanding any other provision of these procedures, the Respondent shall not be provided information about the individual remedies offered or provided to the Complainant, but such information may be provided to the Complainant. The Complainant and Respondent will be advised of their right to appeal any finding or recommended remedy or sanction to the Appeal Committee. The appeal procedure outlined in Section 5.E.3. will also be explained. The completed investigation and recommended sanctions will be provided to the Department of Human Resources and other appropriate department heads to determine and impose appropriate sanctions, as described below.

viii. Title IX Case

Following the Formal Investigation, the Title IX Coordinator will schedule a live hearing with a Decision Maker.

- (a)** The Title IX Coordinator will notify both parties of the time, date, and location of the live hearing.
- (b)** The hearing will occur within ten (10) business days from the date the Final Investigative Report is distributed to the parties. If an extension is necessary, all parties will be notified of the expected time frame and the reason for the extension.
- (c)** The Decision Maker will facilitate the hearing.
- (d)** The Decision Maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
 - (i)** Only relevant cross examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - (ii)** If a party or witness does not submit to cross examination at the live hearing, the Decision Maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; however, the Decision Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- (e)** Live hearings may be conducted with all parties physically present in the same geographic location or, at Radford University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other. At the request of either party, Radford University will provide for the live hearing to occur with the parties located in separate rooms with the technology enabling the Decision Maker and parties to simultaneously see and hear the other party or the witness answering questions.
- (f)** If a party does not have an advisor present at the live hearing, Radford University must provide, without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that party.
- (g)** Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the

Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

- (h) Radford University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- (i) Following the hearing, the Decision Maker, who is not the Title IX Coordinator or investigator, will issue to both parties simultaneously a written determination regarding responsibility using the preponderance of the evidence standard. The written determination will include:
 - (i) Identification of the allegations potentially constituting sexual harassment, discrimination or harassment;
 - (ii) A description of the procedural steps taken from the receipt of the Formal Complaint through the written determination of responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - (iii) Findings of fact supporting the determination of responsibility;
 - (iv) Conclusions regarding the application of the Policy to the facts;
 - (v) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Radford University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to Radford University's education program or activity will be provided by the University to the Complainant;
 - (vi) The procedures and permissible bases for the Complainant and Respondent to appeal.
- (j) The written determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or the date on which an appeal would no longer be considered timely, if an appeal is not filed.

D. Sanctions and Remedies

1. If it is determined that conduct in violation of this Policy has occurred, sanctions and remedies will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, institutional precedence, and any history of past conduct.
2. Remedies will be designed to restore or preserve equal access to Radford University's education program or activity. The Title IX Coordinator will consult with the Complainant to determine those remedies in order to restore or preserve equal access. Sanctions and remedies will be reasonable and will fall within the bounds of law and Radford University Policy. Sanctions and remedies may affect one's access to and/or affiliation with Radford

University's physical campus and/or any portion of Radford University's education program or activity.

- 3.** In addition to sanctions that may be imposed on an individual found in violation of this Policy, Radford University will take steps to prevent recurrence of any discrimination or harassment and to remedy discriminatory effects on the Complainant and others, if appropriate.
- 4.** Not every violation of the Discrimination and Harassment Policy will result in an identical sanction. Radford University reserves the right to impose different sanctions depending on the severity of the incident as well as any previous proven violations by the respondent.
 - a.** Sanctions and remedies for students may include education, disciplinary probation, deferred suspension, suspension, and penalties up to and including dismissal. Such sanctions and remedies will be recommended by either the Title IX Coordinator or by the Decision Maker in consultation with the Director of the Office of Student Standards and Conduct and in accordance with the Standards of Conduct.
 - b.** Sanctions and remedies for employees may include education, probationary status, reassignment and termination from employment. Such sanctions and remedies will be recommended by either the Title IX Coordinator or by the Decision Maker in consultation with the Department of Human Resources and the Respondent's supervisor(s) or division leader(s).
 - i.** Sanctions and remedies for Teaching and Research Faculty will be determined by the Provost, in consultation with the Deans and/or the President and in accordance with the Teaching and Research Faculty Handbook and any other applicable Radford University policies and regulations.
 - ii.** Sanctions and remedies for Administrative and Professional Faculty will be determined by the employee's supervisor and Division Head, in consultation with the Assistant Vice President for Human Resources and in accordance with the Administrative and Professional Faculty Handbook and any other applicable Radford University policies and regulations.
 - iii.** Sanctions and remedies for Classified or Wage employees will be determined by the employee's supervisor in consultation with the Assistant Vice President for Human Resources in accordance with the Commonwealth's Standards of Conduct Policy.
 - c.** Contractors shall assign for duty only employees acceptable to Radford University. Radford University reserves the right to require the Contractor to remove from campus any employee who violates the Discrimination and Harassment Policy.
 - d.** Visitors, including, but not limited to, students participating in camps or other programs at Radford University, who violate the Discrimination and Harassment Policy will be directed to immediately leave campus and may be subject to a permanent ban from campus.
- 5.** If neither the Complainant nor the Respondent requests an appeal, then a determination regarding the imposition of sanctions shall be made within ten (10) business days of the date of either the Title IX Coordinator's Final Investigative Report for a case adjudicated

through the Non-Title IX/Non-Student Case process, or the Decision Maker's written determination for a case adjudicated through the Title IX Case process. If an appeal is requested, sanctions, if any, shall be imposed within ten (10) business days of the final decision of the President after consideration of the written decision of the Appeal Committee. If extension of the time frame for sanctions to be imposed beyond ten (10) business days is necessary, all parties will be notified by the appropriate office of the expected time for imposing the sanctions. The Respondent shall be informed in writing of any sanctions imposed for violation of the Discrimination and Harassment Policy, by the individual imposing the sanctions, within five (5) business days of the determination of an appropriate sanction. The Title IX Coordinator shall be provided a copy of such written notification. The Title IX Coordinator will disclose to the Complainant, as simultaneously as possible to the notification provided to the Respondent, information about the sanctions that directly relate to the Complainant as is permitted by state and federal law including FERPA and the Virginia Freedom of Information Act.

E. Appeals

1. Composition of the Appeal Committee

- a.** The Appeal Committee shall be comprised of trained individuals selected by the Title IX Coordinator from a pool of faculty and staff appointed by the President. Teaching and Research Faculty members are nominated to the President by the Provost, Administrative and Professional Faculty members are nominated to the President by the Vice President for Finance and Administration, and Classified Employee members are nominated to the President by the Assistant Vice President for Human Resources. Each Appeal Committee shall include one member from each of the three representative areas. The President shall select individuals within the pool who are identified as Appeal Committee Chairs. Committee members shall serve indefinitely at the pleasure of the President. The President may appoint one or more persons to serve on the Committee temporarily to fill a vacancy due to recusal or otherwise to ensure a full three-member Committee. The President has sole discretion to permanently remove members from the pool.
- b.** The Appeal Committee will not include the same person who served as the Decision Maker who reached the determination regarding responsibility, the investigator(s), or the Title IX Coordinator. Further, Radford University requires that individuals serving on the Appeal Committee not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent

2. The grounds for appeal are as follows:

- a.** The Title IX Coordinator, investigator, or Decision Maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter;
- b.** New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c.** Procedural irregularity that affected the outcome of the matter;
- d.** The recommended sanctions or remedies are substantially outside the parameters or guidelines set by Radford University for this type of offense, as outlined in Section 5.D.

3. Appeal Procedure for a “Non-Title IX/Non-Student Case”

- a. A Complainant or Respondent desiring to appeal the investigative findings shall file a written request for appeal with the Title IX Coordinator within five (5) business days of delivery of the Final Investigative Report.
- b. The Title IX Coordinator will notify the other party in writing when an appeal is filed.
- c. Within five (5) business days of receipt of the written request for appeal, the Title IX Coordinator will notify the parties of the names of the individuals serving on the Appeal Committee. The parties must raise, within five (5) business days of such notification, objections to members of the Committee on the basis of conflict of interest or bias for or against the appellant or appellee. The objection shall be made to the Title IX Coordinator, who will present the objection to the President. The President shall rule on any such objections within five (5) business days.
 - i. Within five (5) business days following the deadline to raise objections, or within five (5) business days following the resolution of the objection, the Title IX Coordinator will notify the parties of the time, date, and location of the appeal hearing. Such appeal hearings typically will be scheduled within fifteen (15) business days of receipt of the request for appeal. If extension beyond fifteen (15) business days is necessary, both parties will be notified by the Appeals Committee of the revised time frame.
- d. Within five (5) business days following the deadline for appeal, the appealing party (appellant) must submit a written statement in support of, or challenging, the outcome; identify the names and addresses of witnesses that are requested to be called at the hearing; identify and include copies of any documents that will be used as evidence at the hearing; describe with specificity the grounds for appeal and request a specific remedy. The non-appealing party (appellee) also may submit, within five (5) business days of the deadline for appeal, such information for the Committee's consideration. The Title IX Coordinator will provide to the Committee within five (5) business days prior to the hearing, a copy of the Final Investigative Report and copies of any documents used in the investigation.
- e. Both the appellant and the appellee may retain legal counsel at their own expense or designate a non-attorney advisor to accompany him or her at any meeting or proceeding in the appeal process. If either party has retained legal counsel or a non-attorney advisor, the party must immediately notify the Committee Chair of such representation. The role of counsel or the non-attorney advisor for the parties shall be limited to advice and consultation with the attorney's client and the client's witnesses. Neither counsel/advisor for the appellant nor counsel/advisor for the appellee shall be permitted to question witnesses, raise objections, or make statements or arguments to the Committee at the hearing. If either party is represented by legal counsel, Radford University may be represented at the hearing by assigned legal counsel from the Office of the Attorney General, who will ensure that the rights of Radford University and the parties are respected.
- f. The Chair of the Committee shall preside over the hearing. The hearing will be a non-adversarial proceeding and rules of evidence shall not be strictly applied. However, the Chair of the Committee may limit evidence or testimony that is not relevant to a determination of whether a violation of the Policy occurred and whether the grounds

for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. Both the appellant and appellee, or the Title IX Coordinator if the appellee does not participate, will address the Chair of the Committee and not each other. The Chair will make the final decision on all matters of procedure during the hearing.

- g.** The past sexual history or sexual character of a party to the Formal Complaint, Complainant or Respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the Respondent, in the form of previous findings in any Radford University or judicial proceeding will be admissible. The parties will be notified in advance by the Appeal Committee Chair of the hearing if any information addressed by this paragraph is deemed admissible.
- h.** The Appeal Committee will review all provided documents and, within ten (10) business days following the hearing, the Committee will submit a written recommendation simultaneously to both parties, the Title IX Coordinator, and the President. The recommendation shall include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or reject the findings of the Title IX Coordinator and/or the recommended sanction and the rationale for such determination; (iv) if the Title IX Coordinator's findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution, and (v) the materials the Committee members were provided by the Title IX Coordinator and by the appellant and appellee.
- i.** Within three (3) business days of the Committee's recommendation, the President shall notify the Committee, the Title IX Coordinator, and the parties, in writing, of his decision relative to the findings and recommendations of the Committee. The decision of the President is final with no further right to appeal.

4. Appeal Procedure (Document Review) for a "Title IX Case" and a "Dismissal of Formal Complaint"

- a.** A Complainant or Respondent may appeal the Decision Maker's written determination, or the Title IX Coordinator's dismissal of a Formal Complaint. In order to request appeal, the Appellant shall file a written request for appeal with the Title IX Coordinator within five (5) business days of delivery of Decision Maker's findings or the Title IX Coordinator's Written Notice of Dismissal of Formal Complaint.
- b.** The Title IX Coordinator will notify the other party in writing when an appeal is filed.
- c.** Within five (5) business days of receipt of the written request for appeal, the Title IX Coordinator will notify the parties of the names of the individuals serving on the Appeal Committee. The parties must raise within five (5) business days of such notification, objections to members of the Committee on the basis of conflict of interest or bias for or against the appellant or appellee. The objection shall be made to the Title IX Coordinator, who will present the objection to the President. The President shall rule on any such objections within five (5) business days.

- d. Within five (5) business days following the deadline for appeal, the appealing party (appellant) must submit a written statement in support of, or challenging, the outcome; describing the specificity the grounds for appeal; and including copies of any pertinent documents. The non-appealing party (appellee) also may submit, within five (5) business days of the deadline for appeal, such information for the Committee's consideration. The Title IX Coordinator will provide to the Committee, within five (5) business days of the deadline for appeal, copies of any documents used in the investigation.
- e. The Appeal Committee will review all provided documents and, within ten (10) business days of receipt of the documents, the Committee will submit a written recommendation simultaneously to both parties, the Title IX Coordinator, and the President. The recommendation shall include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or reject the Decision Maker's finding regarding responsibility and/or the recommended sanction and the rationale for such determination; or the Title IX Coordinator's dismissal of a Formal Complaint (iv) if the Decision Maker's findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution, and (v) the materials the Committee members were provided by the Title IX Coordinator and by the appellant and appellee.
- f. Within three (3) business days of the Committee's recommendation, the President shall notify the Committee, the Title IX Coordinator, and the parties, in writing, of his decision relative to the findings and recommendations of the Committee. The decision of the President is final with no further right to appeal.

F. Documentation and Record-keeping

1. The Title IX Coordinator shall maintain, in a confidential manner, for at least ten (10) years, paper or electronic files of all reports, witness statements, documentary evidence, written investigation reports, audio or audiovisual recordings or transcripts, Formal Investigation findings, Informal Resolution processes and the result therein, appeals and appeal results, disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to Radford University's education program or activity, and associated documents. The Title IX Coordinator will collect and maintain information received and created by investigators, Decision Makers, and Appeal Committee members.
2. The Title IX Coordinator will maintain, for at least (10) years, records of any actions, including supportive measures taken in response to a report or Formal Complaint of sexual harassment, discrimination, or harassment. In each instance, the Title IX Coordinator will document the basis for the conclusion that the response was not deliberately indifferent and document that the measures were designed to restore or preserve equal access to Radford University's education program or activity. If the Title IX Coordinator did not provide the Complainant with supportive measures, then the Title IX Coordinator will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit Radford University from providing additional explanations or detailing additional measures taken.

3. The Title IX Coordinator will prepare a monthly summary of pending reports, present the summary to the President, and retain the summary for at least ten (10) years. Such summary will contain sufficient information to permit the Title IX Coordinator and the President to assess Radford University compliance with the requirements of Title IX.

G. Training

1. The Title IX Coordinator, investigators, Decision Makers, and any person who facilitates an Informal Resolution process, will receive training on the definition of sexual harassment; the scope of Radford University's education program or activity; how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable; and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Decision Makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including questions and evidence about the Complainant's sexual predisposition or prior sexual behavior. Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
2. Materials used to train the Title IX Coordinator, investigators, Decision Makers, and any person who facilitates an informal resolution process will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of sexual harassment, discrimination, and harassment. The Title IX Coordinator shall maintain, for at least ten (10) years, all materials used to train the Title IX Coordinator, investigators, Decision Makers, and persons who facilitate Informal Resolution processes. These materials are available on the Office of Institutional Equity's website.

6. EXCLUSIONS

None

7. APPENDICES

None

8. REFERENCES

[Title VII of the Civil Rights Act of 1964](#)

[Title IX of the Educational Amendment Acts of 1972](#)

[U.S. Equal Opportunity Commission - Laws, Regulations, Guidance & MOUs](#)

[Campus Sexual Violence Elimination Act of 2013](#)

[Violence Against Women Reauthorization Act of 2013](#)

[U.S. Department of Education - Family Educational Rights and Privacy Act \(FERPA\)](#)

[34 C.F.R. 99.36](#), Disclosure of information in health and safety emergencies

[34.C.F.R. 106](#), Nondiscrimination on the basis of sex in education programs or activities receiving federal assistance

[Code of Virginia § 2.2-3700 et seq. \(Chapter 37\)](#), "Virginia Freedom of Information Act"

[Code of Virginia § 18.2-61 et seq. \(Article 7\)](#), “Criminal Sexual Assault.”

[Code of Virginia § 19.2-389](#), “Dissemination of criminal history record information.”

[Code of Virginia § 19.2-389.1](#), “Dissemination of juvenile record information.”

[Code of Virginia § 23.1-805](#), “Violence prevention committee; threat assessment team.”

[Code of Virginia § 23.1-806](#), “Reporting of acts of sexual violence.”

[Code of Virginia § 23.1-808](#), “Sexual violence; policy review; disciplinary immunity for certain individuals who make reports.”

[Code of Virginia § 23.1-900](#), “Academic transcripts; suspension, permanent dismissal, or withdrawal from institution.”

[Code of Virginia § 32.1-127.1:03](#), “Health records privacy.”

9. INTERPRETATION

The authority to interpret this policy rests with the President of the University and is generally delegated to the Title IX Coordinator.

10. APPROVAL AND REVISIONS

The President of the University and the President’s Cabinet have approval authority over this Policy and all subsequent revisions.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was adopted by the Radford University Board of Visitors on November 21, 2014.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 18, 2015.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 15, 2017.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on May 10, 2019.

The *Discrimination and Harassment Policy* (previously named *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy*) was amended by the Radford University Board of Visitors on _____, 2020.

For general information concerning University policies, contact the [Office of Policy and Tax Compliance](#) – (540) 831-5794. For questions or guidance on a specific policy, contact the Oversight Department referenced in the policy.

RADFORD UNIVERSITY

Policy Title: Discrimination, and Harassment, Sexual Misconduct, and Retaliation Policy	Effective Date: 7/10/2019 TBD
Policy Number: GEN-PO-1002	Date of Last Review: 5/10/2019 8/5/2020
Oversight Department: Office of Institutional Equity	Next Review Date: 5/1/2022 8/1/2023

1. **PURPOSE**

- A. Radford University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law.
- B. The purpose of ~~this the~~ Discrimination and Harassment Policy, hereafter “Policy,” is to establish clearly and unequivocally that Radford University prohibits discrimination, harassment, ~~sexual misconduct~~, and retaliation by individuals subject to its control or supervision and to set forth procedures by which such allegations shall be filed, investigated, and adjudicated.

2. **APPLICABILITY**

- A. This Policy applies to on-campus conduct involving students, employees, faculty and staff, visitors to campus (including, but not limited to, ~~students individuals~~ participating in camps and programs, ~~volunteers~~, non-degree seeking students, exchange students, and other students taking courses or participating in programs at Radford University), and contractors working on campus who are not Radford University employees, ~~and as well as~~ to students, visiting students, employees, faculty, and staff participating in Radford University-sponsored activities ~~off campus~~. This Policy ~~also~~ is applicable to any conduct that occurs off campus that has continuing effects that create a hostile environment on campus ~~or that effectively denies a person equal access to Radford University’s education program~~. This policy applies to discrimination and harassment occurring against a person in the United States.

Commented [1]: BOV-This section renumbered due to information added.

Commented [2]: BOV-Moved from section 4.A.

Commented [3]: BOV-This section renumbered due to information added.

Allegations of on-campus or off-campus violations of this policy should be reported to the Title IX Coordinator in accordance with the guidance below and the Discrimination and Harassment Grievance Procedures (see Section 5). This Policy replaces and supersedes the Radford University Sexual Harassment Policy and Nondiscrimination Statement, as well as any and all references related to discrimination, and harassment, sexual misconduct and retaliation that may be contained in other Radford University policies, including the Standards of Student Conduct.

B. Academic Freedom and Free Speech

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This Policy does not allow curtailment or censorship of constitutionally protected expression, which is valued in higher education and by Radford University. In addressing all complaints and reports of alleged violations of this policy, Radford University will take all permissible actions to ensure the safety of students and employees while complying with any and all applicable guidance regarding free speech rights of students and employees. This Policy does not in any way apply to curriculum and curriculum decisions or abridge the use of particular textbooks or curricular materials.

3. DEFINITIONS

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Appellant means an individual who appeals either the final determination of a case or the Title IX Coordinator's dismissal of a Formal Complaint.

Appellee means an individual who is the non-appealing party in an appeal.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, discrimination, harassment, or other possible violation of this Policy.

Consent is knowing, voluntary, and clear permission, by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent may be withdrawn at any time. Consent cannot be obtained by force, physical violence, threat, coercion, or intimidation. A person who is impaired or incapacitated is unable to give consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of

such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

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

Discrimination is inequitable and unlawful treatment based on an individual's protected characteristics or statuses -- race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, disability, or any other status protected by law -- that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an educational program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Exculpatory Evidence means evidence that is favorable to the Respondent in an allegation that supports an unsubstantiated finding.

Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment, harassment, or discrimination against a Respondent and requesting that the Office of Institutional Equity investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in, or attempting to participate in, the education program or activity of Radford University. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission through the submission form provided on the Radford University website, official Radford University email that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

Formal Investigation means an investigation conducted by the Title IX Coordinator into allegations that discrimination or harassment occurred.

Free Expression is communicative conduct or activity protected by the First Amendment including, but not limited to, public speeches, demonstrations, marches, protests, and picketing, as well as any lawful free expression activity as defined in the Radford University Free Expression Policy. Free expression does not include commercial activity.

Inculpatory Evidence is evidence that tends to show involvement in an act or evidence

that can establish responsibility for an action and may support a substantiated finding.

Informal Resolution means a resolution facilitated by the Title IX Coordinator as an alternative to a Formal Investigation.

Harassment is a form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of ~~his or her~~ **their** protected characteristics or statuses, ~~by any member of the campus community~~. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment violates this policy when it creates a hostile environment, as defined below.

~~**Sexual Harassment:** Sexual harassment is a form of discrimination based on sex. It is defined as unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature including: verbal (e.g., specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures); or physical (e.g., touching, pinching, brushing the body, any unwelcome or coerced sexual activity, including sexual assault). Sexual harassment, including sexual assault, can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes.~~

Hostile environment may be created by oral, written, graphic or physical conduct that is sufficiently severe, persistent, or pervasive, and objectively offensive that it interferes with, limits, or denies the ability of an individual to participate in or benefit from Radford University's education^{al} programs, services, opportunities, or activities, or the individual's employment access, benefits, or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent, or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more **individual's'** education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (e) the nature of higher education.

Preponderance of the Evidence is a standard that requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that an alleged violation occurred.

Reasonable Person is a person similarly situated to the Complainant.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, discrimination, harassment, or other conduct that may be in violation of this Policy.

Responsible Employees must report to the Title IX Coordinator all relevant information received about an incident of conduct that potentially is in violation of this policy and without delay. If necessary, the report may be made after addressing any immediate needs of the victim. "Responsible Employee" includes all Radford University employees. ~~other than the following individuals who are designated as confidential sources: physicians and licensed medical personnel at the Student Health Center, and licensed counselors at the Student Counseling Services and the Substance Abuse and Violence Educational Support Services.~~ A Responsible Employee is considered confidential and is not required to make a report if the Responsible Employee obtained, within the scope of their employment at Radford University, the information through any communication considered privileged under state or federal law, or in the course of providing services as a licensed health care professional, an employee providing administrative support for such health care professionals, a professional counselor, an accredited rape crisis or domestic violence counselor, campus victim support personnel, a member of clergy, or an attorney.

Retaliation: is intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sexual harassment, discrimination, or harassment, but arise out of the same facts or circumstances as a report or Formal Complaint of discrimination, or harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. Neither Radford University nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation, provided that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith. ~~Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, sexual harassment, or sexual misconduct or any person cooperating in the investigation of allegations of discrimination, sexual harassment, or sexual misconduct to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Discrimination Grievance Procedures is strictly prohibited by this policy.~~ Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions, remedies, or interim supportive measures imposed in response to the underlying allegations of discrimination, ~~sexual or harassment, or sexual misconduct, or retaliation.~~ Retaliation prohibited by this policy includes any discrimination, intimidation, threat, or coercion against the Title IX Coordinator, or staff of the Office of Institutional Equity, for

purposes of interfering with ~~his or her~~ their job responsibilities.

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

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following: 1) An employee of Radford University conditioning the provision of an aid, benefit, or service of Radford University on an individual's participation in unwelcome sexual conduct; 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Radford University's education program or activity; or 3) Sexual assault, dating violence, domestic violence, or stalking.

Sexual Exploitation is a form of sexual harassment that ~~occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault.~~ Sexual exploitation includes, but is not limited to: causing the incapacitation of another person for the purpose of compromising that person's ability to consent to sexual activity; prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensual recording or photographing private sexual activity and/or a person's intimate body parts, or distribution of photos or other images of an individual's sexual activity or intimate body parts ~~with an intent to embarrass such individual~~; non-consensual voyeurism or allowing third parties to observe private sexual activity from a hidden location or through electronic means; knowingly transmitting HIV or an STD/STI to another; or exposing one's genitals to another in non-consensual circumstances.

Sexual Violence is a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent.

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: i) fear for his or her safety or the safety of others; or ii) suffer substantial emotional distress. ~~, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.~~

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant and Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Radford University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Radford University's

educational environment, or deter sexual harassment, discrimination, or harassment. Supportive measures may include referral and coordination of counseling and health services, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties (e.g., no-contact orders), changes in work or housing locations, bans from campus or areas of campus, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Radford University must maintain as confidential any supportive measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Sexual Misconduct includes alleged sexual assault, dating violence, domestic violence, stalking, and sexual harassment incidents not otherwise covered by Title IX.

Title IX Incidents include sexual assault, dating violence, domestic violence, stalking and sexual harassment incidents alleged to have occurred on-campus, off-campus as part of Radford University's education program, or at an off-campus location controlled by a recognized student organization.

Sexual assault or sexual violence is non-consensual contact of a sexual nature. It includes any sexual contact when the victim does not or is unable to consent through the use of force, fear, intimidation, physical helplessness, ruse, impairment or incapacity (including impairment or incapacitation as a result of the use of drugs or alcohol, knowingly or unknowingly); intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch, a person's genital area, groin, inner thigh, buttocks or breast; and non-consensual sexual intercourse, defined as anal, oral or vaginal penetration with any object.

Consent is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or an STD/STI to another, or exposing one's genitals to another in non-consensual circumstances.

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. A social relationship of a romantic or intimate nature means a relationship which is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic violence is a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the law of the Commonwealth of Virginia; or (v) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family laws of the Commonwealth of Virginia or the applicable jurisdiction. Domestic violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse.

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

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4. POLICY

A. Policy

Radford University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law. In pursuit of this goal, Any question of impermissible discrimination or harassment will be addressed with efficiency and energy and in accordance with this policy and the Radford University Discrimination and Harassment Grievance Procedures (see Section 5). This policy and the Discrimination and Harassment Grievance Procedures also address complaints or reports of retaliation against those who have opposed practices prohibited by this policy, those who have

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filed **complaints** or reports under this policy, and those who have testified or otherwise participated in enforcement of this policy. **Further, the Discrimination and Harassment Grievance Procedures address reports that an individual's free expression was violated.**

Questions regarding discrimination prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-~~4640~~ **4644** (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

Radford University recognizes that there may be circumstances in which an individual may need the services of the Office of Institutional Equity and, if needed, the University will make arrangements to ensure that appropriate accommodations are provided, to the extent necessary and available, to aid in understanding and/or complying with this Policy. Requests for accommodations must be made to the Title IX Coordinator.

B. Retaliation

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, sexual harassment, or sexual misconduct or any person cooperating in the investigation of allegations of discrimination, sexual harassment, or sexual misconduct to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Discrimination Grievance Procedures (see Section 5) is strictly prohibited by this policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, sexual harassment or sexual misconduct. Retaliation prohibited by this policy includes any discrimination, intimidation, threat, or coercion against the Title IX Coordinator, or staff of the Office of Institutional Equity for purpose of interfering with his or her job responsibilities.

B.C. Reporting

- 1. Conduct in violation of this policy shall be reported promptly by all students, employees, visitors, or contractors. Radford University's Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual and harassment, or sexual misconduct in accordance with the Discrimination and Harassment Grievance Procedures (see Section 5). Employees receiving such reports or complaints should immediately notify the Title IX Coordinator and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator.**

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1.2- Any person may report sexual harassment, discrimination, ~~including sex discrimination, including sexual harassment, or discrimination or other harassment, sexual misconduct, or retaliation,~~ whether or not the person reporting is the person alleged to be the victim of such misconduct. Individuals receiving reports of sexual harassment, discrimination, or harassment should immediately notify the Title IX Coordinator after addressing the immediate needs of the victim. Individuals should not undertake any independent efforts to determine whether or not the report has merit before reporting it to the Title IX Coordinator. ~~that could constitute sex discrimination, sexual harassment, discrimination, or harassment, sexual misconduct, or retaliation.~~

2. A report may be made in person, by mail, by telephone, or by email, using the contact information below. A report may also be made by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. The Title IX Coordinator will also accept, without comment or need for explanation, a sealed envelope addressed to "Title IX Coordinator." The envelope, at a minimum, needs only contain a piece of paper with the name and ~~room number or phone number~~ contact information of the individual wishing to make a report. Such a report may be made at any time (including during non-business hours) by using the telephone number, or email address, or by mailing to the office address listed for the Title IX Coordinator.

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2- Radford University's Title IX Coordinator's contact information is as follows:

Dr. Andrea Zuschin
Director of Institutional Equity and Title IX Coordinator
azuschin@radford.edu

Office of Institutional Equity
Radford University (Radford)
615 Fairfax Street
P.O. Box 6988
Radford, VA 24142
(540) 831-5307 (Main)

Radford University Carilion (Roanoke)
101 Elm Avenue, SE
Roanoke, VA 24013
(540) 224- ~~4640~~ 4644

3. **Mandatory Employee Reporting:** All employees, other than the confidential employees detailed in the definition of Responsible Employee in Section 3 ~~and in Section 4.E.~~ of this policy, who receive information regarding a ~~complaint or~~ report of discrimination, ~~sexual or harassment, sexual misconduct, or retaliation~~ must report any relevant information about the alleged incident to the Title IX

Coordinator without delay after addressing the needs of the victim. No Radford University employee shall undertake any independent efforts to determine whether or not the report ~~or complaint~~ has merit or can be substantiated before reporting it to the Title IX Coordinator. ~~The Radford University Police Department will follow departmental procedures.~~

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~~5. Radford University officials (excluding the Radford University Police Department and confidential resources) receiving reports of a possible sexual misconduct will follow the procedures set forth under this policy and the Discrimination Grievance Procedures (see Section 5). The Radford University Police Department will follow departmental procedures.~~

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4. Reports Made by Students: Students should report ~~possible discrimination or harassment violations of this policy~~ to the Title IX Coordinator. ~~Note:~~ Students are not restricted to reporting to student contacts and may report to anyone listed in this policy or any supervising staff or faculty member. Other than reports made to confidential sources in accordance with the definition of Responsible Employee in Section 3 ~~and in Section 4.E.~~ of this policy, reports must be forwarded to the Title IX Coordinator.

5. Reports Made by Visitors or Contractors: Visitors, including visiting students, and employees of contractors working on campus should report ~~possible discrimination or harassment violations of this policy~~ to the Title IX Coordinator.

6. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this policy and the Discrimination ~~and Harassment~~ Grievance Procedures (see Section 5). Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this policy and the Discrimination ~~and Harassment~~ Grievance Procedures is prohibited and subject to conduct charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy. This provision does not apply to reports made or information provided in good faith, even if the facts as alleged are not later substantiated by a preponderance of the evidence.

~~Reports of conduct in violation of the Discrimination and Harassment Policy should be made without undue delay after the incident after addressing the needs of the victim, and may be made orally or in writing, including online on the Office of Institutional Equity webpage to the Title IX Coordinator. The Title IX Coordinator also will accept, without comment or need for explanation, a sealed envelope addressed to "Title IX Coordinator." The envelope, at a minimum, need only contain a piece of paper with the name and room number or phone number of the individual wishing to make a report. Individuals also can report the incidents anonymously online through the SAVES office webpage.~~

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<http://www.radford.edu/content/saves/home/assault/sexual-misconduct.html>.
~~of~~

7. Individuals can also submit a report through the Confidential Reporting and Silent Witness ~~through link on~~ the Radford University Police Department webpage: <http://www.radford.edu/content/police/home/forms/witness.html> or by leaving an anonymous message with the Radford University Police Department at 540- 831-STOP (7867). As will be the case with all reports, however made, the Complainant reporting individual will be contacted promptly, ~~but in no case more than three calendar days from the date of the report,~~ for an ~~interview informational meeting~~ with the Title IX Coordinator ~~or designee~~.
8. Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of the Discrimination and Harassment Policy are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s), and any witness(es), promptly after an incident.
9. There is no time limit for filing a ~~complaint~~ report of discrimination or harassment. However, Complainants should report as soon as possible to maximize Radford University's ability to respond. Failure to report promptly could result in the loss of relevant evidence and impair Radford University's ability to adequately respond to the allegations.

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C.D. Criminal Reporting

If a victim is in immediate danger or needs immediate medical attention, contact 911, the Radford University Police Department (RUPD) at (540) 831-5500 (blue light emergency phones ~~on Radford University's main campus~~ connect directly to RUPD), ~~or, at Radford University Carilion, Carilion Clinic Police~~ at (540) 981-7911. Some conduct in violation of this policy may also be a crime under Virginia law. Individuals are encouraged to report incidents of ~~discrimination and harassment, sexual misconduct,~~ to law enforcement, even if the reporting individual is not certain if the conduct constitutes a crime. Radford University will provide assistance to victims in notifying law enforcement if the victim so chooses. Crimes dealing with minors must be reported to law enforcement.

D. E. Criminal Process Reporting and Coordination

~~The Title IX Coordinator or designee will make all complainants aware of the right also to file a complaint with the Radford University Police Department or local law enforcement, and will encourage accurate and prompt reporting when the complainant elects to report.~~ If a victim ~~of sexual assault, dating violence, domestic violence, or stalking~~ is physically or mentally incapacitated for at least ten (10) calendar days, and thereby unable to report the incident to law enforcement, the Title

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IX Coordinator will make such a report. Radford University will comply with all requests by the Radford University Police Department, **Carilion Clinic Police**, or local law enforcement for cooperation in investigations. Such cooperation may require the Title IX Coordinator ~~or designee~~ to temporarily suspend the fact-finding aspect of an ~~Title IX~~ investigation detailed in the procedures below while the Radford University Police Department, **Carilion Clinic Police**, or the local law enforcement agency gathers evidence. The Title IX Coordinator ~~or designee~~ will promptly resume ~~the its Title IX~~ investigation as soon as notified by the Radford University Police Department, **Carilion Clinic Police**, or local law enforcement agency that it has completed the evidence gathering process. Otherwise, the ~~Title IX~~ investigation will not be altered or precluded on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

E. F. Confidentiality, ~~Anonymity~~ and Requests Not to Pursue Title IX Investigation

1. Radford University will keep confidential the identity of any individual who has made a report, or who has filed a Formal Complaint, any Complainant, any Respondent, and any witness, except as may be permitted by the Family Education Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
2. Radford University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy ~~or another reporting party~~ wishes to keep a report confidential, it must be made to a licensed medical provider, ~~or~~ counselor ~~or individual under professional supervision of a licensed counselor, or professional sexual assault advocate, within Student Health Center, Student Counseling Services or the SAVES Office (for students)~~. These individuals will encourage victims to make a report to the Radford University Police Department, ~~the Carilion Clinic Police Department~~, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above ~~that who~~ are able to maintain confidentiality of reports. Other Radford University ~~responsible employees~~ ~~officials~~ receiving reports of conduct in violation of this policy are mandated reporters but will maintain privacy to every extent possible without compromising Radford University's ability to investigate and respond in accordance with applicable law and regulations. The Title IX Coordinator ~~or designee~~ may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator ~~or designee~~ to conduct a meaningful and fair investigation. If the Complainant requests confidentiality, or that an investigation not be conducted, Radford University may be limited in the actions it is able to take and its ability to respond while respecting the request. The Complainant will be asked to sign a statement stating a desire for confidentiality or that an investigation not be pursued and the Title IX Coordinator ~~or designee~~ will take all reasonable steps to respond to the ~~complaint report~~ consistent with the request.

3. Notwithstanding a Complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to local law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of ~~the Family Educational Rights and Privacy Act (FERPA)~~, 34 C.F.R. 99.36, and as detailed in the Sexual Violence Threat Assessment provisions, below.

F. ~~G.~~ Sexual Violence Threat Assessment

1. Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent, that is alleged to have occurred (i) against any students; or (ii) on campus, in or on a Radford University building or property, or on public property that is on campus or immediately adjacent to and accessible from campus, the Title IX Coordinator shall promptly inform a review committee of the report, including personally identifying information.
 - a. The review committee shall be comprised of, at a minimum, the Title IX Coordinator, a representative of law enforcement, and a student affairs representative. The review committee may consult other Radford University officials depending on whether the accused individual is a student, faculty, or staff member and the circumstances of the report. The review committee shall be advised by the Office of the Attorney General.
 - b. Within 72 hours of receipt of the report, ~~from the Title IX Coordinator~~, the review committee shall meet to review the information and shall continue to meet as necessary as new information becomes available. If the criteria in Paragraph a 1 are met, the review committee shall convene regardless of whether or not the victim has notified the Radford University Police Department, Carilion Clinic Police, or local law enforcement or whether or not the victim has requested that Radford University proceed with a Title IX investigation.
 - c. The review committee may obtain law enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records, and known facts and circumstances of the reported incident ~~of sexual harassment or sexual misconduct~~ and other evidence known to Radford University, including the Radford University Police Department, Carilion Clinic Police, and local law enforcement. The review committee shall be considered to be a threat assessment team established pursuant to Virginia Code § 23.1- 805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act, (Virginia Code § 2.2-3700 et seq.). The review committee shall comply with the Family Educational Rights and Privacy Act in conducting its review.

d. In addition to the available information detailed in Paragraph c 3, above, the review committee shall consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:

- i. Other sexual misconduct reports complaints about the same individual;
- ii. Prior arrests or reports of misconduct at another institution or a history of violent behavior;
- iii. Threats of further sexual misconduct against the reporting individual or others;
- iv. A history of failing to comply with a no-contact order issued by Radford University officials;
- v. Allegations of multiple perpetrators in the same incident;
- vi. Use of physical violence in the reported incident or a prior incident. Examples of physical violence include, but are not limited to, hitting, punching, slapping, kicking, restraining, or choking;
- vii. Reports or evidence of a pattern of perpetration, including a pattern of the accused individual using alcohol or drugs to facilitate sexual misconduct or harassment;
- viii. Use of a weapon in the reported incident or a prior incident; and
- ix. A victim under the age of 18 or who is significantly younger than the accused individual.

The review committee shall also consider whether means exist to obtain evidence other than investigation by law enforcement or the Office of Institutional Equity, a Title IX investigation such as security camera footage, eyewitness reports from security or guard personnel, or physical evidence.

e. If, based on a consideration of all factors, the review committee determines that there is a significant and articulable threat to the health or safety of one or more individuals and that disclosure of the information to local law enforcement, including personally identifying information, is necessary to protect the health and safety of one or more individuals, the law enforcement representative shall immediately disclose such information to the law enforcement agency that would be responsible for investigating the incident, for the purpose of investigation and other actions by law enforcement. If the review committee cannot reach a consensus, the law enforcement representative may make the threat determination. Upon any disclosure to law enforcement under this paragraph, the Title IX Coordinator or designee shall notify the victim that such disclosure is being made. The provisions of this paragraph shall not apply if the law enforcement agency responsible for investigating the alleged incident is located outside the United States.

f. If information is disclosed to law enforcement under Paragraph e 5 or if the

review committee determines that sufficient factors exist to proceed with a ~~Formal Investigation~~ ~~Title IX investigation~~, despite the stated desires of the victim for confidentiality or not to proceed with a ~~Formal Investigation~~ ~~an investigation~~, the Title IX Coordinator ~~or designee shall~~ ~~may~~ proceed with a ~~Formal Investigation~~ ~~full investigation~~ under these procedures. In those situations, the Title IX Coordinator ~~or designee~~ will notify the victim that Radford University is overriding the victim's request for confidentiality in order to meet ~~its Title IX~~ obligations, but, other than the disclosure under Paragraph ~~v 5~~, if made, the information will only be shared with individuals who are responsible for handling Radford University's response to incidents of sexual violence. Radford University will ensure that any information maintained by Radford University is maintained in a secure manner.

- g. If the reported incident would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, as determined by the law enforcement member or any other member of the review committee, the law enforcement member ~~or any other member of the review committee~~, shall inform other members of the review committee, and shall notify, ~~within 24~~ ~~hours~~, the attorney for the Commonwealth or other prosecutor responsible for prosecuting the incident and provide ~~the~~ information received without disclosing personally identifying information, unless such information was disclosed to a law enforcement agency pursuant to Paragraph ~~v 5~~.
- h. At the conclusion of the Sexual Violence Threat Assessment, the Title IX Coordinator and law enforcement member shall each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review committee's determination considerations, which shall be maintained under applicable state and federal law.
2. Notwithstanding a Complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act, 34 C.F.R. § 99.36, ~~and~~ as detailed in these ~~Sexual Violence Threat Assessment provisions of the Discrimination Grievance Procedures (see Section 5)~~. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation. If the Complainant requests confidentiality or that the ~~report~~ ~~complaint~~ not be pursued, Radford University may also be limited in the actions it is able to take and its ability to respond.
3. ~~Radford University is required by federal law to issue timely warnings for~~

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Commented [ZA22]: BOV – Moved from 5.F.

Commented [ZA23]: BOV-Moved from 4.E.

reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Radford University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

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E.—Confidentiality and Anonymous Reporting

Radford University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to make a confidential report, it must be made to physicians and licensed medical personnel at the Student Health Center, and licensed counselors at the Student Counseling Services and the Sexual Abuse and Violence Education Support Services (SAVES). These individuals will encourage victims to make a report to the Radford University Police Department, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above who are able to maintain confidentiality of reports. Other faculty and staff receiving reports of conduct in violation of this policy are mandated reporters, but will maintain privacy to every extent possible without compromising Radford University's ability to investigate and respond in accordance with applicable law and regulations.

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Notwithstanding a complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act, 34 C.F.R. § 99.36, as detailed in the Sexual Violence Threat Assessment provisions of the Discrimination Grievance Procedures (see Section 5). The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation. If the complainant requests confidentiality or that the complaint not be pursued, Radford University may also be limited in the actions it is able to take and its ability to respond.

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F.—Timely Warnings

Radford University is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Radford University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

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G. Sexual Misconduct Survivor/Victim Procedures and Services

1. Radford University will assist sexual misconduct survivors/victims in a supportive manner, implementing the procedures set out herein. Because of the potential seriousness and sensitivity of the investigations involved, it is important to undertake these investigations properly. Preserving the evidence is often a key step of successful investigation of alleged sexual misconduct.

2. Recommended procedure for anyone who has experienced sexual misconduct:
 - a. Go to a safe place.
 - b. For your safety and confidential care, report promptly to the Student Health Center or the nearest medical facility/emergency room. You may request a Sexual Assault Advocate if one is not provided. Physical evidence may be usable if proper procedures are followed for evidence collection within 96 hours of the assault.
 - c. Contact a trusted friend or family member. For professional and confidential counseling support in Radford, contact Student Counseling Services at (540) 831-5226, the Substance Abuse and Violence Education Support Services (SAVES) at (540) 831-5709, the Center for Assessment and Psychological Services (CAPS) at (540) 831-2471, or the Women's Resource Center of the New River Valley at (540) 639-9592. Among other services, the Women's Resource Center of the New River Valley offers survivors a 24-hour Hotline at (800) 788-1123 or TTY for Deaf and Hard of Hearing Individuals at (540) 639-2197, emergency shelter, crisis intervention, counseling, applicable referrals, and court advocacy. Radford University employees can also contact the Women's Resource Center of the New River Valley. In Roanoke, contact Sexual Assault Response and Awareness (SARA) at (540) 981-9352 at a 24-hour Hotline, or Student Counseling at (540) 985-8395.
 - d. Employees will be assisted with available options for changing parking, work and living arrangements.
 - e. It is your right to have evidence collected and retained anonymously by law enforcement while you consider whether to pursue criminal charges. Evidence preservation is enhanced in the following ways:
 - i. Do not wash your hands, bathe, or douche. Do not urinate, if possible.
 - ii. Do not eat, blow your nose, drink liquids, smoke, or brush your teeth if oral contact took place.
 - iii. Keep the clothing worn when the assault took place. If you change clothing, place the worn clothing in a paper bag (evidence deteriorates in plastic).
 - iv. Do not destroy any physical evidence that may be found in the vicinity of the assault by cleaning or straightening the location of the crime. The victim should not clean or straighten the location of the crime until law enforcement officials have had an opportunity to collect evidence.
 - v. Tell someone all the details you remember or write them down as soon as possible.

Commented [ZA28]: BOV-Remove from policy and place information on website, which will allow for easier revisions when necessary.

vi. Maintain text messages, pictures, online postings, video and other documentary or electronic evidence that may corroborate a complaint.

3. There is no time limit for filing a complaint of sexual misconduct. However, complainants should report as soon as possible to maximize Radford University's ability to respond. Failure to report promptly could result in the loss of relevant evidence and impair Radford University's ability to adequately respond to the allegations.

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4. The Complainant victim shall have the right to file a complaint with law enforcement and the option to be assisted by the Title IX Coordinator and other Radford University authorities in notifying the proper law enforcement authorities of the alleged sexual misconduct.

Commented [ZA30]: BOV-Revised, included in Section 5.B.

5. Radford University officials (excluding the Radford University Police Department, and confidential resources) receiving reports of possible sexual misconduct will follow the procedures set forth under this policy and the Discrimination Grievance Procedures (see Section 5). The Radford University Police Department will follow departmental procedures.

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6. Resources for Victims of Sexual Misconduct:

a. Any student or visiting student who reports sexual misconduct to the Title IX Coordinator, the Substance Abuse and Violence Educational Support Services (SAVES), Student Health Center, and Student Counseling Services will receive an information pamphlet(s) outlining resources and options. Radford University Police Department protocol includes coordination with the Women's Resource Center.

b. The Title IX Coordinator or designee shall advise victims of resources available with the Women's Resource Center and SARA and encourage use of these resources. Any individual who is reported to be the victim of sexual misconduct shall receive from the Title IX Coordinator or designee information on contacting the Women's Resource Center and services available through the Women's Resource Center's memorandum of understanding with Radford University.

Commented [ZA32]: BOV-Relocating resources to the website.

c. Students and visiting students Victims (Complainants) will be assisted with available options for changing academic, transportation, parking, work and living arrangements after alleged sexual misconduct. Safety arrangements such as no-contact orders and escorts are also available supportive measures as needed.

Commented [ZA33]: BOV-This is redundant with supportive measures.

G.H. Title IX Coordinator Oversight

The Title IX Coordinator oversees the investigation and resolution of all reports by students, visiting students, and faculty and staff of alleged discrimination, sexual harassment or sexual misconduct in accordance with the Discrimination Grievance

~~Procedures (see Section 5).~~

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1. The Title IX Coordinator is responsible for overseeing all reports ~~complaints~~ of discrimination and ~~sexual~~ harassment and identifying and addressing any pattern or systemic problems that arise during the review of such reports ~~complaints~~.
2. The Title IX Coordinator oversees the investigation and resolution of all reports by students, visiting students, and faculty and staff of alleged discrimination and harassment, ~~sexual harassment or sexual misconduct~~ in accordance with the Discrimination and Harassment Grievance Procedures.
3. The Title IX Coordinator also coordinates a training and awareness program on discrimination, and harassment, ~~sexual misconduct, and retaliation~~ for students and employees.
4. The Title IX Coordinator may name a designee as needed.
5. The Title IX Coordinator and the Office of Institutional Equity staff do not serve as an advocate for either the Complainant or the Respondent.
6. Reports of discrimination and harassment by the Title IX Coordinator should be made to the President.

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H.I. Interim Supportive Measures

1. ~~Radford University may take interim~~ The Title IX Coordinator is responsible for coordinating effective implementation of supportive measures, as necessary to assist or protect the Complainant or Respondent. ~~during the investigation and resolution of complaints of discrimination and any law enforcement investigation.~~

~~Radford University must also address the safety of the Complainant or any member of the campus community and avoid retaliation. If, in the judgment of the Title IX Coordinator or other Radford University leadership, the safety and well-being of any member of the campus community may be jeopardized by the presence on campus of the accused individual, the Title IX Coordinator may provide remedies to address the short-term effects of harassment, and/or retaliation, and to prevent further violations.~~

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2. To the extent possible, Radford University will seek the consent of the Complainant before offering supportive ~~taking interim~~ measures to the greatest degree possible.

~~Interim measures may include, but are not necessarily limited to, extensions of deadlines or other course-related adjustments, changes in classroom or work schedules or housing arrangements, no contact orders, bans from campus, safety escorts on campus, referral and coordination of counseling and health services, and modification of work or academic requirements.~~

Commented [ZA40]: BOV –combined with “supportive measures” definition

3. Radford University may remove a Respondent from an educational program or activity on an emergency basis, provided that the University undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, discrimination, or harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. Radford University may temporarily reassign or place on administrative leave any employee alleged to have violated this policy, pending investigation. Leave will be administered in accordance with appropriate employment policies. ~~In such a situation, the employee will be given the opportunity to meet with the Title IX Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to demonstrate why the action should not be implemented.~~
4. Radford University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

J. Sanctions

~~If it is determined that conduct in violation of this policy has occurred, sanctions will be determined in accordance with the Discrimination Grievance Procedures (see Section 5). Consequences for violating this policy will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, and any history of past conduct in violation of this policy. Sanctions may include penalties up to and including dismissal for students and termination for employees. In addition to sanctions that may be imposed on an individual found in violation of this policy, Radford University will take steps to prevent recurrence of any sexual misconduct, including sexual assault and sexual violence, and to remedy discriminatory effects on the complainant and others, if appropriate.~~

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I.K. Student Disciplinary Immunity Amnesty

Ensuring the safety of ~~individuals~~ ~~students~~ who report violations of this policy is Radford University's primary concern. In compliance with Virginia Code §23.1-808, and in order to facilitate reporting, Radford University will, ~~with the following limited exceptions,~~ provide ~~amnesty~~ disciplinary immunity to a person ~~a student~~ who reports to any individual employed by the institution that an act of sexual violence, or any other incident violating this policy, which occurred on campus, in or on a non-campus building or property, or on public property as such terms are defined in Virginia Code § 23.1-806. Disciplinary immunity means that, if the institution determines, as a result of any investigation relating to such alleged act of sexual violence or other violation of this policy, the reporting individual committed a separate, unrelated, nonviolent act that violates the Radford University Standards of Student Conduct, that person is immune from disciplinary action for such violation. ~~in violation of this policy, directed toward~~

that student or another student, for minor disciplinary infractions, such as underage drinking, at the time of the incident. Amnesty may not be offered if (1) the minor disciplinary infraction places or placed the health or safety of any other person at risk or (2) the student who committed the disciplinary infraction previously has been found to have committed the same disciplinary infraction. If amnesty is provided, no conduct proceedings or conduct record will result for minor disciplinary infractions. Amnesty for minor disciplinary infractions Disciplinary immunity may also may be offered to individuals students who intervene to help others before a violation of this policy occurs and to individuals for students who receive assistance or intervention. Abuse of amnesty requests may result in a decision by the Office of the Dean of Students not to extend amnesty to the same student repeatedly. The Office of Student Standards and Conduct and the Office of the Dean of Students shall maintain records regarding the provision of amnesty for at least seven (7) years. Infractions that constitute offenses shall not be considered minor policy violations for which amnesty may be offered under this provision.

L. Education and Awareness

1. For more information about sexual misconduct and resources available in the local community, please visit the Women’s Resource Center of the New River Valley website at: www.wrcnrnv.org and the SARA website at: <https://sararoanoke.org/>

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2. The Title IX Coordinator coordinates an education, training and awareness program on discrimination, sexual harassment, and sexual misconduct for students and employees, including training on primary prevention, risk reduction, consent and other pertinent topics. The Office of Substance Abuse and Violence Education Support Services (SAVES) provides programming on sexual misconduct issues, resources available on campus in the community, bystander intervention, and coordinates intervention programs.

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M. Academic Freedom and Free Speech

This policy does not allow curtailment or censorship of constitutionally protected expression, which is valued in higher education and by Radford University. In addressing all complaints and reports of alleged violations of this policy, Radford University will take all permissible actions to ensure the safety of students and employees while complying with any and all applicable guidance regarding free speech rights of students and employees. This policy does not in any way apply to curriculum and curriculum decisions or abridge the use of particular textbooks or curricular materials.

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5. PROCEDURES (DISCRIMINATION AND HARASSMENT GRIEVANCE PROCEDURES)

A. Purpose

These procedures provide a prompt and equitable resolution for ~~complaints or~~ reports of discrimination and harassment based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law, including ~~complaints alleging sexual harassment or sexual misconduct~~ prohibited by the Radford University ~~policy on~~ Discrimination, and Harassment Policy, ~~Sexual Misconduct, and Retaliation ("Discrimination Policy")~~. Any person who believes he or she has been subjected to discrimination or harassment on any of these bases may file a ~~report~~ ~~complaint~~ with Radford University as outlined in these procedures.

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These procedures also address 1) any ~~complaints or~~ reports of retaliation against individuals who have filed ~~complaints or~~ reports of discrimination and harassment, who have opposed discriminatory practices, and those who have testified or otherwise participated in investigations or proceedings arising from ~~complaints or~~ reports of discrimination and harassment; and 2) reports of violation of the Radford University Free Expression Policy. Questions regarding discrimination and harassment prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-4640 4644 (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

B. Complaints and Reporting

~~Complaints and reports of discrimination, sexual harassment, and sexual misconduct should be made to Radford University's Title IX Coordinator. The Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual harassment, or sexual misconduct and is trained to help individuals who file complaints find resources, to investigate reported incidents, and to respond appropriately to conduct alleged to be in violation of the Discrimination Policy. Individuals receiving reports or complaints of discrimination, sexual harassment, or sexual misconduct should immediately notify the Title IX Coordinator after addressing the immediate needs of the victim, and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator.~~

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The Radford University Title IX Coordinator's contact information is listed below:

Title IX Coordinator
Office of Institutional Equity

Radford University (Radford)
615 Fairfax Street
P.O. Box 6988
Radford, VA 24142
(540) 831-5307 (Main)

Radford University Carilion (Roanoke)
101 Elm Avenue, SE
Roanoke, VA 24013
(540) 224-4640

Reports of conduct in violation of the Discrimination Policy should be made without undue delay after the incident after addressing the needs of the victim, and may be made orally or in writing, including online on the Office of Institutional Equity webpage to the Title IX Coordinator. The Title IX Coordinator also will accept, without comment or need for explanation, a sealed envelope addressed to "Title IX Coordinator." The envelope, at a minimum, need only contain a piece of paper with the name and room number or phone number of the individual wishing to make a report. Individuals also can report the incidents anonymously online through the SAVES office webpage:

http://www.radford.edu/content/saves/home/assault/sexual_misconduct.html

or Confidential Reporting and Silent Witness through the Radford University Police Department webpage:

<http://www.radford.edu/content/police/home/forms/witness.html>

or by leaving an anonymous message with the Radford University Police Department at 540-831-STOP (7867). As will be the case with all reports, however made, the reporting individual will be contacted promptly, but in no case more than three calendar days from the date of the report, for an interview with the Title IX Coordinator or designee.

Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of the Discrimination Policy are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s), and any witness(es), promptly after an incident.

-B.C. The Role of the Title IX Coordinator

The Title IX Coordinator is charged with coordinating Radford University's compliance with federal civil rights laws. The Title IX Coordinator and the Office of Institutional Equity staff do not serve as an advocate for either the complainant or the respondent. The Title IX Coordinator will explain to all identified parties the procedures outlined below, including confidentiality. As appropriate, the Title IX Coordinator or designee will provide all identified parties with information about obtaining medical and counseling services, making a criminal report, information about receiving advocacy services including those offered by the Office of Substance Abuse and Violence Education Support Services (SAVES) or the Women's Resource Center of the New River Valley in Radford, Sexual Assault Response and Awareness (SARA) in Roanoke, and guidance on other Radford University and community resources. The Title IX Coordinator or designee will offer to coordinate with other Radford University

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Commented [50]: BOV-Moved to Section 4.B.8.

Commented [MM51R50]: Section 4.B.viii only has info on reporting options for RUPD. It doesn't have info on OIE's online form or SAVES reporting. Should those be added?

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leadership, when appropriate, to implement interim measures as described below. The Title IX Coordinator or designee will explain to all involved parties the process of a prompt, adequate, reliable, and impartial investigation, including the opportunity for both the complainant and respondent to identify witnesses and provide other evidence.

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The Title IX Coordinator or designee will explain to all identified parties the Complainant the right to have a personal advisor present and to review and respond to the allegations and evidence. The Title IX Coordinator or designee will also explain to the parties and witnesses that retaliation for reporting alleged discrimination, sexual harassment or sexual misconduct, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be reported immediately and will be promptly addressed.

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B. ~~D~~. Written Explanation of Rights and Options

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- i. When ~~a student or employee~~ the Title IX Coordinator receives a reports that ~~he or she has~~ a Complainant has been a victim of discrimination or harassment, ~~dating violence, domestic violence, sexual assault, sexual exploitation, or stalking, whether the offense occurred on or off campus,~~ the Title IX Coordinator will promptly contact the Complainant ~~student or employee~~ to ~~will be share~~ and provided a written explanation of rights and options, which shall include:
 - a. Notification of resources, including information on contacting the local sexual assault crisis center or other victim support service, ~~existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims~~ both within Radford University and in the local community.
 - b. Options for, available assistance in, and how to request ~~changes to academic, living, transportation, and working situations or protective supportive~~ measures, regardless of whether the Complainant ~~victim~~ chooses to report the crime to ~~the Radford University Police Department, Carilion Clinic Police, or local~~ law enforcement, or file a Formal Complaint.
 - c. The procedures for Title IX, including filing a Formal Complaint, Formal Investigation ~~investigation~~, and Informal Resolution procedures, dismissal of cases, adjudication, appeals, and disciplinary sanctions and remedies. ~~including the~~

Three factors determine the category of the case and, thus, the route by which the case is adjudicated. The determining factors are 1) whether the alleged incident is considered "sexual harassment," 2) the location where the alleged incident occurred, and 3) the Respondent's affiliation with Radford University (e.g., student, employee). Parties to a case will be

notified simultaneously of the category in which their case falls. The categories are “Title IX Case,” “Student Conduct Referral Case,” and “Non-Title IX/Non-Student Case.” Parties to a case will be informed of the proper category for their case and will be informed if the category changes as investigators learn more information. Cases will be identified and adjudicated as follows.

- (i) The case will be categorized as a “Title IX Case” and will be referred to a Decision Maker for a live hearing, with a document review as appeal, if
 - (a) The allegation is sexual harassment, and
 - (b) The incident(s) alleged occurred either on campus, off campus as part of Radford University’s education program or activity, or at an off-campus location controlled by a recognized student organization.Refer to “Title IX Case Process” in Section 5.C.9.c.viii. and Appeal Document Review in Section 5.E.4. below.

- (ii) The case will be categorized as a “Student Conduct Referral Case” and will be dismissed as a Title IX Case. However, the Title IX Coordinator will continue the fact-finding process and will refer the case for adjudication to the Office of Student Standards and Conduct, with appeal through that same process, if
 - (a) The Respondent is a student, and
 - (b) The allegation does not fall within the definition of sexual harassment, or
 - (c) The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on campus, nor within Radford University’s education program or activity, nor at an off-campus location controlled by a recognized student organization.Refer to “Student Conduct Referral Case” in Section 5.C.9.c.vi. below.

- (iii) The case will be categorized as a “Non-Title IX/Non-Student Case” and will continue to be processed in the Office of Institutional Equity, with a live appeal option, if
 - (a) The Respondent is a Radford University employee or non-student, and
 - (b) The allegation is violation of this Policy that does not fall within the definitions of sexual harassment, or
 - (c) The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on campus, nor within Radford University’s education program or activity, nor at an off-campus location controlled by a recognized student organization.

Refer to “Non-Title IX/Non-Student Case” in Section 5.C.9.c.vii. and Appeal Hearing in Section 5.E.3. below.

- d. The right to bring a trusted advisor of their choice with them to the meetings with the Office of Institutional Equity. The advisor may be, but is not required to be, an attorney. The role of such advisors shall be limited to advise and consult, except during a live hearing with a Decision Maker. During a live hearing with a Decision Maker, the advisor’s role is also to conduct cross-examination on behalf of the party. Other than a live hearing with a Decision Maker, neither the advisor for the Complainant nor the advisor for the Respondent shall be permitted to question parties or witnesses, raise objections or make statements or arguments at any meetings or proceedings during an investigation or any appeals hearing.
- e. Procedures Complainants victims should follow if a crime of dating violence, domestic violence, sexual assault, sexual exploitation, or stalking has occurred, including written information about:
 - i. The importance of seeking medical attention and of the collection and preservation of evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order;
 - ii. How and to whom the alleged offense should be reported;
 - iii. Options about the involvement of local law enforcement, and the Radford University Police Department, and Carilion Clinic Police, including the Complainant’s victim’s option to:
 - (a) Notify proper law enforcement authorities, including local law enforcement, the Radford University Police Department, and/or the Carilion Clinic Police;
 - (b) Have assistance with Be assisted by Radford University staff in notifying law enforcement authorities, if the Complainant victim so chooses; and
 - (c) Decline to notify such authorities.

~~(4) The rights of victims and Radford University’s responsibilities regarding no contact orders, residential relocation, eviction orders or other orders.~~
- f. The Respondent is presumed not responsible for the alleged conduct until the determination at the end of the grievance process.
- g. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this policy and the Discrimination and Harassment Grievance Procedures. Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this policy and the Discrimination Harassment Grievance Procedures is prohibited and subject to conduct

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charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy.

- h. If an incident contains any actions or allegations that are a violation of the Radford University Standards of Student Conduct, and that do not fall within the scope of this Policy, then the portion of the case where the Standards of Student Conduct applies may be referred to that office for adjudication and resolution.
- i. If, in the course of an investigation, the Title IX Coordinator decides to investigate allegations about the Complainant or Respondent that were not included in the notice provided to the parties, if known, then the Title IX Coordinator will provide notice of the additional allegation(s) to the parties whose identities are known.
- j. Both parties may inspect and review evidence relevant to the Formal Investigation and/or Informal Resolution.
- k. The Complainant's ~~victim's~~ right to decline to participate in a Title IX investigation ~~by the victim~~ and the Title IX Coordinator's ability to pursue a Formal Complaint and Formal Investigation.
 - (i) The Title IX Coordinator has discretion to sign a Formal Complaint and initiate an investigation under the following conditions:
 - (a) The Title IX Coordinator has received multiple reports of potential sexual harassment, harassment, or discrimination against the same Respondent,
 - (b) The Title IX Coordinator determines that circumstances surrounding an allegation (e.g., violence, use of weapons, threats, serial predation) warrant an investigation.Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the investigation.
 - (ii) The Title IX Coordinator may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation, hearing, or resolution the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled in or employed by Radford University; or specific circumstances prevent the Office of Institutional Equity from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. The dismissal of a Formal Complaint may be appealed (see Section 5.E.4.).
 - (iii) The University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or

location of the alleged incident, if known. The notice will also provide contact information for the Title IX Coordinator and a date by which the Respondent must contact the Title IX Coordinator, so the Respondent may receive additional information.

- b. Notification of resources, both within Radford University and in the local community.
- c. The procedures for Title IX, including filing a Formal Complaint, Formal Investigation, and Informal Resolution procedures, dismissal of cases, adjudication, appeals, and disciplinary sanctions and remedies.

Three factors determine the category of the case and, thus, the route by which the case is adjudicated. The determining factors are 1) whether the alleged incident is considered “sexual harassment,” 2) the location where the alleged incident occurred, and 3) the Respondent’s affiliation with Radford University (e.g., student, employee). Parties to a case will be notified simultaneously of the category in which their case falls. The categories are “Title IX Case,” “Student Conduct Referral Case,” and “Non-Title IX/Non-Student Case.” Parties to a case will be informed of the proper category for their case and will be informed if the category changes as investigators learn information. Cases will be identified and adjudicated as follows.

- (i) The case will be categorized as a “Title IX Case” and will be referred to a Decision Maker for a live hearing, with a document review as appeal, if
 - (a) The allegation is sexual harassment, and
 - (b) The incident(s) alleged occurred either on campus, off campus as part of Radford University’s education program or activity, or at an off-campus location controlled by a recognized student organization.Refer to “Title IX Case Process” in Section 5.C.9.c.viii. and Appeal Document Review in Section 5.E.4. below.
- (ii) The case will be categorized as a “Student Conduct Referral Case” and will be dismissed as a Title IX Case. However, the Title IX Coordinator will continue the fact-finding process and will refer the case for adjudication to the Office of Student Standards and Conduct, with appeal through that same process, if
 - (a) The Respondent is a student, and
 - (b) The allegation does not fall within the definition of sexual harassment, or
 - (c) The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on

campus, nor within Radford University's education program or activity, nor at an off-campus location controlled by a recognized student organization.

Refer to "Student Conduct Referral Case" in Section 5.C.9.c.vi. below.

- (iii) The case will be categorized as a "Non-Title IX/Non-Student Case" and will continue to be processed in the Office of Institutional Equity, with a live appeal option, if
 - (a) The Respondent is a Radford University employee or non-student, and
 - (b) The allegation is violation of this Policy that does not fall within the definitions of sexual harassment, or
 - (c) The alleged incident falls within the definition of sexual harassment; however, the alleged incident occurred neither on campus, nor within Radford University's education program or activity, nor at an off-campus location controlled by a recognized student organization.

Refer to "Non-Title IX/Non-Student Case" in Section 5.C.9.c.vii. and Appeal Hearing in Section 5.E.3. below.

- d. The right to bring a trusted advisor of their choice with them to the meetings with the Office of Institutional Equity. The advisor may be, but is not required to be, an attorney. The role of such advisors shall be limited to advise and consult, except during a live hearing with a Decision Maker. During a live hearing with a Decision Maker, the advisor's role is also to conduct cross-examination on behalf of the party. Other than a live hearing with a Decision Maker, neither the advisor for the Complainant nor the advisor for the Respondent shall be permitted to question parties or witnesses, raise objections or make statements or arguments at any meetings or proceedings during an investigation or any appeals hearing.
- e. The Respondent is presumed not responsible for the alleged conduct until the determination at the end of the grievance process.
- f. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this policy and the Discrimination and Harassment Grievance Procedures (see Section 5). Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this policy and the Discrimination and Harassment Grievance Procedures is prohibited and subject to conduct charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy.
- g. If an incident contains any actions or allegations that are a violation of the

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Radford University Standards of Student Conduct, and that do not fall within the scope of this Policy, then the portion of the case where the Standards of Student Conduct applies may be referred to that office for adjudication and resolution.

- h. If, in the course of an investigation, the Title IX Coordinator decides to investigate allegations about the Complainant or Respondent that were not included in the notice provided to the parties, if known, then the Title IX Coordinator will provide notice of the additional allegation(s) to the parties whose identities are known.
- i. Both parties may inspect and review evidence relevant to the Formal Investigation and/or Informal Resolution.
- j. The Complainant's right to decline to participate in a Title IX investigation and the Title IX Coordinator's ability to pursue a Formal Complaint and Formal Investigation.
 - (i) The Title IX Coordinator has discretion to sign a Formal Complaint and initiate an investigation under the following conditions:
 - (a) The Title IX Coordinator has received multiple reports of potential sexual harassment, harassment, or discrimination against the same Respondent.
 - (b) The Title IX Coordinator determines that circumstances surrounding an allegation (e.g., violence, use of weapons, threats, serial predation) warrant an investigation.Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the investigation.
 - (ii) The Title IX Coordinator may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation, hearing, or resolution the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; the Respondent is no longer enrolled in or employed by Radford University; or specific circumstances prevent the Office of Institutional Equity from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. The dismissal of a Formal Complaint may be appealed (see Section 5.E.iv.).
 - (iii) The University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of sexual harassment discrimination

or other discrimination or harassment. The University may not require the parties to participate in an Informal Resolution process and may not offer an Informal Resolution unless a Formal Complaint is filed.

- k. Information about how Radford University will protect the confidentiality of ~~Complainants victims~~ and other parties, including how Radford University will:
 - (i) Complete publicly available recordkeeping, including reporting and disclosures required by the Clery Act, without the inclusion of personally identifying information about the ~~Complainant victim~~;
 - (ii) Maintain as confidential, any ~~accommodations or protective supportive~~ measures provided to the ~~Complainant victim~~, to the extent that maintaining such confidentiality would not impair the ability of Radford University to provide the ~~accommodations or protective supportive~~ measures; and
 - (iii) Ensure confidentiality of investigative files as education records protected by ~~the Family Educational Rights and Privacy Act (FERPA)~~, including that the process for the Sexual Violence Threat Assessment in accordance with Virginia Code § 23.1-806 could, if the incident poses to members of the Radford University community a health or safety emergency, as defined by the FERPA regulations, lead to disclosure of personally identifying information to the law enforcement agency that would be responsible for investigating the incident and other appropriate parties whose knowledge of the information is necessary to protect the health and safety of the ~~Complainant victim~~ or other individuals.
 - l. Any incidents of retaliation as defined in Section 3 should be reported to the Office of Institutional Equity without delay.
3. Witnesses will be informed of resources on campus and in the community; the investigation and resolution process, including how to file a Formal Complaint; and how their information will be used in any report. As with all members of the Radford University community, witnesses are expected to provide truthful information in any report or proceeding under this policy and the Discrimination and Harassment Grievance Procedures.

~~E.—Criminal Reporting and Coordination~~

~~The Title IX Coordinator or designee will make all complainants aware of the right also to file a complaint with the Radford University Police Department or local law~~

enforcement, and will encourage accurate and prompt reporting when the complainant elects to report. If a victim of sexual assault, dating violence, domestic violence, or stalking is physically or mentally incapacitated for at least 10 calendar days, and thereby unable to report the incident to law enforcement, the Title IX Coordinator will make such a report. Radford University will comply with all requests by the Radford University Police Department or local law enforcement for cooperation in investigations. Such cooperation may require the Title IX Coordinator or designee to temporarily suspend the fact-finding aspect of a Title IX investigation detailed in the procedures below while the Radford University Police Department or the local law enforcement agency gathers evidence. The Title IX Coordinator will promptly resume its Title IX investigation as soon as notified by the Radford University Police Department or local law enforcement agency that it has completed the evidence gathering process. Otherwise, the Title IX investigation will not be altered or precluded on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

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F. Confidentiality, Anonymity and Requests Not to Pursue Title IX Investigation

Radford University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to keep a report confidential, it must be made to a licensed medical provider, or counselor within Student Health Center, Student Counseling Services or the SAVES Office (for students). These individuals will encourage victims to make a report to the Radford University Police Department, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above that are able to maintain confidentiality of reports. Other Radford University officials receiving reports of conduct in violation of this policy are mandated reporters but will maintain privacy to every extent possible without compromising Radford University's ability to investigate and respond in accordance with applicable law and regulations. The Title IX Coordinator or designee may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator or designee to conduct a meaningful and fair investigation. If the Complainant requests confidentiality or that an investigation not be conducted, Radford University may be limited in the actions it is able to take and its ability to respond while respecting the request. The complainant will be asked to sign a statement stating a desire for confidentiality or that an investigation not be pursued and the Title IX Coordinator or designee will take all reasonable steps to respond to the complaint consistent with the request.

Notwithstanding a complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to local law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. § 99.36, and as detailed in the Sexual Violence Threat Assessment

provisions, below.

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G. Sexual Violence Threat Assessment

1. Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent, that is alleged to have occurred (i) against any students; or (ii) on campus, in or on a Radford University building or property, or on public property that is on campus or immediately adjacent to and accessible from campus, the Title IX Coordinator shall promptly inform a review committee of the report, including personally identifying information. The review committee shall be comprised of, at a minimum, the Title IX Coordinator, a representative of Law Enforcement, and a student affairs representative. The review committee may consult other Radford University officials depending on whether the accused individual is a student, faculty, or staff member and the circumstances of the report. The review committee shall be advised by the Office of the Attorney General.
2. Within 72 hours of receipt of the report from the Title IX Coordinator, the review committee shall meet to review the information and shall continue to meet as necessary as new information becomes available. If the criteria in Paragraph 1 are met, the review committee shall convene regardless of whether or not the victim has notified the Radford University Police Department, Carilion Clinic Police, or local law enforcement or whether or not the victim has requested that Radford University proceed with a Title IX investigation.
3. The review committee may obtain law enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records, and known facts and circumstances of the reported incident of sexual harassment or sexual misconduct and other evidence known to Radford University, including the Radford University Police Department, Carilion Clinic Police, and local law enforcement. The review committee shall be considered to be a threat assessment team established pursuant to Virginia Code § 23.1-805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act, (Virginia Code § 2.2-3700 et seq.). The review committee shall comply with the Family Educational Rights and Privacy Act in conducting its review.
4. In addition to the available information detailed in Paragraph 3, above, the review committee shall consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:
 - a. Other sexual misconduct complaints about the same individual;
 - b. Prior arrests or reports of misconduct at another institution or a history

- of violent behavior;
- c. Threats of further sexual misconduct against the reporting individual or others;
- d. A history of failing to comply with a no-contact order issued by Radford University officials;
- e. Allegations of multiple perpetrators in the same incident;
- f. Use of physical violence in the reported incident or a prior incident. Examples of physical violence include, but are not limited to, hitting, punching, slapping, kicking, restraining, or choking;
- g. Reports or evidence of a pattern of perpetration, including a pattern of the accused individual using alcohol or drugs to facilitate sexual misconduct or harassment;
- h. Use of a weapon in the reported incident or a prior incident;
- i. A victim under the age of 18 or who is significantly younger than the accused individual.

The review committee shall also consider whether means exist to obtain evidence other than investigation by law enforcement or a Title IX investigation such as security camera footage, eyewitness reports from security or guard personnel, or physical evidence.

5. If, based on a consideration of all factors, the review committee determines that there is a significant and articulable threat to the health or safety of one or more individuals and that disclosure of the information to local law enforcement, including personally identifying information, is necessary to protect the health and safety of one or more individuals, the law enforcement representative shall immediately disclose such information to the law enforcement agency that would be responsible for investigating the incident, for the purpose of investigation and other actions by law enforcement. If the review committee cannot reach a consensus, the law enforcement representative may make the threat determination. Upon any disclosure to law enforcement under this paragraph, the Title IX Coordinator or designee shall notify the victim that such disclosure is being made. The provisions of this paragraph shall not apply if the law enforcement agency responsible for investigating the alleged incident is located outside the United States.
6. If information is disclosed to law enforcement under Paragraph 5 or if the review committee determines that sufficient factors exist to proceed with a Title IX investigation, despite the stated desires of the victim for confidentiality or not to proceed with an investigation, the Title IX Coordinator or designee shall proceed with a full investigation under these procedures. In those situations, the Title IX Coordinator or designee will notify the victim that Radford University is overriding the victim's request for confidentiality in order to meet Title IX obligations, but, other than the disclosure under Paragraph 5, if made, the information will only be shared with individuals who are responsible for handling

Radford University's response to incidents of sexual violence. Radford University will ensure that any information maintained by Radford University is maintained in a secure manner.

7. If the reported incident would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, as determined by the law enforcement member or any other member of the review committee, the law enforcement member shall inform other members of the review committee and shall notify the attorney for the Commonwealth or other prosecutor responsible for prosecuting the incident and provide information received without disclosing personally identifying information, unless such information was disclosed to a law enforcement agency pursuant to Paragraph 5.

8. At the conclusion of the Sexual Violence Threat Assessment, the Title IX Coordinator and law enforcement member shall each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review committee's determination considerations, which shall be maintained under applicable state and federal law.

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H. Interim Measures

Radford University may take interim measures, as necessary to assist or protect the complainant during the investigation and resolution of complaints of discrimination and any law enforcement investigation. Radford University must also address the safety of the complainant or any member of the campus community, and to avoid retaliation. If, in the judgment of the Title IX Coordinator or other Radford University leadership, the safety and well being of any member of the campus community may be jeopardized by the presence on campus of the accused individual, the Title IX Coordinator may provide remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further violations. To the extent possible, Radford University will seek the consent of the complainant before taking interim measures to the greatest degree possible. Interim measures may include, but are not necessarily limited to, changes in classroom or work schedules or housing arrangements, no-contact orders, bans from campus, safety escorts on campus, referral and coordination of counseling and health services, and modification of work or academic requirements. Radford University may temporarily reassign or place on administrative leave an employee alleged to have violated this policy. In such a situation, the employee will be given the opportunity to meet with the Title IX Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to demonstrate why the action should not be implemented.

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I. Timely Warnings

Radford University is required by federal law to issue timely warnings for reported

incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Radford University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

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J. ~~Coordination with the Office of the Dean of Students and the Department of Human Resources~~

Radford University's Title IX Coordinator is responsible for overseeing all complaints of discrimination and identifying and addressing any pattern or systemic problems that arise during the review of such complaints.

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Any member of the Office of the Dean of Students, the Office of Student Standards and Conduct, or the Department of Human Resources receiving a report of alleged discrimination or harassment, sexual harassment, or sexual misconduct shall report it without delay to the Title IX Coordinator. No member of the Office of the Dean of Students, the Office of Student Standards and Conduct or the Department of Human Resources shall undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator. The Title IX Coordinator's Office shall conduct all investigations of allegations of sexual misconduct harassment, discrimination, and harassment in accordance with the procedures below. At the conclusion of the investigation, the Title IX Coordinator shall recommend a sanction, if any, to the Director of the Office of Student Standards and Conduct or the Department of Human Resources, as appropriate.

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C. ~~K.~~ Investigation and Resolution

1. After being informed of their Written Explanation of Rights and Options, a Complainant may choose to file a Formal Complaint. The Complainant will be asked to indicate what allegation(s) they want to pursue and which route of resolution they wish to take. There are two possible methods for investigation and resolution of a Formal Complaint ~~complaint~~ alleging violations of the Discrimination and Harassment Policy: Informal Resolution and Formal Investigation.
2. In all cases, Radford University will ensure that the Title IX Coordinator, investigators, Decision Maker, or any person designated to facilitate any process, not have a ~~there is no~~ conflict of interest or bias for or against complainants or respondents generally, or an individual Complainant or Respondent, in the investigation and resolution of reports ~~complaints~~ and will strive to avoid the appearance of conflict of interest.
3. In all investigations and resolutions, there is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding

responsibility is made at the conclusion of the grievance process. All relevant evidence, both inculpatory and exculpatory, will be objectively evaluated, and determinations of credibility may not be based on a person's status as a Complainant, Respondent, or Witness. In neither the Formal Investigation nor the Informal Resolution may Radford University require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

4. Radford University will treat Complainants and Respondents equitably by offering supportive measures to a Complainant, by providing remedies to a Complainant where a determination of responsibility for sexual harassment, discrimination, or harassment has been made against the Respondent, and by following the grievance process before imposing disciplinary sanctions or other actions that are not supportive measures against a Respondent.
5. Parties will be provided an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Parties will not be restricted from their ability to discuss the allegations under investigation or to gather and present relevant evidence. Parties will be provided with the same opportunities to have others present during any meeting or grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding. The role of such advisors shall be limited to advise and consult, except during a live hearing with a Decision Maker. During a live hearing with a Decision Maker, the advisor's role is also to conduct cross-examination on behalf of the party. Other than a live hearing with a Decision Maker, neither the advisor for the Complainant nor the advisor for the Respondent shall be permitted to question parties or witnesses, raise objections or make statements or arguments at any meetings or proceedings during an investigation or any appeals hearing. All hearings will be closed to the public.
6. The Title IX Coordinator will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
7. The Title IX Coordinator must investigate the allegations in a Formal Complaint; however, the Title IX Coordinator may also dismiss a Formal Complaint if the conduct alleged in the Formal Complaint 1) would not constitute sexual harassment, discrimination, or harassment, even if proved; 2) did not occur in Radford University's education program or activity; or 3) did not occur against a person in the United States. Such dismissal does not preclude action under

another provision of Radford University's code of conduct. If the Title IX Coordinator dismisses the Formal Complaint, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) to the parties simultaneously.

8. The Title IX Coordinator may consolidate Formal Complaints as to allegations of sexual harassment, discrimination, or harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment, discrimination, or harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "party," "complainant," or "respondent," include the plural as applicable.
9. If a Formal Investigation is requested, at any time prior to reaching a determination regarding responsibility, the Title IX Coordinator may facilitate an Informal Resolution process that does not involve a full investigation and adjudication, provided that the Title IX Coordinator provides written notice as outlined in Section 5; obtains the parties' voluntary, written consent to the Informal Resolution process; and the Informal Resolution process is not offered or facilitated to resolve allegations that an employee sexually harassed or otherwise discriminated against a student.

a. ~~1~~ Informal ~~investigation and~~ Resolution:

- i. For alleged violations of the Discrimination and Harassment Policy ~~other than sexual misconduct~~, the Complainant and the Respondent have the option to proceed under an informal procedure, when deemed permissible by the Title IX Coordinator ~~and when the allegations are not that an employee sexually harassed or otherwise discriminated against a student. The Title IX Coordinator or designee will explain the informal and formal procedures to both the complainant and the respondent, if known.~~
- ii. If the Complainant, the Respondent, and the Title IX Coordinator ~~or designee~~ all agree that an ~~investigation and~~ Informal Resolution should be pursued, the Title IX Coordinator ~~or designee~~ shall attempt to facilitate a resolution that is agreeable to all parties. Prior to beginning the Informal Resolution process, the Title IX Coordinator must obtain the parties' voluntary, written consent to the process.
- iii. Upon initiating an Informal Resolution, the Title IX Coordinator will provide the parties written notice of the following:
 - (a) the allegations;
 - (b) either party has the right to withdraw from the Informal Resolution process at any time prior to agreeing to a resolution and may resume a

- (c) if an Informal Resolution is pursued and a resolution is reached, parties may not request a Formal Investigation arising from the same allegations;
- (d) any agreement between parties as part of the Informal Resolution will be provided to the parties in writing. Any violation of the agreement should be reported by the parties to the Title IX Coordinator; and
- (e) the record of the Informal Resolution will be maintained per the Policy.

- iv. Under this procedure, the Title IX Coordinator ~~or designee~~ will ~~conduct a preliminary investigation~~ gather information and evidence only to the extent fact-finding is needed to resolve the conflict and to protect the interests of all parties, Radford University, and the campus community. ~~All parties will be permitted to request witnesses to be interviewed by the Title IX Coordinator and other evidence to be considered in the preliminary investigation.~~ Typically, an Informal Resolution ~~preliminary investigation~~ will be completed within 30 ~~calendar~~ business days of ~~receipt~~ confirmed delivery of ~~notice~~ the Formal Complaint. If an extension ~~of the preliminary investigation beyond 30 calendar days~~ is necessary, all parties will be notified of the expected resolution time frame ~~and the reason for the extension~~. If at any point during the Informal Resolution process ~~this informal investigation and resolution procedure~~, the Complainant, the Respondent, or the Title IX Coordinator wish to suspend the ~~Informal Resolution procedure~~ and proceed through the ~~Formal Investigation grievance procedure~~, such request will be granted.
- v. Any resolution of a ~~Formal Complaint~~ through ~~the informal~~ an Informal ~~procedure~~ Resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent and the responsibility of Radford University to prevent, address, and remedy alleged violations of the Discrimination ~~and Harassment~~ Policy. Informal ~~Resolution resolution~~ remedies ~~may might~~ include providing training;~~;~~ providing ~~informal~~ counseling to an individual whose conduct, if not ceased, could rise to the level of discrimination or harassment;~~;~~ confidential briefing of the Respondent's work supervisor;~~;~~ or use of processes and sanctions set forth in ~~the Standards of Student~~ Radford University's code of conduct. ~~, or other methods. All parties will be provided written notification of the resolution of the complaint through the informal procedures, including whether the preliminary investigation substantiated discrimination or harassment by a preponderance of the evidence and a description of Radford University's response.~~ There shall be no right of appeal afforded to the complainant or the respondent following Informal Resolution. ~~informal investigation and~~

~~b.2. Formal Investigation and resolution:~~

- i. ~~A formal complaint may be submitted either in written format or through a verbal interview of the complainant by the Title IX Coordinator or designee~~

regarding the events and circumstances underlying the complaint. If a Complainant asks for a Formal Investigation, the Title IX Coordinator or designee will conduct a prompt, adequate, reliable, and impartial investigation of the Formal Complaint. The Complainant is not required to submit a written report complaint to the Title IX Coordinator to commence a Formal Investigation. In the case of a third party notification, the Title IX Coordinator will contact the alleged victim promptly, and in no case later than three calendar days from the date of the complaint. The complaint Complainant may be supplemented by provide additional supporting documents, evidence, or recommendations of witnesses to be interviewed during the course of the Formal Investigation investigation. The Complainant must also disclose if a Formal Complaint has been filed with another Radford University office, or a state, or federal entity for the same offense.

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b. The Title IX Coordinator or designee will discuss the complaint with the complainant, and the respondent as appropriate, including providing information about the formal investigation procedure and other resources. The Title IX Coordinator or designee will explain to the parties that each has the opportunity to provide evidence and to suggest witnesses to be interviewed during the course of the investigation.

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e. The Title IX Coordinator will consider whether interim measures and involvement of other Radford University leadership is appropriate. The Title IX Coordinator also will confirm that the matter involves an alleged violation of the Discrimination Policy, thereby conferring jurisdiction to the Title IX Coordinator's office. If the Title IX Coordinator determines that the Title IX Coordinator's office does not have jurisdiction, the Title IX Coordinator or designee will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate on-campus and off-campus resources to address the issue(s).

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ii. All investigations of complaints alleging violations of the Discrimination Policy shall be overseen by the Title IX Coordinator. The Title IX Coordinator or designee will conduct a prompt, adequate, reliable, and impartial investigation of the complaint. Typically, a Formal Investigation an investigation, not including the time necessary for potential appeals, will be completed within 60 45 calendar business days of receipt of notice. If extension of the investigation beyond 60 calendar days is necessary, all parties will be notified of the expected time frame and the reason for the extension. Only the Title IX Coordinator, or a trained investigator designated by the Title IX Coordinator's office, shall conduct the investigation.

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iii. Both Complainants and Respondents will be provided an equal have the same opportunity to inspect and review and respond to any evidence

obtained during as part of an investigation, that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The Title IX Coordinator will send to each party and the party's advisor, if any, the Draft Investigative Report and the evidence subject to inspection and review in an electronic format or hard copy. The parties will have ten (10) business days to submit a written response to the Draft Investigative Report, which the investigator will consider prior to completion of the Final Investigative Report. Radford University will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, and for purposes of cross-examination. and will be afforded the same opportunity to review and provide comment to the investigator about the written investigation report before it is finalized. Both the complainant and the respondent may designate an advisor to accompany him or her at any meeting or proceeding during the formal investigation. The role of such advisors shall be limited to advise and consult. Neither the advisor for the complainant nor the advisor for the respondent shall be permitted to question witnesses, raise objections, or make statements or arguments at any meetings or proceedings during an investigation or an appeals hearing.

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iv. f. The Title IX Coordinator or designee will determine whether there is a preponderance of the evidence to substantiate the complaint of an alleged violation of the Discrimination Policy. A respondent will not be found in violation of the Discrimination Policy absent a finding of preponderance of evidence that the violation occurred. The "preponderance of the evidence" standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that the alleged violation occurred. The investigator will create a Final Investigative Report that fairly summarizes relevant evidence. At least ten (10) business days prior to a hearing, the Title IX Coordinator will send the Final Investigative Report to each party and the party's advisor, if any, in an electronic format or a hard copy.

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g. In determining whether alleged harassment has created a hostile environment, the Title IX Coordinator or designee shall consider whether the conduct was unwelcome to the complainant, but also whether the conduct was severe or pervasive and whether a reasonable person similarly situated to the complainant would have perceived the conduct to be objectively offensive.

Commented [75]: BOV-Redundant with definition in 3.

h. The Title IX Coordinator or designee shall prepare a written investigation

report, which shall be provided to both the complainant and the respondent concurrently. In most cases the written investigation report shall be provided to both parties for comments within 60 calendar days of notice of the allegation. If extension of the time frame for the Title IX Coordinator to provide the investigation report beyond 60 calendar days is necessary, all parties will be notified of the revised time frame for completion of the report of investigation.

- i. If the Title IX Coordinator or designee finds by a preponderance of the evidence that a violation of the Discrimination Policy did not occur, the matter will be documented as closed. The complainant may appeal the finding to the Discrimination Appeals Committee under the procedure described below.
- j. If the Title IX Coordinator or designee finds by a preponderance of the evidence that violation of the Discrimination Policy did occur, the Title IX Coordinator's or designee's written report will contain recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, remedies for the complainant and the community. The written report also will contain the Title IX Coordinator's or designee's recommendation on sanctions. If interim measures as described above have been taken, the Title IX Coordinator shall include a recommendation regarding continuation, suspension or modification of any such interim measures. The Title IX Coordinator or designee shall provide the written report to both the complainant and respondent, in accordance with subsection h., above, including the steps the Title IX Coordinator or designee has recommended to eliminate a hostile environment, if one was found to exist, and to prevent its recurrence. Notwithstanding any other provision of these procedures, the respondent shall not be provided information about the individual remedies offered or provided to the complainant, but such information shall be provided to the complainant. The Complainant and Respondent and the complainant will be advised of their right to appeal any finding or recommended sanction to the Discrimination Appeals Committee. The appeal procedure outlined below will also be explained. If the respondent does not contest the finding or recommended sanction, the respondent shall sign a statement acknowledging no contest to the finding and the recommended sanction. The sanctioning process will move forward whether or not the respondent signs the statement acknowledging no contest. The completed investigation will be provided to the appropriate individual to determine and impose appropriate sanctions, as described below.
- v. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Radford University and not on the parties provided that the University cannot access, consider, disclose, or

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otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process.

vi. Student Conduct Referral Case

If the criteria for a "Student Conduct Referral Case" are met, the case will be dismissed as a Title IX Case. However, the Title IX Coordinator will continue the fact-finding process and will refer the case for adjudication to the Office of Student Standards and Conduct for adjudication and appeal. On receiving notice of the referral, the Office of Student Standards and Conduct will contact the parties in the case to notify them of the policies and procedures that will be followed for adjudication, appeal, and implementation of sanctions (if any).

vii. Non-Title IX/Non-Student Case

- (a) Using information learned from interviews and gathered as evidence during the Formal Investigation, the Title IX Coordinator ~~or designee~~ will determine whether there is a preponderance of the evidence to substantiate the ~~complaint of an~~ alleged violation of the Policy. A Respondent will not be found in violation of the Policy absent a finding of preponderance of evidence that the violation occurred.
- (b) If the Title IX Coordinator ~~or designee~~ finds, by a preponderance of the evidence that violation of the ~~Discrimination~~ Policy did occur, the Title IX Coordinator's ~~or designee's~~ written report will contain recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, remedies for the Complainant and the community. The written report also will contain the Title IX Coordinator's ~~or designee's~~ recommendation on sanctions. If ~~interim~~ supportive measures ~~as described above~~ have been taken, the Title IX Coordinator shall include a recommendation regarding continuation, suspension or modification of any such ~~interim~~ supportive measures. The Title IX Coordinator ~~or designee~~ shall provide the written report to both the Complainant and Respondent, ~~in accordance with subsection h., above, including the steps the Title IX Coordinator or designee has recommended to eliminate a hostile environment, if one was found to exist, and to prevent its recurrence.~~ Notwithstanding any other provision of these procedures, the Respondent shall not be provided information about the individual remedies offered or provided to the Complainant, but such information may ~~shall~~ be provided to the

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Complainant. The Complainant and Respondent and the complainant will be advised of their right to appeal any finding or recommended remedy or sanction to the Discrimination Appeals Committee. The appeal procedure outlined below in Section 5.E. will also be explained. If the respondent does not contest the finding or recommended sanction, the respondent shall sign a statement acknowledging no contest to the finding and the recommended sanction. The sanctioning process will move forward whether or not the respondent signs the statement acknowledging no contest. The completed investigation and recommended sanctions will be provided to the Department of Human Resources and other appropriate department heads appropriate individual to determine and impose appropriate sanctions, as described below.

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viii. Title IX Case

Following the Formal Investigation, the Title IX Coordinator will schedule a live hearing with a Decision Maker.

- (a) The Title IX Coordinator will notify both parties of the time, date, and location of the live hearing.
- (b) The hearing will occur within ten (10) business days from the date the Final Investigative Report is distributed to the parties. If an extension is necessary, all parties will be notified of the expected time frame and the reason for the extension.
- (c) The Decision Maker will facilitate the hearing.
- (d) The Decision Maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
 - (i) Only relevant cross examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - (ii) If a party or witness does not submit to cross examination at the live hearing, the Decision Maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; however, the Decision Maker cannot draw an inference about the determination regarding responsibility based

solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

- (e) Live hearings may be conducted with all parties physically present in the same geographic location or, at Radford University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other. At the request of either party, Radford University will provide for the live hearing to occur with the parties located in separate rooms with the technology enabling the Decision Maker and parties to simultaneously see and hear the other party or the witness answering questions.
- (f) If a party does not have an advisor present at the live hearing, Radford University must provide, without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that party.
- (g) Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- (h) Radford University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- (i) Following the hearing, the Decision Maker, who is not the Title IX Coordinator or investigator, will issue to both parties simultaneously a written determination regarding responsibility using the preponderance of the evidence standard. The written determination will include:
 - (i) Identification of the allegations potentially constituting sexual harassment, discrimination or harassment;
 - (ii) A description of the procedural steps taken from the receipt of the Formal Complaint through the written determination of responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - (iii) Findings of fact supporting the determination of responsibility;
 - (iv) Conclusions regarding the application of the Policy to the facts;
 - (v) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary

sanctions Radford University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to Radford University's education program or activity will be provided by the University to the Complainant;

(vi) The procedures and permissible bases for the Complainant and Respondent to appeal.

(j) The written determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or the date on which an appeal would no longer be considered timely, if an appeal is not filed.

D.4. Sanctions and Remedies

1. If it is determined that conduct in violation of this Policy has occurred, sanctions and remedies will be determined in accordance with the Discrimination Grievance Procedures (see Section 5). Consequences for violating this policy will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, institutional precedence, and any history of past conduct in violation of this policy.
2. Remedies will be designed to restore or preserve equal access to Radford University's education program or activity. The Title IX Coordinator will consult with the Complainant to determine those remedies in order to restore or preserve equal access. Sanctions and remedies will be reasonable and will fall within the bounds of law and Radford University policy. Sanctions and remedies may affect one's access to and/or affiliation with Radford University's physical campus and/or any portion of Radford University's education program or activity.
3. In addition to sanctions that may be imposed on an individual found in violation of this policy, Radford University will take steps to prevent recurrence of any discrimination or harassment sexual misconduct, including sexual assault and sexual violence, and to remedy discriminatory effects on the Complainant and others, if appropriate.
4. Not every violation of the Discrimination and Harassment Policy will result in an identical sanction. The Radford University reserves the right to impose different sanctions depending on the severity of the incident as well as any previous proven violations by the respondent.
 - a. Sanctions and remedies for students may include education, disciplinary probation, deferred suspension, suspension, and penalties up to and including dismissal. Such sanctions and remedies will be recommended by either the Title IX Coordinator or by the Decision Maker in consultation

~~with determined by the Director of the Office of Student Standards and Conduct and in accordance with the Standards of Conduct. and, where necessary or appropriate, in consultation with the Dean of Students. Sanctions may include, but are not limited to, warning, suspension or dismissal. Not every violation of the Discrimination Policy will result in an identical sanction. The University reserves the right to impose different sanctions depending on the severity of the incident as well as any previous proven violations by the respondent.~~

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- b. Sanctions and remedies for employees may include education, probationary status, reassignment and termination from employment. Such sanctions and remedies will be recommended by either the Title IX Coordinator or by the Decision Maker in consultation with the Department of Human Resources and the Respondent's supervisor(s) or division leader(s).
 - i. Sanctions and remedies for ~~teaching and research faculty~~ Teaching and Research Faculty will be determined by the Provost, in consultation with the Deans and/or the President and in accordance with the Teaching and Research Faculty Handbook and any other applicable Radford University ~~policy policies~~ and regulations. ~~Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings.~~
 - ii. Sanctions and remedies for Administrative and Professional Faculty faculty will be determined by the employee's supervisor and Division Head, in consultation with the Assistant Vice President for Human Resources and in accordance with the Administrative and Professional Faculty Handbook and any other applicable Radford University ~~policy policies~~ and regulations. ~~Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings according to procedures in the appropriate governing regulation or policy.~~
 - iii. Sanctions and remedies for Classified or Wage employees will be determined by the employee's supervisor in consultation with the Assistant Vice President for Human Resources in accordance with the Commonwealth's Standards of Conduct Policy. ~~Sanctions that may be imposed by Radford University include, but are not limited to verbal counseling, additional training, issuance of a Written Notice, suspension, or termination of employment.~~

- c.5- Contractors shall assign for duty only employees acceptable to Radford University. Radford University reserves the right to require the Contractor to remove from campus any employee who violates the Discrimination and

Harassment Policy.

- d.6. Visitors, ~~(including, but not limited to, students participating in camps or other programs at Radford University)~~, who violate the Discrimination and Harassment Policy will be directed to immediately leave campus and may be subject to a permanent ban from campus.
5. If neither the Complainant nor the Respondent requests an appeal, then a ~~A~~ determination regarding the imposition of sanctions shall be made within ~~14 ten~~ (10) ~~calendar business~~ days of the date of either the Title IX Coordinator's Final Investigative Report for a case adjudicated through the Non-Title IX/Non-Student Case process, or the Decision Maker's ~~, or designee's final report of investigation~~ written determination for a case adjudicated through the Title IX Case process. ~~if neither the Complainant nor the Respondent requests appeal to the Discrimination Appeals Committee:~~ If an appeal is requested, sanctions, if any, shall be imposed within ~~14 ten~~ (10) ~~calendar business~~ days of the final decision of the President after consideration of the written decision of the ~~Discrimination Appeals Committee~~. If extension of the time frame for sanctions to be imposed beyond ~~14 ten~~ (10) ~~calendar business~~ days is necessary, all parties will be notified by the ~~appropriate office Office of Student Standards and Conduct or the Department of Human Resources,~~ of the expected time for imposing the sanctions. The Respondent shall be informed in writing of any sanctions imposed for violation of the Discrimination and Harassment Policy, by the individual imposing the sanctions, within five (5) ~~calendar business~~ days of the determination of an appropriate sanction. The Title IX Coordinator shall be provided a copy of such written notification. The Title IX Coordinator ~~or designee~~ will disclose to the Complainant, as simultaneously as possible to the notification provided to the Respondent, information about the sanctions that directly relate to the Complainant as is permitted by state and federal law including ~~the Federal Educational Rights and Privacy Act (FERPA)~~ and the Virginia Freedom of Information Act.

E. M. Discrimination Appeals Committee

1. **Composition of the Appeal Committee:**
- a. The Appeal Committee shall be comprised of trained individuals selected by the Title IX Coordinator from a pool of faculty and staff appointed by the President. Teaching and Research Faculty members are nominated to the President by the Provost, Administrative and Professional Faculty members are nominated to the President by the Vice President for Finance and Administration, and Classified Employee members are nominated to the President by the Assistant Vice President for Human Resources. Each Appeal Committee shall include one member from each of the three representative areas. ~~The Discrimination Appeals Committee ("Committee") shall be comprised of three trained individuals: one faculty member to be nominated~~

~~by the Provost, one non-faculty member of the administration to be nominated by the Vice President for Finance and Administration, and one classified employee to be nominated by the Assistant Vice President for Human Resources. The President shall appoint members of the Committee and the Committee Chair. The President shall select individuals within the pool who are identified as Appeal Committee Chairs. Committee members shall serve indefinitely at the pleasure of the President. The President may appoint one or more persons to serve on the Committee temporarily to fill a vacancy due to recusal or otherwise to ensure a full three-member Committee. The President has sole discretion to permanently remove members of from the pool. Committee for cause.~~

- b. ~~The Appeal Committee will not include the same person who served as the Decision Maker who reached the determination regarding responsibility, the investigator(s), or the Title IX Coordinator. Further, Radford University requires that individuals serving on the Appeal Committee not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent.~~

2. The grounds for appeal are as follows:

- a.i. ~~The Title IX Coordinator, designated investigator, or Decision Maker had a conflict of interest or exhibited unfair bias for or against complainants or respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter which influenced the results of the investigation;~~
- b.ii. ~~New evidence, unavailable that was not reasonably available at the time of the investigation the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter substantially impact the Title IX Coordinator's finding;~~
- c.iii. ~~Procedural irregularity that affected the outcome of the matter; error in the conduct of the investigation that is of such magnitude as to deny fundamental fairness;~~
- d.iv. ~~The recommended sanctions or remedies recommended by the Title IX Coordinator are substantially outside the parameters or guidelines set by Radford University for this type of offense, as outlined in Section 5.D. or the cumulative conduct record of the respondent.~~

3.2. Appeal Procedure for a "Non-Title IX/Non-Student Case"

- a. A Complainant or Respondent desiring to appeal the investigative findings shall file a written request for appeal with the Title IX Coordinator within

~~three (3) five (5) business days of receipt delivery of the Final Investigative Report. -written investigation report along with information to support one or more of the following grounds for appeal:~~

- b. The Title IX Coordinator will notify the other party in writing when an appeal is filed.
- c.b. Within five (5) business days of receipt of the written request for appeal, the Title IX Coordinator will notify the parties of the ~~names of the individuals serving on the Appeal Committee, time and place of hearing before the Committee. Such hearing typically will be scheduled within fifteen (15) calendar days of receipt of the request for appeal. If extension beyond fifteen (15) calendar days is necessary, both parties will be notified by the Discrimination Appeals Committee of the revised time frame.~~ The parties must raise, within five (5) ~~calendar business~~ days of such notification, objections to members of the Committee on the basis of conflict of interest or bias for or against the appellant or appellee. The objection shall be made to the Title IX Coordinator, who will present the objection to the President. The President shall rule on any such objections ~~no later than three (3) within five (5) business days prior to the hearing.~~
 - i. Within five (5) business days following the deadline to raise objections, or within five (5) business days following the resolution of the objection, the Title IX Coordinator will notify the parties of the time, date, and location of the appeal hearing. Such appeal hearings typically will be scheduled within fifteen (15) business days of receipt of the request for appeal. If extension beyond fifteen (15) business days is necessary, both parties will be notified by the Appeals Committee of the revised time frame.
- d.e. Within five (5) ~~calendar business days of filing the request following the deadline for appeal, the appealing party appealing the Title IX Coordinator's findings (appellant) must submit a written statement in support of, or challenging, the outcome; that (i) identifies identify the names and addresses of witnesses that are requested to be called at the hearing; (ii) identifies identify and includes copies of any documents that will be used as evidence at the hearing; (iii) describes with specificity the portion of the Discrimination Policy allegedly violated and the grounds for appeal; and (iv) requests a specific remedy. The non-appealing party (appellee) also may submit, within five (5) business days of the deadline for appeal, such information for the Committee's consideration. If the appellee chooses not to participate in the Committee hearing, the~~ The Title IX Coordinator will provide to the Committee within five (5) ~~calendar business days prior to the hearing, a copy of the Final Investigative Report and of notification that the appellee will not participate in the hearing: (i) the written investigative report; (ii) the names and addresses of witnesses the Title IX Coordinator will call at the hearing;~~

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~~and (iii) identification and~~ copies of any documents used in the investigation. ~~that will be submitted as evidence at the hearing. If the appellee provides notification less than five (5) calendar days prior to the scheduled hearing that he or she will not participate, the hearing shall be postponed to give the Title IX Coordinator a full five (5) business days to provide the Committee the above information.~~

- ~~e.—~~ The Title IX Coordinator shall provide the written investigation report and all witness information and documents identified pursuant to this subsection to the Committee and to all parties at least three (3) business days prior to the hearing.
- ~~e.b.~~ Both the appellant and the appellee may retain legal counsel at their own expense or designate a non-attorney advisor to accompany him or her at any meeting or proceeding in the appeal process. If either party has retained legal counsel or a non-attorney advisor, the party must immediately notify the Committee Chair of such representation. The role of counsel or the non-attorney advisor for the parties shall be limited to advice and consultation with the attorney's client and the client's witnesses. Neither counsel/advisor for the appellant nor counsel/advisor for the appellee shall be permitted to question witnesses, raise objections, or make statements or arguments to the Committee at the hearing. If either party is represented by legal counsel, Radford University may be represented at the hearing by assigned legal counsel from the Office of the Attorney General, who will ensure that the rights of Radford University and the parties are respected.
- f. The Chair of the Committee shall preside over the hearing. The hearing will be a non-adversarial proceeding and rules of evidence shall not be strictly applied. However, the Chair of the Committee may limit evidence or testimony that is not relevant to a determination of whether a violation of the **Discrimination** Policy occurred and whether the grounds for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. Both ~~the~~ appellant and appellee, or the Title IX Coordinator ~~or designee~~ if the appellee does not participate, will address the Chair of the Committee and not each other. The Chair will ~~be make~~ the final decision ~~maker~~ on all matters of procedure during the hearing.
- g. The past sexual history or sexual character of a party to the **Formal Complaint**, Complainant or Respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the Respondent, in the form of previous findings in any Radford University or judicial proceeding will be admissible. The parties will be notified in advance **by the Appeal Committee Chair** of the hearing if any information addressed by this paragraph is deemed admissible.

- h.g. The Appeal Committee will review all provided documents and, within ~~Within~~ ten (10) ~~calendar~~ business days ~~of following~~ the hearing, the Committee will submit a written ~~recommendation simultaneously decision~~ to ~~the both~~ parties, the Title IX Coordinator, and the President. The ~~recommendation decision~~ shall include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or reject the findings of the Title IX Coordinator and/or the recommended sanction and the rationale for such determination; (iv) if the Title IX Coordinator's findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution, ~~and (v) the materials the Committee members were provided by the Title IX Coordinator and by the appellant and appellee.~~
- i.h. Within three (3) business days of the Committee's ~~recommendation decision~~, the President shall notify the Committee, the Title IX Coordinator, and the parties, in writing, of his decision relative to the findings and recommendations of the Committee. The decision of the President is final with no further right to appeal.

4.2. Appeal Procedure (Document Review) for a “Title IX Case” and a “Dismissal of Formal Complaint”

- a.i. A Complainant or Respondent ~~may appeal desiring to appeal~~ the ~~investigative findings~~ Decision Maker’s written determination, or the Title IX Coordinator’s dismissal of a Formal Complaint. In order to request ~~appeal, the Appellant of the Title IX Coordinator~~ shall file a written request for appeal with the Title IX Coordinator within ~~three (3)- five (5) business days of receipt delivery of Decision Maker’s findings or the Title IX Coordinator’s Written Notice of Dismissal of Formal Complaint. -Written investigation report along with information to support one or more of the following grounds for appeal:~~
- b. The Title IX Coordinator will notify the other party in writing when an appeal is filed.
- c.b. Within five (5) business days of receipt of the written request for appeal, the Title IX Coordinator will notify the parties of the ~~names of the individuals serving on the Appeal Committee -time and place of hearing before the Committee. Such hearing typically will be scheduled within fifteen (15) calendar days of receipt of the request for appeal. If extension beyond fifteen (15) calendar days is necessary, both parties will be notified by the Discrimination Appeals Committee of the revised time frame.~~ The parties must raise within five (5) ~~calendar~~ business days of such notification, objections to members of the Committee on the basis of conflict of interest

or bias for or against the appellant or appellee. The objection shall be made to the Title IX Coordinator, who will present the objection to the President. The President shall rule on any such objections ~~no later than three (3) within five (5) business days prior to the hearing.~~

~~d. e.~~ Within five (5) ~~calendar business days of filing the request~~ following the deadline for appeal, the appealing party ~~appealing the Title IX Coordinator's findings~~ (appellant) must submit a written statement in support of, or challenging, the outcome; describing the specificity the grounds for appeal; ; ~~that (i) identifies the names and addresses of witnesses that are requested to be called at the hearing; (ii) identifies and includes and including copies of any pertinent documents that will be used as evidence at the hearing; (iii) describes with specificity the portion of the Discrimination Policy allegedly violated and the grounds for appeal; and (iv) requests a specific remedy.~~ The non-appealing party (appellee) also may submit, ~~within five (5) business days of the deadline for appeal, such information for the Committee's consideration. If the appellee chooses not to participate in the Committee hearing, the~~ The Title IX Coordinator will provide to the Committee, within five (5) ~~calendar business days of the deadline for appeal, of notification that the appellee will not participate in the hearing; (i) the written investigative report; (ii) the names and addresses of witnesses the Title IX Coordinator will call at the hearing; and (iii) identification and copies of any documents used in the investigation. That will be submitted as evidence at the hearing. If the appellee provides notification less than five (5) calendar days prior to the scheduled hearing that he or she will not participate, the hearing shall be postponed to give the Title IX Coordinator a full five (5) business days to provide the Committee the above information. The Title IX Coordinator shall provide the written investigation report and all witness information and documents identified pursuant to this subsection to the Committee and to all parties at least three (3) business days prior to the hearing.~~

~~g.~~ Both the appellant and the appellee may retain legal counsel at their own expense or designate a non-attorney advisor to accompany him or her at any meeting or proceeding in the appeal process. If either party has retained legal counsel or a non-attorney advisor, the party must immediately notify the Committee Chair of such representation. The role of counsel or the non-attorney advisor for the parties shall be limited to advice and consultation with the attorney's client and the client's witnesses. Neither counsel/advisor for the appellant nor counsel/advisor for the appellee shall be permitted to question witnesses, raise objections, or make statements or arguments to the Committee at the hearing. If either party is represented by legal counsel, Radford University may be represented at the hearing by assigned legal counsel from the Office of the Attorney General, who will ensure that the rights of Radford University and the parties are respected.

- ~~h. The Chair of the Committee shall preside over the hearing. The hearing will be a non-adversarial proceeding and rules of evidence shall not be strictly applied. However, the Chair of the Committee may limit evidence or testimony that is not relevant to a determination of whether a violation of the Discrimination Policy occurred and whether the grounds for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. Both appellant and appellee, or the Title IX Coordinator or designee if the appellee does not participate, will address the Chair of the Committee and not each other. The Chair will be make the final decision-maker on all matters of procedure during the hearing. All hearings will be closed to the public.~~
- ~~i. The past sexual history or sexual character of a party to the complaint, complainant or respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the respondent, in the form of previous findings in any Radford University or judicial proceeding will be admissible. The parties will be notified in advance of the hearing if any information addressed by this paragraph is deemed admissible.~~
- e.g. The Appeal Committee will review all provided documents and, within ~~ten (10) calendar~~ ~~business~~ days of ~~the hearing~~ receipt of the documents, the Committee will submit a written ~~recommendation~~ ~~simultaneously~~ ~~decision~~ to ~~the both~~ parties, the Title IX Coordinator, and the President. The ~~recommendation~~ ~~decision~~ shall include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or reject the ~~Decision Maker's finding regarding responsibility~~ and/or the recommended sanction and the rationale for such determination; ~~or the Title IX Coordinator's dismissal of a Formal Complaint findings of the Title IX Coordinator~~ (iv) if the ~~Decision Maker's Title IX Coordinator's~~ findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution, and (v) the materials the Committee members were provided by the Title IX Coordinator and by the appellant and appellee.
- ~~f.h. Within three (3) business days of the Committee's recommendation decision, the President shall notify the Committee, the Title IX Coordinator, and the parties, in writing, of his decision relative to the findings and recommendations of the Committee. The decision of the President is final with no further right to appeal.~~

F. ~~N.~~ Documentation and Record-keeping

1. The Title IX Coordinator shall maintain, in a confidential manner, for at least ten (10)

years, paper or electronic files of all ~~reports~~ ~~complaints~~, witness statements, documentary evidence, written investigation reports, audio or audiovisual recordings or transcripts, Formal Investigation findings, Informal Resolution processes and the result therein, ~~resolutions, and appeals~~ and appeal results, ~~hearings and~~ disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to Radford University's education program or activity, and associated documents. The Title IX Coordinator will collect and maintain information received and created by investigators, Decision Makers, and Appeal Committee members.

2. The Title IX Coordinator will maintain, for at least (10) years, records of any actions, including supportive measures taken in response to a report or Formal Complaint of sexual harassment, discrimination, or harassment. In each instance, the Title IX Coordinator will document the basis for the conclusion that the response was not deliberately indifferent and document that the measures were designed to restore or preserve equal access to Radford University's education program or activity. If the Title IX Coordinator did not provide the Complainant with supportive measures, then the Title IX Coordinator will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit Radford University from providing additional explanations or detailing additional measures taken.
3. The Title IX Coordinator will prepare a monthly summary of pending ~~reports, complaints that will be~~ presented the summary to the President, and ~~also will be retained the summary~~ for at least ten (10) years. Such summary will contain sufficient information to permit the Title IX Coordinator and the President to assess Radford University compliance with the requirements of Title IX.

G. ~~Q.~~ Training

~~Individuals who conduct these Discrimination Grievance Procedures (see Section 5), from the initial investigation to the final resolution, will at a minimum receive annual training on issues related to dating violence, domestic violence, sexual assault, sexual exploitation, and stalking, and how to conduct an investigation and appeal process that protects the safety of victims and promotes accountability.~~

1. The Title IX Coordinator, investigators, Decision Makers, and any person who facilitates an Informal Resolution process, will receive training on the definition of sexual harassment; the scope of Radford University's education program or activity; how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable; and how to serve impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Decision Makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including questions and evidence about the Complainant's sexual

predisposition or prior sexual behavior. Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

2. Materials used to train the Title IX Coordinator, investigators, Decision Makers, and any person who facilitates an informal resolution process will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of sexual harassment, discrimination, and harassment. The Title IX Coordinator shall maintain, for at least ten (10) years, all materials used to train the Title IX Coordinator, investigators, Decision Makers, and persons who facilitate Informal Resolution processes. These materials are available on the Office of Institutional Equity's website.

6. EXCLUSIONS

None

7. APPENDICES

None

8. REFERENCES

[Title VII of the Civil Rights Act of 1964](#)

[Title IX of the Educational Amendment Acts of 1972](#)

[U.S. Equal Opportunity Commission - Laws, Regulations, Guidance & MOUs](#)

[Campus Sexual Violence Elimination Act of 2013](#)

[Violence Against Women Reauthorization Act of 2013](#)

[Dear Colleague Letter from the Office of Civil Rights, U.S. Department of Education, dated April 4, 2011.](#)

[U.S. Department of Education - Family Educational Rights and Privacy Act \(FERPA\)](#)

[34 C.F.R. 99.36](#), Disclosure of information in health and safety emergencies

[34 C.F.R. 106](#), Nondiscrimination on the basis of sex in education programs or activities receiving federal assistance

[Code of Virginia § 2.2-3700 et seq. \(Chapter 37\)](#), "Virginia Freedom of Information Act"

[Code of Virginia § 18.2-61 et seq. \(Article 7\)](#), "Criminal Sexual Assault."

[Code of Virginia § 19.2-389](#), "Dissemination of criminal history record information."

[Code of Virginia § 19.2-389.1](#), "Dissemination of juvenile record information."

[Code of Virginia § 23.1-805](#), "Violence prevention committee; threat assessment team."

[Code of Virginia § 23.1-806](#), "Reporting of acts of sexual violence."

[Code of Virginia § 23.1-808](#), "Sexual violence; policy review; disciplinary immunity for certain individuals who make reports."

[Code of Virginia § 23.1-900](#), "Academic transcripts; suspension, permanent dismissal, or withdrawal from institution."

[Code of Virginia § 32.1-127.1:03](#), "Health records privacy."

9. INTERPRETATION

The authority to interpret this policy rests with the President of the University and is generally delegated to the Title IX Coordinator.

10. APPROVAL AND REVISIONS

The President of the University and the President’s Cabinet have approval authority over this policy and all subsequent revisions.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was adopted by the Radford University Board of Visitors on November 21, 2014.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 18, 2015.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 15, 2017.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on May 10, 2019.

For general information concerning University policies, contact the [Office of Policy Compliance](#) – (540) 831-5794. For questions or guidance on a specific policy, contact the Oversight Department referenced in the policy.

Draft

Policy Title: Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy	Effective Date: 7/10/2019
Policy Number: GEN-PO-1002	Date of Last Review: 5/10/2019
Oversight Department: Office of Institutional Equity	Next Review Date: 5/1/2022

1. PURPOSE

The purpose of this policy is to establish clearly and unequivocally that Radford University prohibits discrimination, harassment, sexual misconduct, and retaliation by individuals subject to its control or supervision and to set forth procedures by which such allegations shall be filed, investigated and adjudicated.

2. APPLICABILITY

This policy applies to on-campus conduct involving students, employees, faculty and staff, visitors to campus (including, but not limited to, students participating in camps and programs, non-degree seeking students, exchange students, and other students taking courses or participating in programs at Radford University), and contractors working on campus who are not Radford University employees, and to students, visiting students, employees, faculty and staff participating in Radford University-sponsored activities off campus. This policy also is applicable to any conduct that occurs off campus that has continuing effects that create a hostile environment on campus. Allegations of on-campus or off-campus violations of this policy should be reported to the Title IX Coordinator in accordance with the guidance below and the Discrimination Grievance Procedures (see Section 5). This Policy replaces and supersedes the Radford University Sexual Harassment Policy and Nondiscrimination Statement, as well as any and all references related to discrimination, harassment, sexual misconduct and retaliation that may be contained in other Radford University policies, including the Standards of Student Conduct.

3. DEFINITIONS

Discrimination: Discrimination is inequitable and unlawful treatment based on an individual's protected characteristics or statuses -- race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, disability, or any other status protected by law -- that excludes an individual from participation in, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an educational program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Harassment: Harassment is a form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of his or her protected characteristics or statuses, by any member of the campus community. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment violates this policy when it creates a hostile environment, as defined below.

Sexual Harassment: Sexual harassment is a form of discrimination based on sex. It is defined as unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature including: verbal (e.g., specific demands for sexual favors, sexual innuendoes, sexually suggestive comments, jokes of a sexual nature, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures); or physical (e.g., touching, pinching, brushing the body, any unwelcome or coerced sexual activity, including sexual assault). Sexual harassment, including sexual assault, can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes.

This policy prohibits the following types of sexual harassment:

- a. Term or condition of employment or education. This type of sexual harassment (often referred to as "quid pro quo" harassment) occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a Radford University activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a Radford University program or activity.
- b. Hostile environment. Acts that create a hostile environment, as defined below.

Hostile environment: Hostile environment may be created by oral, written, graphic or physical conduct that is sufficiently severe, persistent or pervasive and objectively offensive that it interferes with, limits or denies the ability of an individual to participate in or benefit from Radford University's educational programs, services, opportunities, or activities or the individual's employment access, benefits or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (e) the nature of higher education.

Responsible Employee: Responsible employee includes all Radford University employees other than the following individuals who are designated as confidential sources: physicians and licensed medical personnel at the Student Health Center, and licensed counselors at the Student Counseling Services and the Substance Abuse and Violence Educational Support Services. A responsible employee must report to the Title IX Coordinator all relevant information received about an incident of conduct that potentially is in violation of this policy and without delay. If necessary, the report may be made after addressing any immediate needs of the victim.

Sexual Misconduct: Sexual misconduct includes sexual assault or sexual violence, sexual exploitation, dating violence, domestic violence, and stalking.

- a. **Sexual assault or sexual violence** is non-consensual contact of a sexual nature. It includes any sexual contact when the victim does not or is unable to consent through the use of force, fear, intimidation, physical helplessness, ruse, impairment or incapacity (including impairment or incapacitation as a result of the use of drugs or alcohol, knowingly or unknowingly); intentional and non-consensual touching of, or coercing, forcing, or attempting to coerce or force another to touch, a person's genital area, groin, inner thigh, buttocks or breast; and non-consensual sexual intercourse, defined as anal, oral or vaginal penetration with any object.
- b. **Consent** is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Silence does not necessarily constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.
- c. **Sexual exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or an STD/STI to another, or exposing one's genitals to another in non-consensual circumstances.
- d. **Dating violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. A social relationship of a romantic or intimate nature means a relationship which is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse. Dating violence does not include acts covered under the definition of domestic violence.
- e. **Domestic violence** is a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the law of the Commonwealth of Virginia; or (v) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family laws of the Commonwealth of Virginia or the applicable jurisdiction. Domestic violence can be a single event or a pattern of behavior that includes, but is not limited to, sexual or physical abuse.

- f. **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

4. **POLICY**

A. **Policy**

Radford University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law. In pursuit of this goal, any question of impermissible discrimination on these bases will be addressed with efficiency and energy and in accordance with this policy and the Radford University Discrimination Grievance Procedures (see Section 5). This policy and the Discrimination Grievance Procedures also address complaints or reports of retaliation against those who have opposed practices prohibited by this policy, those who have filed complaints or reports under this policy, and those who have testified or otherwise participated in enforcement of this policy. Questions regarding discrimination prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-4640 (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

B. **Retaliation**

Any form of retaliation, including intimidation, threats, harassment, and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging discrimination, sexual harassment, or sexual misconduct or any person cooperating in the investigation of allegations of discrimination, sexual harassment, or sexual misconduct to include testifying, assisting or participating in any manner in an investigation pursuant to this policy and the Discrimination Grievance Procedures (see Section 5) is strictly prohibited by this policy. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the underlying allegations of discrimination, sexual harassment or sexual misconduct. Retaliation prohibited by this policy includes any discrimination, intimidation, threat, or coercion against the Title IX Coordinator, or staff of the Office of Institutional Equity for purpose of interfering with his or her job responsibilities.

C. **Reporting**

1. Conduct in violation of this policy shall be reported promptly by all students, employees, visitors, or contractors. Radford University's Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual harassment, or sexual misconduct in accordance with the Discrimination Grievance Procedures (see

Section 5). Employees receiving such reports or complaints should immediately notify the Title IX Coordinator and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator.

2. Radford University's Title IX Coordinator's contact information is as follows:

**Title IX Coordinator
Office of Institutional Equity**

**Radford University (Radford)
615 Fairfax Street
P.O. Box 6988
Radford, VA 24142
(540) 831- 5307 (Main)**

**Radford University Carilion (Roanoke)
101 Elm Avenue, SE
Roanoke, VA 24013
(540) 224-4640**

3. **Mandatory employee reporting:** All employees, other than the confidential employees detailed in the definition of Responsible Employee in Section 3. and in Section 4.E. of this policy, who receive information regarding a complaint or report of discrimination, sexual harassment, sexual misconduct, or retaliation must report any relevant information about the alleged incident to the Title IX Coordinator without delay after addressing the needs of the victim. No Radford University employee shall undertake any independent efforts to determine whether or not the report or complaint has merit or can be substantiated before reporting it to the Title IX Coordinator.
4. **Reports made by Students:** Students should report violations of this policy to the Title IX Coordinator. Note: Students are not restricted to reporting to student contacts and may report to anyone listed in this policy or any supervising staff or faculty member. Other than reports made to confidential sources in accordance with the definition of Responsible Employee in Section 3. and in Section 4.E. of this policy, reports must be forwarded to the Title IX Coordinator.
5. **Reports made by visitors or contractors:** Visitors, including visiting students, and employees of contractors working on campus should report violations of this policy to the Title IX Coordinator.
6. All members of the Radford University community are expected to provide truthful information in any report or proceeding under this policy and the Discrimination Grievance Procedures (see Section 5). Submitting or providing any false or misleading information in bad faith or with a view toward personal gain or intentional harm to another in connection with any report, investigation, or proceeding under this policy and the Discrimination Grievance Procedures is prohibited and subject to conduct charges for students under the Standards of Student Conduct or discipline for employees under the appropriate policy. This provision does not apply to reports made or information provided in good faith, even if the facts as alleged are not later substantiated by a preponderance of the evidence.

D. Criminal Reporting

If a victim is in immediate danger or needs immediate medical attention, contact 911, the Radford University Police Department (RUPD) at (540) 831-5500 (blue light emergency phones on campus connect directly to RUPD), or Carilion Clinic Police at (540) 981-7911. Some conduct in violation of this policy may also be a crime under Virginia law. Individuals are encouraged to report incidents of sexual misconduct to law enforcement, even if the reporting individual is not certain if the conduct constitutes a crime. Radford University will provide assistance to victims in notifying law enforcement if the victim so chooses. Crimes dealing with minors must be reported to law enforcement.

E. Confidentiality and Anonymous Reporting

Radford University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to make a confidential report, it must be made to physicians and licensed medical personnel at the Student Health Center, and licensed counselors at the Student Counseling Services and the Sexual Abuse and Violence Education Support Services (SAVES). These individuals will encourage victims to make a report to the Radford University Police Department, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above who are able to maintain confidentiality of reports. Other faculty and staff receiving reports of conduct in violation of this policy are mandated reporters, but will maintain privacy to every extent possible without compromising Radford University's ability to investigate and respond in accordance with applicable law and regulations.

Notwithstanding a complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act, 34 C.F.R. § 99.36, as detailed in the Sexual Violence Threat Assessment provisions of the Discrimination Grievance Procedures (see Section 5). The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation. If the complainant requests confidentiality or that the complaint not be pursued, Radford University may also be limited in the actions it is able to take and its ability to respond.

F. Timely Warnings

Radford University is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Radford University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

G. Sexual Misconduct Survivor/Victim Procedures and Services

- 1.** Radford University will assist sexual misconduct survivors/victims in a supportive manner, implementing the procedures set out herein. Because of the potential seriousness and sensitivity of the investigations involved, it is important to undertake these investigations properly. Preserving the evidence is often a key step of successful investigation of alleged sexual misconduct.
- 2.** Recommended procedure for anyone who has experienced sexual misconduct:
 - a.** Go to a safe place.
 - b.** For your safety and confidential care, report promptly to the Student Health Center or the nearest medical facility/emergency room. You may request a Sexual Assault Advocate if one is not provided. Physical evidence may be usable if proper procedures are followed for evidence collection within 96 hours of the assault.
 - c.** Contact a trusted friend or family member. For professional and confidential counseling support in Radford, contact Student Counseling Services at (540) 831-5226, the Substance Abuse and Violence Education Support Services (SAVES) at (540) 831-5709, the Center for Assessment and Psychological Services (CAPS) at (540) 831-2471, or the Women's Resource Center of the New River Valley at (540) 639-9592. Among other services, the Women's Resource Center of the New River Valley offers survivors a 24-hour Hotline at (800) 788-1123 or TTY for Deaf and Hard of Hearing Individuals at (540) 639-2197, emergency shelter, crisis intervention, counseling, applicable referrals, and court advocacy. Radford University employees can also contact the Women's Resource Center of the New River Valley.

In Roanoke, contact Sexual Assault Response and Awareness (SARA) at (540) 981-9352 at a 24-hour Hotline, or Student Counseling at (540) 985-8395.
 - d.** Employees will be assisted with available options for changing parking, work and living arrangements.
 - e.** It is your right to have evidence collected and retained anonymously by law enforcement while you consider whether to pursue criminal charges. Evidence preservation is enhanced in the following ways:
 - i.** Do not wash your hands, bathe, or douche. Do not urinate, if possible.
 - ii.** Do not eat, blow your nose, drink liquids, smoke, or brush your teeth if oral contact took place.
 - iii.** Keep the clothing worn when the assault took place. If you change clothing, place the worn clothing in a paper bag (evidence deteriorates in plastic).
 - iv.** Do not destroy any physical evidence that may be found in the vicinity of the assault by cleaning or straightening the location of the crime. The victim should not clean or straighten the location of the crime until law enforcement officials have had an opportunity to collect evidence.
 - v.** Tell someone all the details you remember or write them down as soon as possible.
 - vi.** Maintain text messages, pictures, online postings, video and other documentary or electronic evidence that may corroborate a complaint.

3. There is no time limit for filing a complaint of sexual misconduct. However, complainants should report as soon as possible to maximize Radford University's ability to respond. Failure to report promptly could result in the loss of relevant evidence and impair Radford University's ability to adequately respond to the allegations.
4. The victim shall have the right to file a complaint with law enforcement and the option to be assisted by the Title IX Coordinator and other Radford University authorities in notifying the proper law enforcement authorities of the alleged sexual misconduct.
5. Radford University officials (excluding the Radford University Police Department, and confidential resources) receiving reports of a possible sexual misconduct will follow the procedures set forth under this policy and the Discrimination Grievance Procedures (see Section 5). The Radford University Police Department will follow departmental procedures.
6. Resources for Victims of Sexual Misconduct:
 - a. Any student or visiting student who reports sexual misconduct to the Title IX Coordinator, the Substance Abuse and Violence Educational Support Services (SAVES), Student Health Center, and Student Counseling Services will receive an information pamphlet(s) outlining resources and options. Radford University Police Department protocol includes coordination with the Women's Resource Center.
 - b. The Title IX Coordinator or designee shall advise victims of resources available with the Women's Resource Center and SARA and encourage use of these resources. Any individual who is reported to be the victim of sexual misconduct shall receive from the Title IX Coordinator or designee information on contacting the Women's Resource Center and services available through the Women's Resource Center's memorandum of understanding with Radford University.
 - c. Students and visiting students will be assisted with available options for changing academic, transportation, parking, work and living arrangements after alleged sexual misconduct. Safety arrangements such as no-contact orders and escorts are also available as needed.

H. Title IX Coordinator Oversight

The Title IX Coordinator oversees the investigation and resolution of all reports by students, visiting students, and faculty and staff of alleged discrimination, sexual harassment or sexual misconduct in accordance with the Discrimination Grievance Procedures (see Section 5). Reports of discrimination by the Title IX Coordinator should be made to the President.

I. Interim Measures

Radford University may take interim measures, as necessary to assist or protect the complainant during the investigation and resolution of complaints of discrimination and any law enforcement investigation. Radford University must also address the safety of the complainant or any member of the campus community, and avoid retaliation. If, in the judgment of the Title IX Coordinator or other Radford University leadership, the safety and well-being of any member of the campus community may be jeopardized by the presence on campus of the accused individual, the Title IX Coordinator may provide remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further violations. To the extent possible, Radford University will seek the consent of the complainant

before taking interim measures to the greatest degree possible. Interim measures may include, but are not necessarily limited to, changes in classroom or work schedules or housing arrangements, no-contact orders, bans from campus, safety escorts on campus, referral and coordination of counseling and health services, and modification of work or academic requirements. Radford University may temporarily reassign or place on administrative leave an employee alleged to have violated this policy.

J. Sanctions

If it is determined that conduct in violation of this policy has occurred, sanctions will be determined in accordance with the Discrimination Grievance Procedures (see Section 5). Consequences for violating this policy will depend on the facts and circumstances of each particular situation, the frequency and severity of the offense, and any history of past conduct in violation of this policy. Sanctions may include penalties up to and including dismissal for students and termination for employees. In addition to sanctions that may be imposed on an individual found in violation of this policy, Radford University will take steps to prevent recurrence of any sexual misconduct, including sexual assault and sexual violence, and to remedy discriminatory effects on the complainant and others, if appropriate.

K. Student Amnesty

Ensuring the safety of students who report violations of this policy is Radford University's primary concern. In order to facilitate reporting, Radford University will, with the following limited exceptions, provide amnesty to a student who reports an incident in violation of this policy, directed toward that student or another student, for minor disciplinary infractions, such as underage drinking, at the time of the incident. Amnesty may not be offered if (1) the minor disciplinary infraction places or placed the health or safety of any other person at risk or (2) the student who committed the disciplinary infraction previously has been found to have committed the same disciplinary infraction. If amnesty is provided, no conduct proceedings or conduct record will result for minor disciplinary infractions. Amnesty for minor disciplinary infractions also may be offered to students who intervene to help others before a violation of this policy occurs and for students who receive assistance or intervention. Abuse of amnesty requests may result in a decision by the Office of the Dean of Students not to extend amnesty to the same student repeatedly. The Office of Student Standards and Conduct and the Office of the Dean of Students shall maintain records regarding the provision of amnesty for at least seven (7) years. Infractions that constitute offenses shall not be considered minor policy violations for which amnesty may be offered under this provision.

L. Education and Awareness

1. For more information about sexual misconduct and resources available in the local community, please visit the Women's Resource Center of the New River Valley website at: www.wrcnr.org and the SARA website at: <https://saranoke.org/>.
2. The Title IX Coordinator coordinates an education, training and awareness program on discrimination, sexual harassment, and sexual misconduct for students and employees, including training on primary prevention, risk reduction, consent and other pertinent topics. The Office of Substance Abuse and Violence Education Support Services (SAVES) provides programming on sexual misconduct issues, resources available on campus in the community, bystander intervention, and coordinates intervention programs.

M. Academic Freedom and Free Speech

This policy does not allow curtailment or censorship of constitutionally protected expression, which is valued in higher education and by Radford University. In addressing all complaints and reports of alleged violations of this policy, Radford University will take all permissible actions to ensure the safety of students and employees while complying with any and all applicable guidance regarding free speech rights of students and employees. This policy does not in any way apply to curriculum and curriculum decisions or abridge the use of particular textbooks or curricular materials.

5. PROCEDURES (Discrimination Grievance Procedures)

A. Purpose

These procedures provide a prompt and equitable resolution for complaints or reports of discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law, including complaints alleging sexual harassment or sexual misconduct prohibited by Radford University policy on Discrimination, Harassment, Sexual Misconduct, and Retaliation ("Discrimination Policy"). Any person who believes he or she has been subjected to discrimination or harassment on any of these bases may file a complaint with Radford University as outlined in these procedures. These procedures also address any complaints or reports of retaliation against individuals who have filed complaints or reports of discrimination, who have opposed discriminatory practices, and those who have testified or otherwise participated in investigations or proceedings arising from complaints or reports of discrimination. Questions regarding discrimination prohibited by the Education Amendment Act of 1972 or other federal law, may be referred to Radford University's Title IX Coordinator, Office of Institutional Equity, 540-831-5307 (Radford), 540-224-4640 (Roanoke), or the U.S. Department of Education, Office of Civil Rights.

B. Complaints and Reporting

Complaints and reports of discrimination, sexual harassment, and sexual misconduct should be made to Radford University's Title IX Coordinator. The Title IX Coordinator is responsible for overseeing the investigation of all reports of alleged discrimination, sexual harassment, or sexual misconduct and is trained to help individuals who file complaints find resources, to investigate reported incidents, and to respond appropriately to conduct alleged to be in violation of the Discrimination Policy. Individuals receiving reports or complaints of discrimination, sexual harassment, or sexual misconduct should immediately notify the Title IX Coordinator after addressing the immediate needs of the victim, and should not undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator.

The Radford University Title IX Coordinator's contact information is listed below:

**Title IX Coordinator
Office of Institutional Equity**

**Radford University
615 Fairfax Street
P.O. Box 6988
Radford, VA 24142
(540) 831- 5307 (Main)**

**Radford University Carilion (Roanoke)
101 Elm Avenue, SE
Roanoke, VA 24013
(540) 224-4640**

Reports of conduct in violation of the Discrimination Policy should be made without undue delay after the incident after addressing the needs of the victim, and may be made orally or in writing, including online on the [Office of Institutional Equity webpage](#) to the Title IX Coordinator. The Title IX Coordinator also will accept, without comment or need for explanation, a sealed envelope addressed to "Title IX Coordinator." The envelope, at a minimum, need only contain a piece of paper with the name and room number or phone number of the individual wishing to make a report. Individuals also can report the incidents anonymously online through the SAVES office webpage:

<https://www.radford.edu/content/saves/home/sexual-misconduct.html>

or Confidential Reporting and Silent Witness through the Radford University Police Department webpage:

<http://www.radford.edu/content/police/home/forms/witness.html>

or by leaving an anonymous message with the Radford University Police Department at 540-831-STOP (7867). As will be the case with all reports, however made, the reporting individual will be contacted promptly, but in no case more than three calendar days from the date of the report, for an interview with the Title IX Coordinator or designee.

Notwithstanding the forgoing, individuals who believe they have been the subject of conduct in violation of the Discrimination Policy are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s), and any witness(es), promptly after an incident.

C. The Role of the Title IX Coordinator

The Title IX Coordinator is charged with coordinating Radford University's compliance with federal civil rights laws. The Title IX Coordinator and the Office of Institutional Equity staff do not serve as an advocate for either the complainant or the respondent. The Title IX Coordinator or designee will explain to all identified parties the procedures outlined below, including confidentiality. As appropriate, the Title IX Coordinator or designee will provide all identified parties with information about obtaining medical and counseling services, making a criminal report, information about receiving advocacy services including those offered by the Office of Substance Abuse and Violence Education Support Services (SAVES) or the Women's Resource Center of the New River Valley in Radford, Sexual Assault Response and Awareness

(SARA) in Roanoke, and guidance on other Radford University and community resources. The Title IX Coordinator or designee will offer to coordinate with other Radford University leadership, when appropriate, to implement interim measures as described below. The Title IX Coordinator or designee will explain to all involved parties the process of a prompt, adequate, reliable, and impartial investigation, including the opportunity for both the complainant and respondent to identify witnesses and provide other evidence. The Title IX Coordinator or designee will explain to all identified parties the right to have a personal advisor present and to review and respond to the allegations and evidence. The Title IX Coordinator or designee will also explain to the parties and witnesses that retaliation for reporting alleged discrimination, sexual harassment or sexual misconduct, or participating in an investigation of an alleged violation, is strictly prohibited and that any retaliation should be reported immediately and will be promptly addressed.

D. Written Explanation of Rights and Options

When a student or employee reports that he or she has been a victim of dating violence, domestic violence, sexual assault, sexual exploitation, or stalking, whether the offense occurred on or off campus, the student or employee will be provided a written explanation of rights and options, which shall include:

1. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, sexual exploitation, or stalking has occurred, including written information about:
 - a. The importance of seeking medical attention and of the collection and preservation of evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order;
 - b. How and to whom the alleged offense should be reported;
 - c. Options about the involvement of local law enforcement and the Radford University Police Department, including the victim's option to:
 - i. Notify proper law enforcement authorities, including local law enforcement, the Radford University Police Department, and/or the Carilion Clinic Police;
 - ii. Be assisted by Radford University staff in notifying law enforcement authorities, if the victim so chooses; and
 - iii. Decline to notify such authorities.
 - d. The rights of victims and Radford University's responsibilities regarding no contact orders, residential relocation, eviction orders or other orders.
2. Information about how Radford University will protect the confidentiality of victims and other parties, including how Radford University will:
 - a. Complete publicly available recordkeeping, including reporting and disclosures required by the Clery Act, without the inclusion of personally identifying information about the victim;
 - b. Maintain as confidential, any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of Radford University to provide the accommodations or protective measures; and
 - c. Ensure confidentiality of investigative files as education records protected by the Family Educational Rights and Privacy Act (FERPA), including that the process for the

Sexual Violence Threat Assessment in accordance with Virginia Code § 23.1-806 could, if the incident poses to members of the Radford University community a health or safety emergency, as defined by the FERPA regulations, lead to disclosure of personally identifying information to the law enforcement agency that would be responsible for investigating the incident and other appropriate parties whose knowledge of the information is necessary to protect the health and safety of the victim or other individuals.

3. Notification of existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within Radford University and in the local community;
4. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures, regardless of whether the victim chooses to report the crime to the Radford University Police Department, Carilion Clinic Police, or local law enforcement;
5. The procedures for Title IX investigation, adjudication, appeals, and disciplinary sanctions, including the right to decline to participate in a Title IX investigation by the victim.

E. Criminal Reporting and Coordination

The Title IX Coordinator or designee will make all complainants aware of the right also to file a complaint with the Radford University Police Department or local law enforcement, and will encourage accurate and prompt reporting when the complainant elects to report. If a victim of sexual assault, dating violence, domestic violence, or stalking is physically or mentally incapacitated for at least 10 calendar days, and thereby unable to report the incident to law enforcement, the Title IX Coordinator will make such a report. Radford University will comply with all requests by the Radford University Police Department or local law enforcement for cooperation in investigations. Such cooperation may require the Title IX Coordinator or designee to temporarily suspend the fact-finding aspect of a Title IX investigation detailed in the procedures below while the Radford University Police Department or the local law enforcement agency gathers evidence. The Title IX Coordinator or designee will promptly resume its Title IX investigation as soon as notified by the Radford University Police Department or local law enforcement agency that it has completed the evidence gathering process. Otherwise, the Title IX investigation will not be altered or precluded on the grounds that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

F. Confidentiality, Anonymity and Requests Not to Pursue Title IX Investigation

Radford University officials have varying reporting responsibilities under state and federal law. If a victim of conduct in violation of this policy or another reporting party wishes to keep a report confidential, it must be made to a licensed medical provider or counselor within Student Health Center, Student Counseling Services or the SAVES Office (for students). These individuals will encourage victims to make a report to the Radford University Police Department, the Title IX Coordinator, or local law enforcement. Students and student organizations cannot keep reports confidential, even if working with officials above that are able to maintain confidentiality of reports. Other Radford University officials receiving reports of conduct in violation of this policy are mandated reporters but will maintain privacy to every extent possible without compromising Radford University's ability to investigate and respond in accordance with applicable law and regulations. The Title IX Coordinator or designee may

be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator or designee to conduct a meaningful and fair investigation.

If the complainant requests confidentiality or that an investigation not be conducted, Radford University may be limited in the actions it is able to take and its ability to respond while respecting the request. The complainant will be asked to sign a statement stating a desire for confidentiality or that an investigation not be pursued and the Title IX Coordinator or designee will take all reasonable steps to respond to the complaint consistent with the request. Notwithstanding a complainant's request that law enforcement not be informed of an incident, Radford University is required pursuant to Virginia Code § 23.1-806 to report information about an incident to local law enforcement if necessary to address an articulable and significant threat posing a health or safety emergency, as defined by the implementing regulations of the Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. § 99.36, and as detailed in the Sexual Violence Threat Assessment provisions, below.

G. Sexual Violence Threat Assessment

- 1.** Upon receipt of any report of sexual violence, defined as a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent, that is alleged to have occurred (i) against any students; or (ii) on campus, in or on a Radford University building or property, or on public property that is on campus or immediately adjacent to and accessible from campus, the Title IX Coordinator shall promptly inform a review committee of the report, including personally identifying information. The review committee shall be comprised of, at a minimum, the Title IX Coordinator, a representative of Law Enforcement, and a student affairs representative. The review committee may consult other Radford University officials depending on whether the accused individual is a student, faculty, or staff member and the circumstances of the report. The review committee shall be advised by the Office of the Attorney General.
- 2.** Within 72 hours of receipt of the report from the Title IX Coordinator, the review committee shall meet to review the information and shall continue to meet as necessary as new information becomes available. If the criteria in Paragraph 1 are met, the review committee shall convene regardless of whether or not the victim has notified the Radford University Police Department, Carilion Clinic Police, or local law enforcement or whether or not the victim has requested that Radford University proceed with a Title IX investigation.
- 3.** The review committee may obtain law enforcement records and criminal history record information as provided in Virginia Code § 19.2-389 and § 19.2-389.1, health records as provided in Virginia Code § 32.1-127.1:03, available conduct or personnel records, and known facts and circumstances of the reported incident of sexual harassment or sexual misconduct and other evidence known to Radford University, including the Radford University Police Department, Carilion Clinic Police, and local law enforcement. The review committee shall be considered to be a threat assessment team established pursuant to Virginia Code § 23.1-805 for purposes of (i) obtaining criminal history record information and health records and (ii) the Virginia Freedom of Information Act, (Virginia Code § 2.2-3700 et seq.). The review committee shall comply with the Family Educational Rights and Privacy Act in conducting its review.

4. In addition to the available information detailed in Paragraph 3, above, the review committee shall consider factors that suggest there is an increased risk of the accused individual committing additional acts of sexual misconduct or other violence, including, but not limited to:
 - a. Other sexual misconduct complaints about the same individual;
 - b. Prior arrests or reports of misconduct at another institution or a history of violent behavior;
 - c. Threats of further sexual misconduct against the reporting individual or others;
 - d. A history of failing to comply with a no-contact order issued by Radford University officials;
 - e. Allegations of multiple perpetrators in the same incident;
 - f. Use of physical violence in the reported incident or a prior incident. Examples of physical violence include, but are not limited to, hitting, punching, slapping, kicking, restraining, or choking;
 - g. Reports or evidence of a pattern of perpetration, including a pattern of the accused individual using alcohol or drugs to facilitate sexual misconduct or harassment;
 - h. Use of a weapon in the reported incident or a prior incident;
 - i. A victim under the age of 18 or who is significantly younger than the accused individual.

The review committee shall also consider whether means exist to obtain evidence other than investigation by law enforcement or a Title IX investigation such as security camera footage, eyewitness reports from security or guard personnel, or physical evidence.

5. If, based on a consideration of all factors, the review committee determines that there is a significant and articulable threat to the health or safety of one or more individuals and that disclosure of the information to local law enforcement, including personally identifying information, is necessary to protect the health and safety of one or more individuals, the law enforcement representative shall immediately disclose such information to the law enforcement agency that would be responsible for investigating the incident, for the purpose of investigation and other actions by law enforcement. If the review committee cannot reach a consensus, the law enforcement representative may make the threat determination. Upon any disclosure to law enforcement under this paragraph, the Title IX Coordinator or designee shall notify the victim that such disclosure is being made. The provisions of this paragraph shall not apply if the law enforcement agency responsible for investigating the alleged incident is located outside the United States.
6. If information is disclosed to law enforcement under Paragraph 5 or if the review committee determines that sufficient factors exist to proceed with a Title IX investigation, despite the stated desires of the victim for confidentiality or not to proceed with an investigation, the Title IX Coordinator or designee shall proceed with a full investigation under these procedures. In those situations, the Title IX Coordinator or designee will notify the victim that Radford University is overriding the victim's request for confidentiality in order to meet Title IX obligations, but, other than the disclosure under

Paragraph 5, if made, the information will only be shared with individuals who are responsible for handling Radford University's response to incidents of sexual violence. Radford University will ensure that any information maintained by Radford University is maintained in a secure manner.

7. If the reported incident would constitute a felony violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, as determined by the law enforcement member or any other member of the review committee, the law enforcement member shall inform other members of the review committee and shall notify the attorney for the Commonwealth or other prosecutor responsible for prosecuting the incident and provide information received without disclosing personally identifying information, unless such information was disclosed to a law enforcement agency pursuant to Paragraph 5.
8. At the conclusion of the Sexual Violence Threat Assessment, the Title IX Coordinator and law enforcement member shall each retain (i) the authority to proceed with any further investigation or adjudication allowed under state or federal law and (ii) independent records of the review committee's determination considerations, which shall be maintained under applicable state and federal law.

H. Interim Measures

Radford University may take interim measures, as necessary to assist or protect the complainant during the investigation and resolution of complaints of discrimination and any law enforcement investigation. Radford University must also address the safety of the complainant or any member of the campus community, and to avoid retaliation. If, in the judgment of the Title IX Coordinator or other Radford University leadership, the safety and well-being of any member of the campus community may be jeopardized by the presence on campus of the accused individual, the Title IX Coordinator may provide remedies to address the short-term effects of harassment, discrimination and/or retaliation and to prevent further violations. To the extent possible, Radford University will seek the consent of the complainant before taking interim measures to the greatest degree possible. Interim measures may include, but are not necessarily limited to, changes in classroom or work schedules or housing arrangements, no-contact orders, bans from campus, safety escorts on campus, referral and coordination of counseling and health services, and modification of work or academic requirements. Radford University may temporarily reassign or place on administrative leave an employee alleged to have violated this policy. In such a situation, the employee will be given the opportunity to meet with the Title IX Coordinator prior to such action being imposed, or as soon thereafter as reasonably possible, to demonstrate why the action should not be implemented.

I. Timely Warnings

Radford University is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Radford University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

J. Coordination with the Office of the Dean of Students and the Department of Human Resources

Radford University's Title IX Coordinator is responsible for overseeing all complaints of discrimination and identifying and addressing any pattern or systemic problems that arise during the review of such complaints.

Any member of the Office of the Dean of Students, the Office of Student Standards and Conduct, or the Department of Human Resources receiving a report of alleged discrimination, sexual harassment, or sexual misconduct shall report it without delay to the Title IX Coordinator. No member of the Office of the Dean of Students, the Office of Student Standards and Conduct or the Department of Human Resources shall undertake any independent efforts to determine whether or not the report or complaint has merit before reporting it to the Title IX Coordinator. The Title IX Coordinator's Office shall conduct all investigations of allegations of sexual misconduct in accordance with the procedures below. At the conclusion of the investigation, the Title IX Coordinator shall recommend a sanction, if any, to the Director of the Office of Student Standards and Conduct or the Department of Human Resources, as appropriate.

K. Investigation and Resolution

There are two possible methods for investigation and resolution of a complaint alleging violations of the Discrimination Policy: formal and informal resolution. For alleged violations of the Discrimination Policy other than sexual misconduct, the complainant and the respondent have the option to proceed under an informal procedure, when deemed permissible by the Title IX Coordinator. The Title IX Coordinator or designee will explain the informal and formal procedures to both the complainant and the respondent, if known. In all cases, Radford University will ensure there is no conflict of interest in the investigation and resolution of complaints and will strive to avoid the appearance of conflict of interest.

1. Informal investigation and resolution:

If the complainant, the respondent, and the Title IX Coordinator or designee all agree that an informal investigation and resolution should be pursued, the Title IX Coordinator or designee shall attempt to facilitate a resolution that is agreeable to all parties. Under this procedure, the Title IX Coordinator or designee will conduct a preliminary investigation only to the extent fact-finding is needed to resolve the conflict and to protect the interests of all parties, Radford University, and the campus community. All parties will be permitted to request witnesses to be interviewed by the Title IX Coordinator and other evidence to be considered in the preliminary investigation. Typically, a preliminary investigation will be completed within 30 calendar days of receipt of notice. If an extension of the preliminary investigation beyond 30 calendar days is necessary, all parties will be notified of the expected resolution time frame. If at any point during this informal investigation and resolution procedure, the complainant, the respondent, or the Title IX Coordinator wish to suspend the informal procedure and proceed through the formal grievance procedure, such request will be granted.

Any resolution of a complaint through the informal procedure must adequately address the concerns of the complainant, as well as the rights of the respondent and the responsibility of Radford University to prevent, address, and remedy alleged violations of the Discrimination Policy. Informal resolution remedies might include providing training, providing informal counseling to an individual whose conduct, if not ceased, could rise to

the level of discrimination or harassment, confidential briefing of the respondent's work supervisor, use of processes and sanctions set forth in the Standards of Student Conduct, or other methods. All parties will be provided written notification of the resolution of the complaint through the informal procedures, including whether the preliminary investigation substantiated discrimination or harassment by a preponderance of the evidence and a description of Radford University's response. There shall be no right of appeal afforded to the complainant or the respondent following informal investigation and resolution.

2. Formal investigation and resolution:

- a. A formal complaint may be submitted either in written format or through a verbal interview of the complainant by the Title IX Coordinator or designee regarding the events and circumstances underlying the complaint. The complainant is not required to submit a written complaint to the Title IX Coordinator to commence an investigation. In the case of a third party notification, the Title IX Coordinator will contact the alleged victim promptly, and in no case later than three calendar days from the date of the complaint. The complaint may be supplemented by additional supporting documents, evidence, or recommendations of witnesses to be interviewed during the course of the investigation. The complainant must also disclose if a formal complaint has been filed with another Radford University office, state, or federal entity for the same offense.
- b. The Title IX Coordinator or designee will discuss the complaint with the complainant, and the respondent as appropriate, including providing information about the formal investigation procedure and other resources. The Title IX Coordinator or designee will explain to the parties that each has the opportunity to provide evidence and to suggest witnesses to be interviewed during the course of the investigation.
- c. The Title IX Coordinator will consider whether interim measures and involvement of other Radford University leadership is appropriate. The Title IX Coordinator also will confirm that the matter involves an alleged violation of the Discrimination Policy, thereby conferring jurisdiction to the Title IX Coordinator's office. If the Title IX Coordinator determines that the Title IX Coordinator's office does not have jurisdiction, the Title IX Coordinator or designee will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate on-campus and off-campus resources to address the issue(s).
- d. All investigations of complaints alleging violations of the Discrimination Policy shall be overseen by the Title IX Coordinator. The Title IX Coordinator or designee will conduct a prompt, adequate, reliable, and impartial investigation of the complaint. Typically an investigation, not including the time necessary for potential appeals, will be completed within 60 calendar days of receipt of notice. If extension of the investigation beyond 60 calendar days is necessary, all parties will be notified of the expected time frame. Only the Title IX Coordinator, a trained investigator designated by the Title IX Coordinator's office shall conduct the investigation.
- e. Both complainant and respondent will have the same opportunity to review and respond to evidence obtained during an investigation and will be afforded the same opportunity to review and provide comment to the investigator about the written investigation report before it is finalized. Both the complainant and the respondent

may designate an advisor to accompany him or her at any meeting or proceeding during the formal investigation. The role of such advisors shall be limited to advise and consult. Neither the advisor for the complainant nor the advisor for the respondent shall be permitted to question witnesses, raise objections, or make statements or arguments at any meetings or proceedings during an investigation or an appeals hearing.

- f. The Title IX Coordinator or designee will determine whether there is a preponderance of the evidence to substantiate the complaint of an alleged violation of the Discrimination Policy. A respondent will not be found in violation of the Discrimination Policy absent a finding of preponderance of evidence that the violation occurred. The "preponderance of the evidence" standard requires that the weight of the evidence, in totality, supports a finding that it is more likely than not that the alleged violation occurred.
- g. In determining whether alleged harassment has created a hostile environment, the Title IX Coordinator or designee shall consider whether the conduct was unwelcome to the complainant, but also whether the conduct was severe or pervasive and whether a reasonable person similarly situated to the complainant would have perceived the conduct to be objectively offensive.
- h. The Title IX Coordinator or designee shall prepare a written investigation report, which shall be provided to both the complainant and the respondent concurrently. In most cases the written investigation report shall be provided to both parties for comments within 60 calendar days of notice of the allegation. If extension of the time frame for the Title IX Coordinator to provide the investigation report beyond 60 calendar days is necessary, all parties will be notified of the revised time frame for completion of the report of investigation.
- i. If the Title IX Coordinator or designee finds by a preponderance of the evidence that a violation of the Discrimination Policy did not occur, the matter will be documented as closed. The complainant may appeal the finding to the Discrimination Appeals Committee under the procedure described below.
- j. If the Title IX Coordinator or designee finds by a preponderance of the evidence that violation of the Discrimination Policy did occur, the Title IX Coordinator's or designee's written report will contain recommendations for steps that should be taken to prevent recurrence of any such violation and, as appropriate, remedies for the complainant and the community. The written report also will contain the Title IX Coordinator's or designee's recommendation on sanctions. If interim measures as described above have been taken, the Title IX Coordinator shall include a recommendation regarding continuation, suspension or modification of any such interim measures. The Title IX Coordinator or designee shall provide the written report to both the complainant and respondent, in accordance with subsection h., above, including the steps the Title IX Coordinator or designee has recommended to eliminate a hostile environment, if one was found to exist, and to prevent its recurrence. Notwithstanding any other provision of these procedures, the respondent shall not be provided information about the individual remedies offered or provided to the complainant, but such information shall be provided to the complainant. The respondent and the complainant will be advised of their right to

appeal any finding or recommended sanction to the Discrimination Appeals Committee. The appeal procedure outlined below will also be explained. If the respondent does not contest the finding or recommended sanction, the respondent shall sign a statement acknowledging no contest to the finding and the recommended sanction. The sanctioning process will move forward whether or not the respondent signs the statement acknowledging no contest. The completed investigation will be provided to the appropriate individual to determine and impose appropriate sanctions, as described below.

L. Sanctions

1. Sanctions for students will be determined by the Director of the Office of Student Standards and Conduct in accordance with the Standards of Conduct and, where necessary or appropriate, in consultation with the Dean of Students. Sanctions may include, but are not limited to, warning, suspension or dismissal. Not every violation of the Discrimination Policy will result in an identical sanction. The University reserves the right to impose different sanctions depending on the severity of the incident as well as any previous proven violations by the respondent.
2. Sanctions for teaching and research faculty will be determined by the Provost, in consultation with the Deans and/or the President and in accordance with the Teaching and Research Faculty Handbook and any other applicable Radford University policy and regulations. Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings.
3. Sanctions for Administrative and Professional faculty will be determined by the employee's supervisor and Division Head, in consultation with the Assistant Vice President for Human Resources and in accordance with the Administrative and Professional Faculty Handbook and any other applicable Radford University policy and regulations. Possible sanctions include, but are not limited to counseling, training, reassignment, or the initiation of termination proceedings according to procedures in the appropriate governing regulation or policy.
4. Sanctions for Classified or Wage employees will be determined by the employee's supervisor in consultation with the Assistant Vice President for Human Resources in accordance with the Commonwealth's Standards of Conduct Policy. Sanctions that may be imposed by Radford University include, but are not limited to verbal counseling, additional training, issuance of a Written Notice, suspension, or termination of employment.
5. Contractors shall assign for duty only employees acceptable to Radford University. Radford University reserves the right to require the Contractor to remove from campus any employee who violates the Discrimination Policy.
6. Visitors (including, but not limited to, students participating in camps or other programs at Radford University), who violate the Discrimination Policy will be directed to immediately leave campus and may be subject to a permanent ban from campus.
7. A determination regarding the imposition of sanctions shall be made within 14 calendar days of the date of the Title IX Coordinator's, or designee's final report of investigation, if neither the complainant nor the respondent requests appeal to the Discrimination Appeals Committee. If an appeal is requested, sanctions, if any, shall be imposed within

14 calendar days of the final decision of the President after consideration of the written decision of the Discrimination Appeals Committee. If extension of the time frame for sanctions to be imposed beyond 14 calendar days is necessary, all parties will be notified by the Office of Student Standards and Conduct or the Department of Human Resources, of the expected time for imposing the sanctions. The respondent shall be informed in writing of any sanctions imposed for violation of the Discrimination Policy by the individual imposing the sanctions within five (5) calendar days of the determination. The Title IX Coordinator shall be provided a copy of such written notification. The Title IX Coordinator or designee will disclose to the complainant, as simultaneously as possible to the notification provided to the respondent, information about the sanctions that directly relate to the complainant as is permitted by state and federal law including the Federal Educational Rights and Privacy Act (FERPA) and the Virginia Freedom of Information Act.

M. Discrimination Appeals Committee

1. Composition of the Committee:

The Discrimination Appeals Committee ("Committee") shall be comprised of three trained individuals: one faculty member to be nominated by the Provost, one non-faculty member of the administration to be nominated by the Vice President for Finance and Administration, and one classified employee to be nominated by the Assistant Vice President for Human Resources. The President shall appoint members of the Committee and the Committee Chair. Committee members shall serve indefinitely at the pleasure of the President. The President may appoint one or more persons to serve on the Committee temporarily to fill a vacancy due to recusal or otherwise to ensure a full three-member Committee. The President has sole discretion to permanently remove members of the Committee for cause.

2. Appeal Procedure:

- a. A complainant or respondent desiring to appeal the investigative findings of the Title IX Coordinator shall file a written request for appeal with the Title IX Coordinator within three (3) business days of receipt of the written investigation report along with information to support one or more of the following grounds for appeal:
 - i. the Title IX Coordinator or designated investigator exhibited unfair bias which influenced the results of the investigation;
 - ii. new evidence, unavailable at the time of the investigation, that could substantially impact the Title IX Coordinator's finding;
 - iii. error in the conduct of the investigation that is of such magnitude as to deny fundamental fairness;
 - iv. the sanctions recommended by the Title IX Coordinator are substantially outside the parameters or guidelines set by Radford University for this type of offense or the cumulative conduct record of the respondent.
- b. Within five (5) business days of receipt of the written request for appeal, the Title IX Coordinator will notify the parties of the time and place of hearing before the Committee. Such hearing typically will be scheduled within fifteen (15) calendar days of receipt of the request for appeal. If extension beyond fifteen (15) calendar days is necessary, both parties will be notified by the Discrimination Appeals Committee of

the revised time frame. The parties must raise within five (5) calendar days of such notification, objections to members of the Committee on the basis of conflict of interest or bias for or against the appellant or appellee. The objection shall be made to the Title IX Coordinator, who will present the objection to the President. The President shall rule on any such objections no later than three (3) business days prior to the hearing.

- c. Within five (5) calendar days of filing the request for appeal, the party appealing the Title IX Coordinator's findings (appellant) must submit a written statement that (i) identifies the names and addresses of witnesses that are requested to be called at the hearing; (ii) identifies and includes copies of any documents that will be used as evidence at the hearing; (iii) describes with specificity the portion of the Discrimination Policy allegedly violated and the grounds for appeal; and (iv) requests a specific remedy. The non-appealing party (appellee) also may submit such information for the Committee's consideration. If the appellee chooses not to participate in the Committee hearing, the Title IX Coordinator will provide to the Committee within five (5) calendar days of notification that the appellee will not participate in the hearing: (i) the written investigative report; (ii) the names and addresses of witnesses the Title IX Coordinator will call at the hearing; and (iii) identification and copies of any documents that will be submitted as evidence at the hearing. If the appellee provides notification less than five (5) calendar days prior to the scheduled hearing that he or she will not participate, the hearing shall be postponed to give the Title IX Coordinator a full five (5) business days to provide the Committee the above information.

The Title IX Coordinator shall provide the written investigation report and all witness information and documents identified pursuant to this subsection to the Committee and to all parties at least three (3) business days prior to the hearing.

- d. Both the appellant and the appellee may retain legal counsel at their own expense or designate a non-attorney advisor to accompany him or her at any meeting or proceeding in the appeal process. If either party has retained legal counsel or a non-attorney advisor, the party must immediately notify the Committee Chair of such representation. The role of counsel or the non-attorney advisor for the parties shall be limited to advice and consultation with the attorney's client and the client's witnesses. Neither counsel/advisor for the appellant nor counsel/advisor for the appellee shall be permitted to question witnesses, raise objections, or make statements or arguments to the Committee at the hearing. If either party is represented by legal counsel, Radford University may be represented at the hearing by assigned legal counsel from the Office of the Attorney General, who will ensure that the rights of Radford University and the parties are respected.
- e. The Chair of the Committee shall preside over the hearing. The hearing will be a non-adversarial proceeding and rules of evidence shall not be strictly applied. However, the Chair of the Committee may limit evidence or testimony that is not relevant to a determination of whether a violation of the Discrimination Policy occurred and whether the grounds for appeal are met by a preponderance of evidence. The hearing will be conducted in a fair and impartial manner. Both appellant and appellee, or the Title IX Coordinator or designee if the appellee does not participate, will address the Chair of the Committee and not each other. The Chair will be the final

decision-maker on all matters of procedure during the hearing. All hearings will be closed to the public.

- f. The past sexual history or sexual character of a party to the complaint, complainant or respondent, with anyone other than each other, will not be admissible. Notwithstanding the above, demonstration of pattern, repeated, and/or predatory behavior by the respondent, in the form of previous findings in any Radford University or judicial proceeding will be admissible. The parties will be notified in advance of the hearing if any information addressed by this paragraph is deemed admissible.
- g. Within ten (10) calendar days of the hearing, the Committee will submit a written decision to the parties, the Title IX Coordinator, and the President. The decision shall include: (i) a description of the appellant's grounds for appeal; (ii) whether such grounds are accepted or rejected and the rationale for such determination; (iii) the Committee's decision to uphold or reject the findings of the Title IX Coordinator and/or the recommended sanction and the rationale for such determination; (iv) if the Title IX Coordinator's findings and/or recommended sanction are rejected, the findings of the Committee and recommendations for resolution.
- h. Within three (3) business days of the Committee's decision, the President shall notify the Committee, the Title IX Coordinator, and the parties, in writing, of his decision relative to the findings and recommendations of the Committee. The decision of the President is final with no further right to appeal.

N. Documentation and record-keeping

The Title IX Coordinator shall maintain, in a confidential manner, for at least ten (10) years paper or electronic files of all complaints, witness statements, documentary evidence, written investigation reports, resolutions, and appeal hearings and associated documents. The Title IX Coordinator will prepare a monthly summary of pending complaints that will be presented to the President and also will be retained for at least ten (10) years. Such summary will contain sufficient information to permit the Title IX Coordinator and the President to assess Radford University compliance with the requirements of Title IX.

O. Training

Individuals who conduct these Discrimination Grievance Procedures (see Section 5), from the initial investigation to the final resolution, will at a minimum receive annual training on issues related to dating violence, domestic violence, sexual assault, sexual exploitation, and stalking, and how to conduct an investigation and appeal process that protects the safety of victims and promotes accountability.

6. EXCLUSIONS

None

7. APPENDICES

None

8. REFERENCES

[Title VII of the Civil Rights Act of 1964](#)

[Title IX of the Educational Amendment Acts of 1972](#)

[U.S. Equal Opportunity Commission - Laws, Regulations, Guidance & MOUs](#)

[Campus Sexual Violence Elimination Act of 2013](#)

[Violence Against Women Reauthorization Act of 2013](#)

[Dear Colleague Letter from the Office of Civil Rights, U.S. Department of Education dated April 4, 2011](#)

[U.S. Department of Education - Family Educational Rights and Privacy Act \(FERPA\)](#)

[Code of Virginia § 2.2-3700 et seq. \(Chapter 37\)](#), “Virginia Freedom of Information Act”

[Code of Virginia § 18.2-61 et seq. \(Article 7\)](#), “Criminal Sexual Assault.”

[Code of Virginia § 19.2-389](#), “Dissemination of criminal history record information.”

[Code of Virginia § 19.2-389.1](#), “Dissemination of juvenile record information.”

[Code of Virginia § 23.1-805](#), “Violence prevention committee; threat assessment team.”

[Code of Virginia § 23.1-806](#), “Reporting of acts of sexual violence.”

[Code of Virginia § 32.1-127.1:03](#), “Health records privacy.”

9. INTERPRETATION

The authority to interpret this policy rests with the President of the University and is generally delegated to the Title IX Coordinator.

10. APPROVAL AND REVISIONS

The President of the University and the President’s Cabinet have approval authority over this policy and all subsequent revisions.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was adopted by the Radford University Board of Visitors on November 21, 2014.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 18, 2015.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on September 15, 2017.

The *Discrimination, Harassment, Sexual Misconduct, and Retaliation Policy* was amended by the Radford University Board of Visitors on May 10, 2019.

For general information concerning University policies, contact the [Office of Policy and Tax Compliance](#) – (540) 831-5794. For questions or guidance on a specific policy, contact the Oversight Department referenced in the policy.

Regulations	New Reg section number	RU Policy section number
§ 106.8 Designation of coordinator, dissemination of policy, and adoption of grievance procedures.		
<i>(a) Designation of coordinator</i>		
Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the "Title IX Coordinator."	106.8.a.1	4.G.
The recipient must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator pursuant to this paragraph.	106.8.a.2	NA

<p>Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.</p>	<p>106.8.a.3</p>	<p>4.B.1.</p>
<p>(b) Dissemination of policy —</p>		
<p>(1) Notification of policy.</p>		
<p>Each recipient must notify persons entitled to a notification under paragraph (a) of this section that the recipient does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX and this part not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission (unless subpart C of this part does not apply) and employment, and that inquiries about the application of title IX and this part to such recipient may be referred to the recipient’s Title IX Coordinator, to the Assistant Secretary, or both.</p>	<p>106.8.b.1</p>	<p>NA</p>
<p>(2) Publications.</p>		

<p>(i) Each recipient must prominently display the contact information required to be listed for the Title IX Coordinator under paragraph (a) of this section and the policy described in paragraph (b)(1) of this section on its website, if any,</p>	<p>10.6.8.b.2.i</p>	<p>Done</p>
<p>and in each handbook or catalog that it makes available to persons entitled to a notification under paragraph (a) of this section</p>	<p>106.8.b.2.i A</p>	<p>NA</p>
<p>(ii) A recipient must not use or distribute a publication stating that the recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by title IX or this part.</p>	<p>106.8.b.2.ii</p>	<p>NA</p>
<p><i>(c) Adoption of grievance procedures .</i></p>		
<p>A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part and a grievance process that complies with § 106.45 for formal complaints as defined in § 106.30. A recipient must provide to persons entitled to a notification under paragraph (a) of this section notice of the recipient’s grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the recipient will respond.</p>	<p>106.8.c</p>	<p>In progress</p>
<p><i>(d) Application outside the United States</i></p>		
<p>The requirements of paragraph (c) of this section apply only to sex discrimination occurring against a person in the United States.</p>	<p>106.8.d</p>	<p>2.A.</p>
<p>Definitions</p>		

<p>Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient.</p>	<p>106.8.e</p>	<p>5.B.</p>
<p>“Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in § 106.8(a).</p>	<p>106.8.f</p>	<p>5.B.</p>
<p>Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.</p>	<p>106.8.g</p>	<p>3</p>
<p>Consent. The Assistant Secretary will not require recipients to adopt a particular definition of consent with respect to sexual assault, as referenced in this section.</p>	<p>106.8.h</p>	<p>3</p>

<p>Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.</p>	<p>106.8.i.A</p>	<p>3</p>
<p>A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under § 106.8(a), and by any additional method designated by the recipient.</p>	<p>106.8.i.B</p>	<p>3</p>
<p>Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this part or under § 106.45, and must comply with the requirements of this part, including § 106.45(b)(1)(iii).</p>	<p>106.8.i.C</p>	<p>5.B.k.i.</p>
<p>Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.</p>	<p>106.8.j</p>	<p>3</p>

<p>Sexual harassment means conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).</p>	<p>106.8.k</p>	<p>3</p>
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<p>Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.</p>	<p>106.8.I</p>	<p>3</p>
<p>§ 106.44 Recipient’s response to sexual harassment.</p>		
<p>(a) General response to sexual harassment.</p>		

<p>A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. For the purposes of this section, §§ 106.30, and 106.45, “education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.</p>	<p>106.44.a.1</p>	<p>5.B.</p>
<p>A recipient’s response must treat complainants and respondents equitably by offering supportive measures as defined in § 106.30 to a complainant, and by following a grievance process that complies with § 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in § 106.30, against a respondent.</p>	<p>106.44.a.2</p>	<p>5.C.4.</p>
<p>The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures as defined in § 106.30, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.</p>	<p>106.44.a.3</p>	<p>5.B.1.</p>
<p>(b) Response to a formal complaint.</p>		

<p>(1) In response to a formal complaint, a recipient must follow a grievance process that complies with § 106.45. With or without a formal complaint, a recipient must comply with § 106.44(a).</p>	<p>106.44.b.1</p>	<p>5</p>
<p>(c) Emergency removal.</p>		
<p>Nothing in this part precludes a recipient from removing a respondent from the recipient’s education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.</p>	<p>106.44.c</p>	<p>4.H.3.</p>
<p>(d) Administrative leave.</p>		
<p>Nothing in this subpart precludes a recipient from placing a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with § 106.45. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.</p>	<p>106.44.d</p>	<p>4.H.3.</p>
<p>§ 106.45 Grievance process for formal complaints of sexual harassment.</p>		
<p>(a) Discrimination on the basis of sex.</p>		

<p>A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under title IX.</p>	<p>106.45.a</p>	<p>NA</p>
<p>(b) Grievance process.</p>		
<p>For the purpose of addressing formal complaints of sexual harassment, a recipient's grievance process must comply with the requirements of this section. Any provisions, rules, or practices other than those required by this section that a recipient adopts as part of its grievance process for handling formal complaints of sexual harassment as defined in § 106.30, must apply equally to both parties.</p>	<p>106.45.b</p>	<p>5</p>
<p>(1) Basic requirements for grievance process. A recipient's grievance process must</p>		
<p>(i) Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in § 106.30, against a respondent.</p>	<p>106.45.b.1.i</p>	<p>5.C.4.</p>
<p>Remedies must be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in § 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;</p>	<p>106.45.b.1.i.A</p>	<p>5.D.2.</p>

<p>(ii) Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person’s status as a complainant, respondent, or witness;</p>	<p>106.45.b.1.ii</p>	<p>5.C.3.</p>
<p>(iii) Require that any individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.</p>	<p>106.45.b.1.iii.A</p>	<p>5.C.2.</p>
<p>A recipient must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in § 106.30, the scope of the recipient’s education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias</p>	<p>106.45.b.1.iii.B</p>	<p>5.G.</p>
<p>A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, as set forth in paragraph (b)(6) of this section.</p>	<p>106.45.b.1.iii.C</p>	<p>5.G.</p>
<p>A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of this section.</p>	<p>106.45.b.1.iii.D</p>	<p>5.G.</p>

<p>Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment;</p>	<p>106.45.b.1.iii.E</p>	<p>5.G.</p>
<p>(iv) Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;</p>	<p>106.45.b.1.iv</p>	<p>5.C.3.</p>
<p>(v) Include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;</p>	<p>106.45.b.1.v</p>	<p>5</p>
<p>(vi) Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility;</p>	<p>106.45.b.1.vi</p>	<p>5.D.</p>

(vii) State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;	106.45.b.1.vii	3
(viii) Include the procedures and permissible bases for the complainant and respondent to appeal;	106.45.b.1.viii	5.E.2.
(ix) Describe the range of supportive measures available to complainants and respondents; and	106.45.b.1.ix	3, 4.H.
(x) Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.	106.45.b.1.x	5.C.3.
(2) Notice of allegations		
(i) Upon receipt of a formal complaint, a recipient must provide the following written notice to the parties who are known:	106.45.b.2.i	5.B.2.
(A) Notice of the recipient's grievance process that complies with this section, including any informal resolution process.	106.45.b.2.i.A	5.B.2.c.

<p>(B) Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in § 106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under § 106.30, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under paragraph (b)(5)(iv) of this section, and may inspect and review evidence under paragraph (b)(5)(vi) of this section. The written notice must inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.</p>	<p>106.45.b.2.i.B</p>	<p>5.B.2.a.</p>
<p>(ii) If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to paragraph (b)(2)(i)(B) of this section, the recipient must provide notice of the additional allegations to the parties whose identities are known.</p>	<p>106.45.b.2.ii</p>	<p>5.B.1.i., 5.B.1.h.</p>
<p>(3) Dismissal of a formal complaint</p>		

<p>(i) The recipient must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in § 106.30 even if proved, did not occur in the recipient’s education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under title IX or this part; such a dismissal does not preclude action under another provision of the recipient’s code of conduct.</p>	<p>106.45.b.3.i</p>	<p>5.C.7.</p>
<p>(ii) The recipient may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the recipient; or specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.</p>	<p>106.45.b.3.ii</p>	<p>5.B.1.k.ii., 5.B.2.j.ii.</p>
<p>(iii) Upon a dismissal required or permitted pursuant to paragraph (b)(3)(i) or (b)(3)(ii) of this section, the recipient must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.</p>	<p>106.45.b.3.iii</p>	<p>5.C.7.</p>
<p>(4) Consolidation of formal complaints</p>		

<p>A recipient may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.</p>	<p>106.45.b.4</p>	<p>5.C.8.</p>
<p>(5) Investigation of a formal complaint. When investigating a formal complaint and throughout the grievance process, a</p>		
<p>(i) Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the recipient and not on the parties provided that the recipient cannot access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party’s voluntary, written consent to do so for a grievance process under this section (if a party is not an “eligible student,” as defined in 34 CFR 99.3, then the recipient must obtain the voluntary, written consent of a “parent,” as defined in 34 CFR 99.3);</p>	<p>106.45.b.5.i</p>	<p>5.C.9.b.v.</p>
<p>(ii) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;</p>	<p>106.45.b.5.ii</p>	<p>5.C.5.</p>

(iii) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;	106.45.b.5.iii	5.C.5.
(iv) Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the recipient may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;	106.45.b.5.iv	5.C.5.
(v) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;	106.45.b.5.v	5.C.6.

<p>(vi) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the recipient must send to each party and the party’s advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The recipient must make all such evidence subject to the parties’ inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and</p>	<p>106.45.b.5.vi</p>	<p>5.B.1.j., 5.B.2.i., 5.C.9.b.iii.</p>
<p>(vii) Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required under this section or otherwise provided) or other time of determination regarding responsibility, send to each party and the party’s advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.</p>	<p>106.45.b.5.vii</p>	<p>5.C.9.b.iii., 5.C.9.b.iv.</p>
<p>(6) Hearings.</p>		

<p>(i) For postsecondary institutions, the recipient’s grievance process must provide for a live hearing. At the live hearing, the decision-maker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by a party personally, notwithstanding the discretion of the recipient under paragraph (b)(5)(iv) of this section to otherwise restrict the extent to which advisors may participate in the proceedings. At the request of either party, the recipient must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient’s choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.</p>	<p>106.45.b.6</p>	<p>5.C.9.b.viii.</p>
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<p>(ii) For recipients that are elementary and secondary schools, and other recipients that are not postsecondary institutions, the recipient’s grievance process may, but need not, provide for a hearing. With or without a hearing, after the recipient has sent the investigative report to the parties pursuant to paragraph (b)(5)(vii) of this section and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.</p>	<p>NA</p>	<p>NA</p>
<p>(7) Determination regarding responsibility.</p>		
<p>(i) The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the standard of evidence described in paragraph (b)(1)(vii) of this section.</p>	<p>106.45.b.7.i</p>	<p>5.C.9.b.viii.i.</p>
<p>(ii) The written determination must include—</p>	<p>106.45.b.7.ii</p>	<p>5.C.9.b.viii.i.</p>

(A) Identification of the allegations potentially constituting sexual harassment as defined in § 106.30;	106.45.b.7.ii.A	5.C.9.b.viii.i.i.
(B) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;	106.45.b.7.ii.B	5.C.9.b.viii.i.ii.
(C) Findings of fact supporting the determination;	106.45.b.7.ii.C	5.C.9.b.viii.i.iii.
(D) Conclusions regarding the application of the recipient's code of conduct to the facts;	106.45.b.7.ii.D	5.C.9.b.viii.i.iv.
(E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and	106.45.b.7.ii.E	5.C.9.b.viii.i.v.
(F) The recipient's procedures and permissible bases for the complainant and respondent to appeal.	106.45.b.7.ii.F	5.C.9.b.viii.i.vi.
(iii) The recipient must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.	106.45.b.7.iii	5.C.9.b.viii.i.
(iv) The Title IX Coordinator is responsible for effective implementation of any remedies.	106.45.b.7.iv	5.D.
(8) Appeals.		

(i) A recipient must offer both parties an appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:	106.45.b.8.i	5.E.
(A) Procedural irregularity that affected the outcome of the matter;	106.45.b.8.i.A	5.E.2.c.
(B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;	106.45.b.8.i.B	5.E.2.b.
(C) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.	106.45.b.8.i.C	5.E.2.a.
(ii) A recipient may offer an appeal equally to both parties on additional bases.	106.45.b.8.ii	5.E.2.d.
(iii) As to all appeals, the recipient must:	106.45.b.8.iii	5.E
(A) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;	106.45.b.8.iii.A	5.E.3.b., 5.E.4.b.
(B) Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;	106.45.b.8.iii.B	5.E.1.b.
(C) Ensure that the decision-maker(s) for the appeal complies with the standards set forth in paragraph (b)(1)(iii) of this section;	106.45.b.8.iii.C	5.E.
(D) Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;	106.45.b.8.iii.D	5.E.3.d., 5.E.4.d.

(E) Issue a written decision describing the result of the appeal and the rationale for the result; and	106.45.b.8.iii.E	5.E.3.h., 5.E.3.i., 5.E.4.e., 5.E.4.f.
(F) Provide the written decision simultaneously to both parties.	106.45.b.8.iii.F	5.E.3.h., 5.E.3.i., 5.E.4.e., 5.E.4.f.
(9) Informal resolution.		
A recipient may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, a recipient may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the recipient may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the recipient –	106.45.b.9	5.B.1.k.iii., 5.B.2.j.iii.
(i) Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;	106.45.b.9.i	5.C.9.a.iii.
(ii) Obtains the parties' voluntary, written consent to the informal resolution process; and	106.45.b.9.ii	5.C.9.a.ii.

(iii) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.	106.45.b.9.iii	5.C.9.
(10) Recordkeeping. (i) A recipient must maintain for a period of seven years records of –		
(A) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under paragraph (b)(6)(i) of this section, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient’s education program or activity;	106.45.b.10.i.A	5.F.1.
(B) Any appeal and the result therefrom;	106.45.b.10.i.B	5.F.1.
(C) Any informal resolution and the result therefrom; and	106.45.b.10.i.C	5.F.1.
(D) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient must make these materials available upon request for inspection by members of the public.	106.45.b.10.i.D	5.G.2.

<p>(ii) For each response required under § 106.44, a recipient must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient’s education program or activity. If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.</p>	<p>106.45.b.10.ii</p>	<p>5.F.2.</p>
<p>§ 106.71 Retaliation.</p>		
<p>(a) Retaliation prohibited.</p>		

<p>No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.</p>	<p>106.71.a</p>	<p>1.B., 3</p>
<p>The recipient must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.</p>	<p>106.71.a.1</p>	<p>5.B.1.i., 5.B.1.k.</p>
<p>Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under § 106.8(c).</p>	<p>106.71.a.2</p>	<p>3</p>
<p>(b) Specific circumstances.</p>		

RADFORD UNIVERSITY BOARD OF VISITORS

**Resolution
August 5, 2020**

Approval of Discrimination and Harassment Policy

WHEREAS, Radford University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identity, gender expression, pregnancy, genetic information, against otherwise qualified persons with disabilities, or based on any other status protected by law; and

WHEREAS, the Radford University Board of Visitors adopted the Radford University Discrimination, Harassment, Sexual Misconduct and Retaliation Policy at its November 21, 2014, meeting and revised the policy on September 18, 2015, September 15, 2017 and May 10, 2019; and

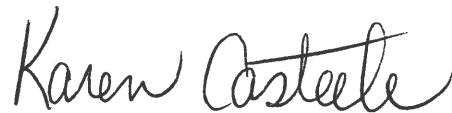
WHEREAS, the updated Discrimination and Harassment Policy meets the requirements of the U.S. Department of Education Title IX regulations published on May 6, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Radford University Board of Visitors approves the Discrimination and Harassment Policy: however, the policy will go into effect only when the revisions to U.S. Department of Education Title IX regulations become effective. Until such time that the new Title IX regulations become effective, the current Harassment, Sexual Misconduct, and Retaliation Policy remains in effect.

Adopted: August 5, 2020



Robert A. Archer
Rector
Radford University Board of Visitors



Karen Castele
Secretary to the Board of Visitors
Radford University



Policy Title: Gift Acceptance Policy	Effective Date: TBD
Policy Number: ADV-PO-1600	Date of Last Review: NEW
Oversight Department: Office of the Vice President for University Advancement	Next Review Date: TBD

1. PURPOSE

The *Gift Acceptance Policy* for Radford University (University) provides direction for the acceptance of gifts by Radford University Foundation, Inc. (RUF) for the benefit of the University.

2. APPLICABILITY

The *Gift Acceptance Policy* applies to all faculty, staff, and programs of the University.

3. DEFINITIONS

Gift: Any donation, gift, or other private philanthropic support made by a donor without expectation or receipt of an economic benefit commensurate with the money or property transferred and to which no commitment of resources or services has been made.

Gift Agreement: A written document executed between the donor and the RUF. The agreement identifies the donor and establishes the donor's financial commitment. The gift agreement is intended to clarify donor intent and expectations and to provide the information necessary to determine the acceptability of the gift as prescribed by this policy. The gift agreement is maintained by the RUF and considered an official RUF document thereof. The document also includes:

- Donor purpose and intent
- Scholarship/award criteria
- Any donor terms and conditions accepted by the University
- Payment schedule if one is to be created
- Provisions for future gifts
- Recognition by the University/RUF
- Allowance for future changes
- Process for agreement modification

Gift Instrument: Gifts may take many forms, including, but not limited to, the following:

- Business interests – Closely held stock and partnership interest
- Cash and cash equivalents – Cash, checks, credit card, debit card, wire, automated clearing house (ACH) transfers, or other means of electronic transfer
- Planned gifts (irrevocable) – Life income agreements including charitable gift annuities, charitable remainder unitrusts, charitable remainder annuity trusts, charitable lead trusts, life insurance, retirement account distributions, and retained life estate
- Planned gifts (revocable) – Bequest or devise by will, life insurance beneficiary, and retirement plan beneficiary
- Pledges – Promises to give and intentions to give, pledges represent a signed statement of intent and include and can be unconditional pledges or challenge/conditional pledges
- Real property and related revenue – Personal residence, land, life estate agreements; and undivided remainder interests in property, oil, gas and mineral interests and related royalties
- Securities (marketable) – Public equities, corporate and government bonds
- Gifts in Kind – Collections of art, books, coins or movies; cars, boats and aircraft; food or other items used for hosting dinners, etc.; hardware, software, software licenses; long-lived assets; equipment; materials; and printed materials
- Third-party distributions – Donor-advised funds, private foundations, qualified charitable Individual Retirement Account (IRA) distributions and corporate matching gifts

4. POLICY

- A.** The University and the RUF are legally obligated to adhere to the terms and conditions of each gift. Consequently, donor intent and gift terms must be evaluated to be sure they are feasible, do not unduly hamper the usefulness and desirability of the gift, and are in conformity with University and RUF policies.
- B.** The acceptance of all gifts, irrespective of the gift instrument, is conditioned upon consistency with the University's mission and strategic interests as well as the acceptability of donor restrictions. Donor restrictions that violate federal or state laws, Internal Revenue Service (IRS) regulations, or University and RUF ethical standards; or call for inappropriate or illegal discrimination based on age, color, disability, gender identity, genetic information, national origin, parental status, political affiliation, race, religion, sex, sexual orientation, or veteran status will be deemed unacceptable.
- C.** Development officers and/or University administrators will handle gifts in accordance with the procedures outlined in Section 5.
- D.** The following gifts (defined as Category III gifts in section 5.B.3.) must be reviewed and approved by the Gift Acceptance Committee (see section 5.D.) prior to acceptance:
 - 1.** Gifts that direct academic decision making
 - 2.** Gifts of a \$1 million or more that impose a new obligation on the University, excluding gifts for scholarships or other financial aid
- E.** Donor identity is not confidential unless specifically requested by the donor. The donor must request anonymity to ensure their identity remains confidential.

5. PROCEDURES

A. Review of Gifts

In order to administer the acceptance of a broad array of gifts, and to follow established policies and procedures in an efficacious manner, gifts will be reviewed based on the category and amount of the gift.

B. Gift Categories

1. **Category I – No review necessary:**

Category I largely incorporates cash gifts and marketable securities to existing gift accounts. Gifts in this category are processed immediately by the Office of Advancement Services.

2. **Category II – Moderate review:**

- a. Category II gifts include all those gifts requiring the establishment of a new gift account as well as other contributions from sources such as, but not limited to, Donor-Advised Funds, Qualified Charitable IRA Distributions, and payments from Private Foundations. A written gift agreement may be developed.
- b. Gifts in this category require review by the Associate Vice President for Advancement, the Director for Advancement Services, and related subject matter experts as appropriate.

3. **Category III – Full review:**

- a. Category III gifts include all complex major gifts and/or complex planned gifts as determined by the Vice President of University Advancement, especially if there is considerable financial impact on the institution.
- b. Gift terms that direct academic decision-making and/or gifts of \$1,000,000 or more that impose a new obligation on the University, excluding gifts for scholarships or other financial aid, are included in this category.
- c. This review will consider a proposed gift in the context of the *Gift Acceptance Policy* and will require an affirmative written approval by the Gift Acceptance Committee.
- d. A written gift agreement will be developed.
- e. For gifts in paragraph b. above, documentation of the terms and conditions will be maintained in compliance with the Virginia Public Records Act (Code of Virginia § 42.1-76 et seq.) and will be subject to the provisions of the Virginia Freedom of Information Act (Code of Virginia § 2.2-3700 et seq.).

C. Gift Acceptance Considerations

1. Once a determination is made that a proposed gift is consistent with the University's mission and strategic interests as well as the RUF's standards, the proposed gift will then be evaluated based on its immediate utility or its liquidity.
2. While there may be occasions when a proposed gift might be held for investment or strategic purposes, generally, a gift should be either useful to the RUF/University in the form it is offered, or easily converted by the RUF to cash.

3. The RUF and the University affirmatively reserve the right to not accept gifts that have no immediate utility, from which little or no financial gain may be realized, or which may be accompanied by significant financial or other burdens prior to liquidation.

D. Gift Acceptance Committee

1. The Gift Acceptance Committee is co-chaired by the Chief Executive Officer (CEO) of the RUF and the Vice President for University Advancement.
2. The Vice President for University Advancement is the final authority regarding pledge terms (length and amount) and to ensure gifts align with University mission, vision and values.
3. The RUF CEO is the final authority on matters related to the fiduciary responsibility.
4. In addition to the RUF CEO and the Vice President for University Advancement, the committee is comprised of the following:
 - a. The Associate Vice President for Advancement
 - b. The Director for Advancement Services
 - c. A University appointee from the Division of Finance and Administration, who is appointed by the Vice President for Finance and Administration
 - d. Subject matter experts, as needed, from relevant departments

6. EXCLUSIONS

None

7. APPENDICES

None

8. REFERENCES

[Code of Virginia § 2.2-3700 et seq.](#), “Virginia Freedom of Information Act.”

[Code of Virginia, § 23.1-1304.1](#), “Governing boards; additional duties; policy; acceptance of terms and conditions associated with donations, gifts, and other private philanthropic support.”

[Code of Virginia § 42.1-76 et seq.](#), “Virginia Public Records Act.”

9. INTERPRETATION

The authority to interpret this policy rests with the President of the University and is generally delegated to the Vice President for University Advancement.

10. APPROVAL AND REVISIONS

The Board of Visitors originally approved the University’s *Gift Acceptance Policy* on _____, 2020.

For general information concerning University policies, contact the [Office of Policy and Tax Compliance](#) – (540) 831-5794. For questions or guidance on a specific policy, contact the Oversight Department referenced in the policy.

RESOURCE MANUAL

for The Principles of Accreditation:
Foundations for Quality Enhancement



Third Edition: 2018, First Printing

4.2.g The governing board defines and regularly evaluates its responsibilities and expectations. (*Board self-evaluation*)

Rationale and Notes

As the body that holds in trust the fundamental autonomy and ultimate well-being of the institution, the governing board of the institution is a critical element in the success of the institution. Good institutional governance requires that the board systematically asks itself, “How are we doing? What are we doing? Are we as effective as a board as we can be?” The process of institutional improvement underlies the *Principles of Accreditation*. While the means by which a governing board participates in that process may be different in scope, tone, and detail than that of the rest of the institution, it is still a necessary element in institutional leadership.

A good starting place is a self-reflective examination of the issues that underlie the governance standards of the *Principles of Accreditation* and the “Questions to Consider” in this section of this *Resource Manual*. How this is done is something best determined by a governing board itself. Some institutions use a board retreat format. Some boards build self-reflection into an annual orientation/reorientation of the board. Some boards facilitate this process by using external resources such as a facilitator or a book, although that is not a requirement of this standard. What is expected of this standard is something more substantive than a statement that “the board conducted a self-evaluation.”

NOTE

If the institution has multiple governing boards [see Standard 4.3 (Multi-level governance)], then the institution should address the self-evaluation process for all relevant boards.

Questions to Consider

- What are the legal obligations of board members? Does each member of the board understand these expectations?
- Do bylaws and other written documents for board procedures make clear the role of and limits of board actions?
- Do bylaws and other written documents for board distinguish the roles between the board (policy-making) and the CEO (administrative)?
- Is the board structure working well? Are committee responsibilities well defined?
- Is the orientation of new board members effective?
- How does the board stay informed as to the financial health of the institution?
- How does the board maintain its focus on the institutional mission?
- Is review of the mission statement a regular expectation of the governing board?
- What is the relationship between the institution's chief executive officer and the institution's governing board?
- What protections are built into the board structure to ensure the board is not subject to undue influence by a minority of members or by external forces?
- Are board minutes clear and accurate? Do they provide sufficient detail to capture the results of deliberations?
- Do board procedures regarding protection from internal conflicts of interest work appropriately?
- Does the board have a functioning self-evaluation process?
- Are procedures for CEO succession clear?
- If the governing board interacts with other boards (e.g., system boards, foundation boards, alumni boards), are duties and expectations clear?

Sample Documentation

- Statements of board responsibilities and expectations.
- Schedule used by the board for self-review.
- Board policies and procedures regarding board self-evaluation.
- Board minutes or reports detailing the findings of board self-evaluation.
- Materials used as part of the self-examination process (e.g., excerpts from board books, retreat handouts, summaries).

Reference to SACSCOC Documents, If Applicable

None noted.



Annual Self-Evaluation

Please assess the Board’s performance in the following areas:

	<i>Poor</i>	<i>Fair</i>	<i>Satisfactory</i>	<i>Very Good</i>	<i>Excellent</i>	<i>Don't Know</i>
Serves as a sounding board and thought partner to the President	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Understands the University’s business model and ensures its adequacy for the future	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ensures the administration involves the Board on high-profile issues that present significant risk to the University	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monitors the University’s financial performance (E&G, Auxiliary Enterprise, Student Financial Aid and Sponsored Programs.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the right committees and uses them well	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adheres to a comprehensive conflict-of-interest policy and addresses conflicts appropriately	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Promotes trust among Board members through a culture based on openness and respect	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Charges the executive committee to operate with transparency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ensures that decisions are made without undue influence from individual board members	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Focuses its time on issues of greatest consequence to the University	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please provide comments or suggestions related to the board’s performance.

RADFORD UNIVERSITY BOARD OF VISITORS

**Resolution
August 5, 2020**

Approval of Resolution

WHEREAS, Radford University adopted a resolution on June 12, 2020 regarding the COVID-19 global health pandemic, the Commonwealth of Virginia biennial budget, and Radford University's budget reduction plan development, review, and implementation process; and

WHEREAS, the Radford University Board of Visitors hereby clarifies that, except those referenced in the June 12, 2020 resolution, the Teaching and Research Faculty Handbook, including tenure and promotion, remain in effect; and

WHEREAS, the Board of Visitors further clarifies that Sections 1.8 (appeals) and 1.9 (grievances) of the Teaching and Research Faculty Handbook remain in effect for all matters except the budget reduction strategies addressed in the June 12, 2020 resolution; and

NOW, THEREFORE, BE IT RESOLVED that the Radford University Board of Visitors approves this resolution as an addendum to the previously approved resolution dated June 12, 2020.

Adopted: August 5, 2020



Robert A. Archer
Rector
Radford University Board of Visitors



Karen Castele
Secretary to the Board of Visitors
Radford University

End of Board of Visitors Materials

