

## POLICY AGAINST HARASSMENT, SEXUAL HARASSMENT AND DISCRIMINATION

Adopted 10/28/94

Amended 6/7/06

Effective Date: 7/1/06 *This policy applies to all complaints of discrimination or harassment made on or after July 1, 2006. The existing Nondiscrimination Policy and Procedures and related provisions apply to complaints made before that date.*

1. This policy applies to all Vermont Law School (VLS) employees, officers, trustees, and students with regard to their actions in connection with the application or admissions process, educational activities, career services, employment, or other law school-related activities when those actions occur on VLS property or in the use of VLS facilities (including the computer network and telephone and email systems). This policy also applies when those actions occur off campus in connection with events sponsored by VLS or VLS-approved organizations, or in connection with official business undertaken for VLS, or in other circumstances where an action could have a significant impact on the educational or employment environment or the reputation or integrity of VLS, or could pose a threat to the safety or other interests of VLS or members of the VLS community. This policy also applies to the actions of VLS agents and contractors in the circumstances set forth in this paragraph to the extent that VLS can control their conduct.

Vermont Law School is committed to promoting an employment and educational environment free from unlawful harassment, sexual harassment, and discrimination. Unlawful harassment or discrimination on the basis of age, color, disability (including duty of reasonable accommodation), ethnicity, HIV positive status, national origin, place of birth, race, religion, sex/gender (including gender identity/expression), sexual orientation, or veteran status as defined by applicable law ("protected characteristics") is prohibited and will not be tolerated.

2. For the purposes of this policy, "unlawful harassment" is defined as verbal or physical conduct that on the basis of a protected characteristic has the purpose or effect, from the point of view of a reasonable person possessing that characteristic, either of interfering with an individual's employment or educational performance or of creating an intimidating, hostile or offensive employment or educational environment.

Unlawful harassment may include, but is not limited to, the following actions if, as isolated acts or as part of a pattern, they have the prohibited purpose or effect on employment or educational performance or environment: jokes, derogatory expressions, or comments; the display of graphics, cartoons, or objects; sending or forwarding electronic mail messages; and other conduct offensive to a reasonable person possessing a particular protected characteristic.

Sexual harassment is a particular type of unlawful harassment. In addition to conduct described in the preceding paragraph that is of a sexual nature, sexual harassment includes conduct that a reasonable person would judge to be unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct explicitly or implicitly affects employment or educational decisions concerning an individual, or when the conduct has the purpose or effect of substantially interfering with an employee's performance or a student's educational experience, or creating an intimidating, hostile or offensive employment or educational environment because of the employee's or student's gender.

Sexual harassment specifically includes

1. Statements or threats which imply a link between an individual's sexual conduct and his or her academic or employment status, advancement potential, salary treatment, grading treatment, participation in VLS programs or activities, or other employment or educational actions;
2. Basing an employment decision such as hiring, promotion, retention, or compensation, or an educational decision such as admission, a grade, or participation in any VLS program or activity, on whether an employee, a student, or an applicant submits to sexual advances.

Sexual harassment may occur regardless of the genders of the individuals involved.

In the establishment and enforcement of this policy against unlawful harassment, VLS recognizes and affirms that free, honest intellectual inquiry, debate, constructive dialogue, and the open exchange of ideas are essential to the law school's academic mission and must be respected even when the views expressed are unpopular or controversial. Respect for speech in all its forms is, therefore, an important element in the "reasonable person" standard to be used in judging whether harassment has occurred.

This policy is meant neither to proscribe nor to inhibit discussions or presentations of differing points of view, in or out of the classroom, concerning complex, controversial, or sensitive matters, including sex, sexual orientation, gender identity or expression, race, ethnicity, religious orientation, age, or physical ability, when in the judgment of a reasonable person possessing a particular protected characteristic, those discussions or presentations are conducted appropriately and with respect for the dignity of others. VLS also recognizes, however, that verbal conduct can be used specifically to intimidate or coerce and to inhibit genuine discourse, free inquiry, and learning. Such abuses are unacceptable. If someone believes that another's speech or writing is offensive, wrong, or hurtful, he or she is encouraged to express that judgment in the exercise of his or her own freedom of speech or to seek an appropriate remedy under the law school's procedures for enforcing this policy.

3. "Discrimination" is defined as making a decision or taking an action that affects the terms or conditions of a person's employment or education at VLS, or participation in or access to the benefits of any VLS program or activity, on the basis of a protected characteristic of that person.
4. Retaliation against any person for making a good faith complaint of unlawful harassment or discrimination or for having participated in an investigation of such a complaint is itself unlawful, is prohibited, and is a violation of this policy.
5. Complaints that this policy has been violated by an employee, officer, trustee, agent or contractor of Vermont Law School may be made under the law school's Procedures for Complaints of Unlawful Harassment, Sexual Harassment, or Discrimination by an Employee, Officer, Trustee, Agent or Contractor. Complaints that this policy has been violated by a student may be made under the Vermont Law School Code of Conduct.
6. While the Law School wishes to have the opportunity to address concerns or complaints of harassment or discrimination itself at the earliest opportunity, any person may also file complaints of harassment or discrimination with governmental agencies.

Students may contact the following agencies:

1. Vermont Human Rights Commission, 133 State Street, Montpelier, VT 05633-6301, (802) 828-2480.
2. United States Department of Education, Office of Civil Rights, Region One, 707 Post Office Square, Boston, MA 02109-4557, (617) 233-9662.

Employees may contact the following agencies:

1. Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, Vermont 05602 (802) 828 3171.
2. Equal Employment Opportunity Commission, 1 Congress Street, Boston, Massachusetts 02114 (617) 565 3200.

Each of these agencies can conduct investigations, facilitate conciliation, and, if it finds that there are reasonable grounds to believe that unlawful has occurred, take the case to court.

7. If any person has questions or concerns regarding this policy, he or she should talk with the VLS Director of Human Resources, Vice President for Finance and Administration, or Vice Dean for Academic Affairs.

## PROCEDURES FOR COMPLAINTS OF HARASSMENT, SEXUAL HARASSMENT, DISCRIMINATION, OR RETALIATION

Adopted 10/28/94

Amended 6/7/06

Effective date 7/1/06 *This policy applies to all complaints of discrimination or made on or after July 1, 2006. The existing Nondiscrimination Policy and Procedures and related provisions apply to complaints made before that date.*

1. Any person who experiences conduct by an employee, officer, trustee, agent, or contractor of Vermont Law School that is prohibited by the *Vermont Law School Policy against Harassment, Sexual Harassment and Discrimination*, or believes that he or she is being or has been subjected to any form of retaliation by a person covered by that policy or by the law school for having brought a good faith complaint, or having participated in an investigation of such a complaint, should immediately notify, orally or in writing, an employee's supervisor, the Director of Human Resources, any Dean or Vice President, or the President and Dean of the Law School (President and Dean).<sup>1</sup> Any supervisor or responsible employee having firsthand knowledge of any such conduct against another person, shall immediately make such a complaint. Complainants are encouraged, but not required, to inform the parties complained against that the behavior at issue is offensive and must stop.
2. When a complaint is made, the complainant should be assured that it will be investigated promptly by the Law School, that appropriate corrective action will be taken, and that the complainant will not suffer retaliation as a result of making a good faith complaint of unlawful harassment, sexual harassment, discrimination or related retaliation. The person to whom a complaint has been made shall immediately inform the Vice Dean for Academic Affairs and transmit to the Vice Dean any written complaint or other material concerning the matter. The Vice Dean will either undertake the responsibilities set forth in paragraph 3 or will appoint a Vice President, Associate or Assistant Dean, or Director to undertake those responsibilities. If a complaint involves the Vice Dean, the person to whom it is made shall inform the President and Dean, who will appoint another dean or director to undertake those responsibilities. If a complaint involves the President and Dean or another officer or Trustee, the Vice Dean shall inform the Chair of the Board of Trustees, who will appoint a Trustee to undertake those responsibilities. If a complaint involves the Chair, the Vice Chair will appoint a Trustee to undertake those responsibilities. With the approval of the President and Dean, or the Chair or Vice Chair of the Board of Trustees if appropriate, a qualified individual from outside the Law School community may be appointed to undertake or assist in those responsibilities.
3. The Vice Dean, or a person appointed under paragraph 2, shall conduct an investigation in as confidential a manner as practical, with disclosure only on a need to know basis and/or as reasonably necessary to carry out the investigation and any remedial action. A complainant will be encouraged, though not required, to provide a written statement of the factual basis for the complaint and the complainant's request for remedial action (if any). If a written statement is provided by complainant, the investigator will give the person complained against an opportunity to submit a written response. Depending on the circumstances of a particular complaint, the investigator may take interim remedial action (or may recommend such action to an appropriate administrative officer) and may recommend and participate in voluntary alternative dispute resolution such as informal meetings or mediation sessions. In the case of a complaint against an employee, the investigator may take, or recommend to an appropriate administrative officer, final administrative or disciplinary action, up to and including termination of employment, in accordance with applicable provisions of §§ II.G and H of the *Vermont Law School Staff Handbook* (July 1, 2005) and § V.F of the *Vermont Law School Faculty Handbook* (December 2005). If a complaint involves the President and Dean, another officer or Trustee, or an agent or contractor of the Law School, the investigator shall make recommendations for action appropriate in the circumstances to the Chair or Vice Chair of the Board of Trustees, or to the administrative officer responsible for the relevant agency or contractual relationship.
4. Vermont Law School is committed, and required by law, to take action when it learns of potential harassment or discrimination. The School will take all necessary steps to ensure that such a complaint is promptly investigated and addressed. Therefore, it is important that any such complaints or concerns be presented in a timely fashion. It is the primary responsibility of the person who feels harassed or discriminated against to bring these concerns to the Law School's attention, but employees and students are also encouraged, and supervisors and all other responsible employees are required, to report incidents or patterns of prohibited harassment or discrimination to appropriate Law School personnel.
5. Complaints that this policy has been violated by a student may be made under the Vermont Law School Code of Conduct.

## SEXUAL ASSAULT POLICY, RESOURCES AND PROCEDURES

### I. VLS SEXUAL ASSAULT POLICY

#### A. Purpose

Sexual assault is a crime. The purpose of this Sexual Assault Policy is to make clear that sexual assault, as defined herein, constitutes a violation of Vermont Law School Code of Conduct and to provide members of the VLS community who may have been sexually assaulted with information about reporting incidents of sexual assault, medical facilities, and available counseling.

#### B. Definition

Sexual assault is knowingly engaging in physical contact of a sexual nature with any person without the consent of that person. The gender and sexual orientation of the assailant and of the victim are not relevant for purposes of this definition. Impaired judgment because of the use of alcohol or other drugs is not a defense to a charge of sexual assault. Moreover, a person who is under the influence of alcohol or other drugs may not be able to give valid consent to sexual contact.

C. **Location**

The sexual assault policy applies to conduct on VLS property, at VLS sponsored events, including student group events. The policy also applies in other circumstances where the conduct could have a significant impact on the educational or employment environment or the reputation or integrity of VLS, or could pose a threat to the safety or other interests of VLS and its community. Further, because the Code of Conduct prohibits “any conduct that raises serious doubts about the student’s honesty, integrity, or fitness to practice law” VLS may in certain cases investigate and address any sexual assault charges against a law student, regardless of the circumstances of the assault.

D. **Reporting**

VLS strongly encourages any student or employee who has been the victim of sexual assault to contact local authorities. Reporting the crime does not obligate you to prosecute, but gives you the option to prosecute. Delayed reporting will diminish the possibility of collecting this evidence. Nevertheless, it is never too late to report an assault and seek support and medical attention.

E. **Confidentiality**

Although VLS will make every effort to maintain confidentiality with respect to reported sexual assault, this confidentiality is not absolute. Where criminal conduct has occurred, or where the health and/or safety of others in the community may be in danger, it may be necessary for VLS to take appropriate steps to protect the safety of its students and employees, including the person who has reported the assault. Please do not be discouraged to come forward: your reporting of a sexual incident may help prevent other assaults, and the information will be shared only with those in charge of protecting our community’s safety.

Subject to the foregoing, VLS will strive to maintain confidentiality in responding to a complaint of sexual assault, including inquiries regarding the investigation, the disciplinary process, and the final outcome of any disciplinary proceeding – although, by law, both the accuser and the accused will be informed of the outcome of the disciplinary proceedings alleging a sexual assault or attempted sexual assault.

Communications with the Counseling Service are confidential medical and/or mental health communications, and will not be shared with others in the VLS community. Communications with medical providers are confidential communications. Reports or records maintained by VLS (including the Counseling Service records), and other confidential records may, however, be subject to subpoena if civil or criminal charges are filed in court.

F. **Vermont Law School Disciplinary Sanctions**

A student who violates the Sexual Assault Policy will be subject to disciplinary proceedings under the Vermont Law School Code of Conduct independently of whether legal proceedings involving the same incident are underway or anticipated. See Section IV of this document.

An employee of VLS who violates either the Standards of Professional Conduct or who violates the Sexual Assault Policy will be subject to disciplinary action up to and including the termination of employment. VLS will report any illegal conduct to the appropriate authority.

II. **MATERIALS AVAILABLE REGARDING SEXUAL ASSAULT AND SEXUAL OFFENSES**

Educational materials concerning rape, acquaintance rape, sexual assault, and sexual harassment are available from the SAssociate Dean for Student Affairs and Diversity. These materials are available for the purpose of creating awareness and prevention of sexual assault acts and to provide resources if you, a friend, or a relative become the victim of rape or sexual assault.

You can also obtain educational materials confidentially by contacting any the rape crisis centers listed in Section III (D) of this document.

III. **RESOURCES FOR VICTIMS OF SEXUAL ASSAULT**

A. **Obtaining support:** You are in control to decide whether you want to talk with somebody about the incident, and who do you want to talk with. The choice to report the crime to the police is also yours. If you are unsure about what to do immediately after a sexual assault, these are some of your options:

1. Call a rape-crisis hotline.  
Safeline 1-800-639-7233  
WISE (Women’s Information Services) 603-448-5525

Safeline and WISE trained counselors are available 24 hours a day. They can who talk with you about your options, and they can accompany you through any or all stages of the process including going to the hospital and reporting to the police.

2. Go to a friend’s house or any place where people can give you emotional support.
3. Call the Associate Dean for Student Affairs and Diversity (802) 831-1333 or (802) 763-8935 (home).

B. **Obtaining Medical Attention** It is important to seek medical attention, even if you do not have visible injuries.

1. Seeking medical attention immediately or shortly after an assault provides the most options in the prevention of pregnancy and sexually transmitted infections.
2. You do not need to make a report or talk to the police in order to seek medical attention.
3. **Gifford Medical Center (728-4441)** in Randolph and **Dartmouth- Hitchcock (603-650-5000)** in Lebanon are the only area hospitals that possess necessary medical tests for rape/sexual assault incidents.
4. Do not bathe, shower, douche, brush your teeth, change your clothes or clean up before you obtain medical attention.
5. You will need to bring a change of clothes with you, because your clothing will be collected as evidence,
6. You can get evidence collected anonymously and have it kept for at least six months so you can decide whether filing a report with police is right for you.

C. **Obtaining Emergency Contraception.** Emergency contraception (EC) can prevent pregnancy after unprotected vaginal intercourse. It is also called “morning-after” contraception, emergency birth control, or backup birth control. EC dramatically reduces the risk of pregnancy when started within 72 hours (3 days) after unprotected intercourse. It must be started prior to 120 hours (five days) in order to reduce the risk of pregnancy. The sooner it is started, the better. The hospital may provide this upon your visit. If they do not, or if you do not wish to go the hospital, EC is available over-the-counter at local pharmacies and drug stores.

Pharmacies known to carry EC:

- Rite Aid Pharmacy, Gifford Family Health Center, Route 107, Bethel  
Closed Saturday and Sunday (802) 234-5289
- Walgreens Drug Store, 3 Airport Rd., W. Lebanon, NH (Exit 20 off I89S)  
Open 24 Hours a Day (603) 298-5796

D. **Reporting the rape or assault.** As a legal adult, the decision of whether or not to report the crime is yours. See law enforcements numbers below:

1. State Police (Bethel office): (802) 234-9933
2. South Royalton Police Department: (802) 763-7776 or 911.
3. If you want assistance in making this report, see the Associate Dean for Student Affairs and Diversity who will be happy to talk with you about it, be there when you call, or accompany you in the discussion with the police, if you so choose.

E. **Seeking counseling.**

1. VLS provides up to three free short-term confidential counseling services to Vermont Law students. For evaluation, consultation and/or referral, contact our Resident Counselor, Hill Anderson, LICSW 802-649-2317
2. Alternatively, you may want to contact a community mental health center near you (see General Area Information).
3. Or you may prefer to use a specialized support line such as
  - a. Safeline..... 1-800-639-7233
  - b. WISE (Women's Information Services) 603-448-5525
  - c. SafeSpace (for LGBTQQ survivors of violence) 1-866-869-7341

F. **Get assistance from the Law School.**

1. For initial counseling and referral to counseling and legal reporting sources, and if, in the aftermath of rape or sexual assault, you are having difficulty concentrating on your work at school or effectively dealing with various aspects of your life, see the Associate Dean for Student Affairs and Diversity. The Law School may make reasonable accommodations to assist you, including assistance with changes in your academic schedule and/or living arrangements, should such changes be required. Depending on your needs, you may be eligible for academic accommodations such as leave of absence, reduced course load, or rescheduling of exams.
2. If you feel close to another faculty or staff member at the Law School, talk to that person about what you are experiencing and what options may be available. They can assist you in completing a Sexual Assault Incident Report. You and/or that faculty or staff member (with your permission) can then consult with the Associate Dean for Student Affairs and Diversity.

#### IV. VERMONT LAW SCHOOL DISCIPLINARY ACTION

A. Sexual assault is a violation of the Vermont Law School Code of Conduct. The Code applies to conduct:

1. to students of VLS with regard to their actions in connection with the application and admissions process, educational activities, career services, employment, or other law school-related activities;
2. to students of VLS with regard to their actions in connection with law school related activities when those actions occur on VLS property or in the use of VLS facilities (including the computer network, telephone, and email systems);
3. when those actions occur off campus in connection with events sponsored by VLS or VLS approved organization, or in connection with official business undertaken for VLS or in other circumstances on campus or off campus, while classes are in session or during semester breaks;
4. or in any circumstances where the reputation or policies of VLS would be involved or in other circumstances where an action could have a significant impact on the educational or employment environment or the reputation or integrity of VLS.

B. A person who believes she or he has been a victim of rape, acquaintance rape, or other sexual offenses, forcible or nonforcible, by another member of the Law School community, may, in addition to any other available legal remedy, bring Code of Conduct violation charges against that individual.

C. The procedural rules to be followed are detailed in Article IV of the Code of Conduct, except as follows:

1. The Associate Dean for Student Affairs and Diversity will meet with the alleged victim, who will make a written or oral complaint describing the assault. The statement should include the date of the alleged assault, the name of the accused, and should describe the circumstances of the alleged assault. The victim should also identify any witnesses who may have knowledge of the circumstances.
2. The accused may provide the Associate Dean for Student Affairs and Diversity with a written response to the allegations, including any information he/she believes is appropriate, including his/her understanding of the incident(s) at issue and the identity of any witnesses known to the accused.
3. The Associate Dean for Student Affairs and Diversity will conduct a probable cause investigation into the incident and may interview the parties and any witnesses to the incident.
4. If the Associate Dean does not dismiss the complaint and finds probable cause that the facts alleged, if true, would establish a violation of the Code of Conduct, the Associate Dean shall appoint a preliminary investigator to conduct a preliminary investigation into the facts and submit a written report.
5. If, at the conclusion of the preliminary investigation, the Associate Dean for Student Affairs and Diversity finds reasonable grounds to believe that a sexual assault has occurred, the Associate Dean for Student Affairs and Diversity shall refer the matter for the formal process described in Article IV.F of the Code of Conduct.
6. If, at the conclusion of the preliminary investigation, the Associate Dean for Student Affairs and Diversity finds that there are reasonable grounds to believe that a violation of the Code of Conduct other than sexual assault has occurred (such as but not limited to sexual harassment, lewd conduct, verbal abuse or disruptive behavior), the Associate Dean for Student Affairs and Diversity shall have discretion to determine whether the complaint is to be resolved by mediation, informal resolution, informal process or formal process, as provided in sections II C, D, E and F of the Code of Conduct, respectively.

7. The Associate Dean for Student Affairs and Diversity shall report his or her decision to the alleged victim and the accused.
- D. A violation of the Sexual Assault Policy will be subject to Class One sanctions. Class One sanctions include but are not limited to suspension, expulsion or withdrawal of an awarded degree.