

SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING POLICY, RESOURCES AND PROCEDURES

Adopted: May 8, 2015

Effective Date: May 8, 2015. *The policies, procedures and information outlined herein supersede previous Vermont Law School policies, procedures and information on the same topic.*

ARTICLE I. VLS SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING POLICY

A. Purpose

Sexual misconduct, domestic violence, dating violence and stalking violate Vermont Law School's Code of Conduct and often constitute a crime. The purpose of this Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy, Resources and Procedures ("SMDVS Policy") is to make clear that sexual misconduct, domestic violence, dating violence, and stalking, as defined herein, violate Vermont Law School's Code of Conduct, and to provide members of the VLS community who may have been subject to conduct that violates this policy with information about reporting incidents of prohibited conduct and available resources.

B. Notice of Non-Discrimination

Vermont Law School maintains and publishes in several publications a Notice of Nondiscrimination. For example, this Notice is included in the VLS Policy Against Harassment, Sexual Harassment, Discrimination and Related Retaliation ("HSHDR Policy"), available at <http://www.vermontlaw.edu/resources> and, in its printed handbook, as stated above. That Notice is incorporated into this Policy by reference. Any questions regarding sexual misconduct may be referred to the Law School's Title IX coordinator or to the Office of Civil Rights (contact information is provided in the HSHDR Policy).

C. Title IX Coordinator

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education's implementing regulations at 34 C.F.R. Part 106, the Law School's Title IX Coordinator has primary responsibility for coordinating the Law School's efforts to comply with and carry out its responsibilities under Title IX, which include the Law School's efforts to respond to reports of sexual misconduct. Vermont Law School has designated Shirley Jefferson, Associate Dean for Student Affairs and Diversity, (802) 831-1333, to serve as its Title IX Coordinator. Chantelle Blake, Human Resources and Payroll Manager, (802) 831-1308, will act as Dean Jefferson's alternate Title IX Coordinator when Dean Jefferson is unavailable. More detail about the duties the Title IX Coordinator and Deputy Title IX Coordinator is provided in the HSHDR Policy, which is incorporated herein by reference.

Reports or concerns regarding sexual misconduct, domestic violence, dating violence or stalking may also be reported to Stephanie Willbanks, Vice Dean for Administration and Student Affairs, 802-831-1277 and any safety concerns should be reported immediately, to Vice President of Finance, Lorraine Atwood, 802-831-1204

In the event that the incident, policy, or procedure about which the student or employee seeks to file a report or complaint creates the appearance of a conflict of interest with the Title IX Coordinator, students or employees may contact the President and Dean's Office. The President and Dean or designee will appoint another person to handle the Law School's related responsibilities, as appropriate.

D. **Definitions**

The definitions of sexual assault, domestic violence, dating violence and stalking used in this policy are consistent with the Clery Act, as amended effective 2014. In its primary prevention and awareness programs for incoming students and new employees, and its ongoing prevention and awareness programs for students and employees, Vermont Law School includes the definitions of sexual assault, the definition of consent in reference to sexual activity, and the definitions of domestic violence, dating violence and stalking that are used by Vermont criminal laws. However, the Law School utilizes its own definitions of these prohibited behaviors for purposes of this policy that are consistent with the Clery Act, as amended effective 2014, and determines responsibility for violations of Law School policy through its own procedures and standards of proof (that is, by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

“Sexual Misconduct” is a broad term that, as explained within this policy, encompasses sexual exploitation and sexual assault. Sexual misconduct usually constitutes a form of sexual harassment. Sexual harassment that does not fit within the definition of sexual misconduct stated in this SMDVS Policy will be handled under the Law School's HSHDR Policy, unless reported incidents involve alleged sexual harassment that would fit into both policies, in which case the procedures outlined in this SMDVS Policy will be followed in general, though some procedural variation may be necessary where deemed appropriate by the Title IX Coordinator, the Associate Dean for Student Affairs and Diversity, and/or the Deputy Vice Dean for Academic Affairs. The Law School prohibits a broad range of inappropriate sexualized activity through this sexual misconduct policy. The prohibitions of this policy apply regardless of the sex, sexual orientation or gender identity of any involved individual.

“Complainant” is defined as a student, employee, or third party involved in some way in an academic or extracurricular program of the Law School who has allegedly been subjected to conduct in violation of this policy by a student or employee respondent. In some cases (such as, for example, cases in which a student, employee, or third party involved in an alleged incident of sexual misconduct, domestic violence, dating violence or stalking does not wish to participate in the process but the Law School decides that the alleged misconduct needs to be investigated and addressed), the Law School may move forward with an investigation and/or related disciplinary proceedings. In such cases, the Law School may extend the full rights of a complainant as defined in this policy to affected parties as deemed appropriate by the Law School. For ease of reference and consistency, the term “complainant” is used hereafter in this policy to refer to a person who believes that he or she has been subjected to harassment, sexual harassment,

discrimination or retaliation, or who is believed by another to have been subjected to such conduct.

“Respondent” is defined as an individual (student, faculty, staff, or third party over whom the Law School has some form of jurisdiction) who is reported to have violated the Law School’s SMDVS Policy.

“Sexual exploitation” occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person, without that person’s consent. Examples of behavior that could rise to the level of sexual exploitation include but are not limited to: prostituting another person; recording images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness without that person’s consent; distributing images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and, viewing another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s consent, and for the purpose of arousing or gratifying sexual desire. Sexual exploitation may occur regardless of whether sexual activity takes place.

“Sexual assault” may be either rape, fondling without consent, incest, or statutory rape, as defined in the Clery Act and below. Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent (as defined below) of the victim, including instances where the victim is incapable of giving consent because of his/her temporary or permanent mental incapacity. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in the applicable jurisdiction. Statutory rape is sexual intercourse with a person who is under the statutory age of consent in the applicable jurisdiction.

Sexual assault can be committed by any person against any other person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

“Consent” At the foundation of this policy is the understanding that in order to engage in behavior of a sexual nature there must be clear, knowing and voluntary consent prior to and during sexual activity. For purposes of the Law School’s SMDVS Policy, “consent” is defined as follows:

- Consent is informed, active, and freely given and is grounded in rational and reasonable judgment. It requires clear communication between all persons involved in the sexual encounter.
- Consent can be communicated verbally or by action(s). Consent must be mutually understandable by all parties involved in the sexual experience, which a reasonable person would interpret as a willingness to participate in agreed-upon sexual conduct.
- The person initiating the sexual contact is always responsible for obtaining consent from their partner(s). It is not the responsibility of one party to resist or communicate “no” to the sexual advances of another.
- Consent is not the absence of resistance. Silence is an inactive behavior and does not constitute consent. If a partner is inactive (for example, silent or physically still) sexual activity must stop until both partners have communicated clearly with each other about what, if any, sexual activity is mutually desired.
- Consent to one form of sexual activity does not imply consent to another form of sexual activity. Each new sexual act requires new consent. Consent can be rescinded at any time.
- Consent at one time and to one sexual act does not imply consent at any other time to that or any other sexual act at a later date and regardless of previous relations.
- Consent to engage in sexual activity with one person does not imply to consent to engage in sexual activity with another;
- Consent cannot be given by minors, mentally disabled individuals, or by incapacitated persons. A person may be incapacitated as a result of alcohol or other drug use. A person who is unconscious, unaware, or otherwise physically helpless cannot give consent to sexual activity.
- A person will be considered unable to give valid consent, for example, if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing.
- Imbalance of power (supervisor- supervisee, faculty member-student, etc.) may lead to confusion about consent.
- Consent cannot result from force, or threat of force, coercion, fraud, intimidation, incapacitation (due to drunkenness for example), or imbalance of power. The Law School will use an objective standard when determining incapacitation-related questions; that is, the Law School will determine whether from the standpoint of a reasonable person, the respondent knew or should have known that the complainant could not effectively consent because he or she was incapacitated.

It should be noted that ignorance of the policy noted above, or the intoxication of the respondent, will not (particularly given the Law School’s objective standard) be considered an excuse for violating this policy.

As a matter of VLS policy, VLS strictly prohibits conduct that would constitute sexual misconduct under VLS policy as defined above. The Law School encourages complainants who believe they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the Law School through

the procedures described below, and to seek the support of the Law School and/or external resources identified in this Policy.

“Domestic violence” is violence committed—

- (a) By a current or former spouse or intimate partner of the person subjected to the violence;
- (b) By a person with whom the person subjected to the violence shares a child in common;
- (c) By a person who is cohabitating with, or has cohabitated with, the person subjected to the violence as a spouse or intimate partner;
- (d) By a person similarly situated to a spouse of the person subjected to the violence under the domestic or family violence laws of the jurisdiction in which the violence occurred, or
- (e) By any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the violence occurred.

As a matter of VLS policy, VLS strictly prohibits conduct that would constitute domestic violence under VLS policy as defined above. The Law School encourages complainants who believe they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the Law School through the procedures described below, and to seek the support of the Law School and/or external resources identified in this Policy.

“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 person subjected to the violence. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, if involving individuals who are or have been dating as defined here.

Dating violence does not include acts covered under the definition of domestic violence stated above.

As a matter of VLS policy, VLS strictly prohibits conduct that would constitute dating violence under VLS policy as defined above. The Law School encourages complainants who believe they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the Law School through the

procedures described below, and to seek the support of the Law School and/or external resources identified in this Policy.

Stalking” is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (a) Fear for the person's safety or the safety of others; or
- (b) Suffer substantial emotional distress.

For the purposes of this definition—

(a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the alleged 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.

(b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the person subjected to the stalking.

(c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

When part of a pattern of behavior that falls within the definition of stalking described above, examples of stalking behaviors or activities may include, but are not limited to:

- Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or any other communications that are unwelcome.
- Use of online, electronic or digital technologies in connection with such communication, including but not limited to:
 - Posting of pictures or text in chat rooms or on websites;
 - Sending unwanted/unsolicited e-mail or talk requests;
 - Posting private or public messages on Internet sites, social networks, and/or school bulletin boards
 - Installing spyware on a person's computer;
 - Using Global Positioning Systems (GPS) or similar technology to monitor a person.
- Pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person.
- Surveillance or other types of observation including staring or “peeping”
- Trespassing
- Vandalism
- Non-consensual touching
- Direct verbal or physical threats
- Gathering information about an individual from friends, family, or co-workers
- Accessing private information through unauthorized means
- Threats to harm self or others
- Using a third party or parties to accomplish any of the above.

As a matter of VLS policy, VLS strictly prohibits conduct that would constitute stalking under VLS policy as defined above. The Law School encourages individuals who believe that they are being or have been subjected to such conduct, and others with knowledge of such conduct, to report the conduct to the Law School through the procedures described below, and to seek the support of the Law School and/or external resources identified in this Policy.

Retaliation is defined as an adverse action taken against any person for making a good faith complaint of conduct that would violate this policy or for having participated in an investigation of such a complaint. Retaliation includes but is not limited to ostracizing the person, pressuring the person to drop or not support the complaint, or adversely altering that person's educational, living, or work environment. Retaliation may be unlawful and may constitute a violation of this policy depending on the circumstances, whether or not the complaint is ultimately found to have merit. Retaliation is strictly prohibited.

E. Scope and Required Information

The Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy applies to conduct on VLS property and/or in connection with VLS-sponsored programs and events, including student group events. The policy also applies in other circumstances where the alleged conduct: could have a significant impact on the educational or employment environment or the reputation or integrity of VLS; involves interactions between VLS employees, officers, trustees and/or students; or indicates that someone 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 misconduct, domestic violence, dating violence or stalking complaint against a law student, regardless of the circumstances of the alleged misconduct.

Disciplinary proceedings regarding reports of sexual misconduct, domestic violence, dating violence or stalking will involve prompt, fair and impartial investigations and resolutions, will be conducted by VLS officials and/or appointees who receive annual training on the issues related to domestic violence, dating violence, sexual misconduct and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. VLS will not publish the name or other identifying information about a person who was reportedly subject to such misconduct when creating publicly-available records about criminal incidents, to the extent permissible by law. The Law School prohibits retaliation, intimidation, coercion, threats, coercion or other discrimination against any individual for exercising their rights or responsibilities as outlined in this SMDVS Policy.

F. Reporting

VLS strongly encourages any student or employee who feels that he or she has been subjected to sexual misconduct, domestic violence, dating violence or stalking to contact local authorities. Reporting the incident does not obligate you to prosecute, but helps

preserve your options in the event that you choose to pursue criminal prosecution or an order of protection. Delayed reporting will diminish the possibility of collecting potentially crucial evidence. Nevertheless, VLS will accept reports when they are made, and it is never too late to seek support and medical attention.

G. **Leniency**

Sometimes, individuals are reluctant to come forward to report perceived violations of this policy out of fear that they may be charged with violations of Code of Conduct standards (for example, because they engaged in illegal drug use at the time of the incident). It is of paramount importance to the Law School that all perceived violations of this policy be reported, so that those affected can receive the support and resources needed. Therefore, in order to facilitate reporting, the Law School may choose to not charge students who report violations of this policy with violations of Code of Conduct standards.

H. **Confidentiality**

VLS will strive to maintain confidentiality in responding to a complaint under this policy, including inquiries regarding the investigation, the disciplinary process, and the final outcome of any disciplinary proceeding – although, by law, both the respondent and the complainant will be informed in writing of the outcome of disciplinary proceedings involving a report of sexual assault, domestic violence, dating violence or stalking.

Confidentiality is not absolute, however. 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 misconduct. Please do not be discouraged to come forward: your reporting of misconduct covered by this policy may help prevent other misconduct, and information will be shared only to the extent necessary to protect our community's safety and facilitate investigations and adjudications.

Counselors and medical providers are confidential resources. This means that, in most cases, these confidential resources will not share the substance of any such communications or that such communications occurred with the complainant's consent. Individuals who wish to talk about sexual misconduct, domestic violence, dating violence or stalking-related issues confidentially, with the understanding that the Law School will not take any action based on such confidential communications, are encouraged to contact one of these confidential resources.

Confidential resources may, however, have an obligation to disclose otherwise-privileged information where they perceive an immediate and/or serious threat to a person and/or property. This is a limited exception to the privileged nature of communications with confidential resources. Reports or records maintained by VLS (including the Counseling Service records), and other confidential, non-privileged records may, however, be subject to subpoena if civil or criminal charges are filed in court.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, these confidential resources **will not** report Clery crimes they learn

about through confidential communications for purposes of the Law School’s compilation of campus crime statistics. Even if a student wishes to maintain confidentiality, the confidential resources will still assist the individual in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working, transportation or academic accommodations.

Contact information for confidential resources is as follows:

- Vermont State Wide Emergency Number 1-800-489-RAPE
This number automatically connects the caller with the local domestic violence/sexual assault program.
- For victims with disabilities1-800-489-7273
Connect with local program for crisis intervention, peer counseling, court advocacy, referral and other services.
- Legal Assistance
 - Vermont Legal Aid800-889-2047
or <http://www.vtlegalaid.org>
 - Vermont Bar Association..... <https://www.vtbar.org>
 - Clara Martin Center802-728-4466

I. Non-Confidential Resources: Responsible Employees

Many staff and faculty members are “responsible employees” for purposes of this policy and the Law School’s HSHDR Policy. As defined in more detail in the HSHDR Policy, a “responsible employee” is defined as a Law School employee who has the authority to address conduct that violates this policy or the HSHDR Policy, or whom an individual could reasonably believe has this authority or duty. Law School administrators, staff, and student employees whose job responsibilities include working with students, and Law School faculty, are considered to be “responsible employees,” as are (where the complainant is an employee) supervisors, administrators, and individuals working in Human Resources.¹ Responsible employees are respectful of an individual’s wishes to the extent appropriate and are discreet, but they need to convey information about reported conduct in violation of this policy to the Law School’s Title IX Coordinator.

General inquiries or questions about this policy may remain private, do not have to be reported, and the Law School will strive to protect the privacy interests of individuals to the extent it can while maintaining its obligations to uphold relevant policies and regulations and/or to take reasonable steps to promote the safety of members of the Law School community. Otherwise, once any responsible employee learns of an incident that may violate this policy, written or unwritten, the responsible employee must immediately notify the Title IX Coordinator of such complaint. The responsible employee must report all relevant details about the incident (such as the name of the complainant and respondent, any witnesses, and other relevant facts, such as the date, time and specific

¹ “Responsible employee” does not include the confidential resources as defined above.

location of the alleged incident). Such notice to the Law School generally obligates the Law School to investigate the incident and take appropriate steps to address the situation.

J. Vermont Law School Disciplinary Sanctions

A student who violates the Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy will be subject to disciplinary proceedings under this Policy independently of whether legal proceedings involving the same incident are underway or anticipated. See Article IV of this Policy.

An employee of VLS who violates either the Standards of Professional Conduct or who violates the Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy will be subject to disciplinary action up to and including the termination of employment. If the Associate Dean determines that the President and Dean, another officer or Trustee, or an agent or contractor of the Law School has engaged in conduct in violation of this policy, he/she will 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. VLS will encourage and assist a complainant in reporting any illegal conduct to the appropriate authorities, and may have to do so independently where it determines that the circumstances pose an ongoing threat to a member or members of the VLS community.

ARTICLE II. MATERIALS AVAILABLE REGARDING SEXUAL ASSAULT AND SEXUAL OFFENSES

Educational materials concerning rape, sexual assault, and sexual harassment are available from the Associate Dean for Student Affairs and Diversity, the Title IX Coordinator, and the Deputy Title IX Coordinator. 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 of the rape crisis centers listed in Section III (D) of this document.

ARTICLE III. RESOURCES FOR VICTIMS OF SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING

The Law School will support individuals in making referrals to, contacting, and/or providing the options and support resources outlined below, regardless of whether an individual wishes to report covered misconduct to law enforcement authorities.

A. Obtaining Support

You are in control to decide whether you want to talk with somebody about the incident and with whom you want to talk. The choice to report a crime to the police is also yours, though VLS may be required to report a crime to the police in contradiction to the complainant's wishes if VLS determines that the circumstances pose an ongoing threat to a member or members of the VLS community. If you are unsure about what to do

immediately after an incident of sexual assault, domestic violence, dating violence or stalking, these are some of your options:

1. Call a rape-crisis hotline.
 - Safeline 1-800-639-7233
 - WISE (Women's Information Services) 603-448-5525Safeline 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 at (802) 831-1333 or Deputy Vice Dean at 802-831-1226.
4. Call Clara Martin Center 24-hour Emergency Service at (800) 639-6360.
5. Call a domestic violence support provider
 - Vermont 211. Get Help. Give Help. Discover options. A free and confidential service.
 - SafeSpace Vermont 866-869-7341 or 802-863-0003 for LGBTQA survivors www.rul2.org/safespace.
 - www.rainn.org Rape, Abuse, Incest National Network, lots of info 24/7 hotline.
 - Deaf Vermonters Advocacy Services, videophone or hearing 802-661-4091.
 - www.mailsurvivor.org overcoming sexual victimization for boys and men.
 - Women Safe 24-hour hotline 1-800-388-4205 provides crisis intervention and emotional support to survivors of physical, sexual, and/or emotional abuse.

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 it does 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, absent circumstances described above in A. Law enforcement may be reached at:

- State Police (Bethel office): (802) 234-9933
- South Royalton Police Department: (802) 763-7776 or 911.

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, if you so choose. Your options include: notifying law enforcement authorities; being assisted by VLS in notifying law enforcement authorities, if you choose to have VLS's support in notifying law enforcement authorities; and declining to notify such authorities.

E. Seeking Counseling

1. VLS provides up to three free short-term confidential counseling service visits to Vermont Law School students. For evaluation, consultation and/or referral, contact our counseling service: Clara Martin Center 802-728-4466.
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
 - Safeline 1-800-639-7233
 - WISE (Women's Information Services) 603-448-5525
 - SafeSpace (for LGBTQQ survivors of violence) 1-866-869-7341
 - Clara Martin Center 24-hour Emergency Service (800) 639-6360

F. Get assistance from the Law School

1. For initial counseling and referral to counseling and legal reporting sources, and/or if, in the aftermath of sexual assault, domestic violence, dating violence or stalking, 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 or the Title IX Coordinator. The Law School may make reasonable accommodations to assist you, including issuance of no contact orders and assistance with changes in your academic schedule and/or living, working or transportation arrangements, should such changes be required and reasonably available. 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. Please understand, though, that these individuals will be responsible employees as defined above so will be required to inform the Title IX Coordinator of information you provide; if you wish to have a confidential conversation, you should speak with a confidential resource (i.e., a medical or mental health provider), as described above.
 3. The Law School will assist complainants who wish to pursue the issuance of orders of protection (e.g., relief from abuse orders) in contacting appropriate authorities, will issue no-contact and no-trespass orders as necessary and appropriate, and will facilitate the implementation of judicially-ordered protective measures to the extent that it has the jurisdiction to do so on its campus and/or in connection with its programs.
- G. Preserving Evidence. In addition to preserving evidence of a sexual assault as described above, you should also, to allow you to preserve your options to seek criminal prosecution, an order of protection, or disciplinary action by the Law School, preserve any other physical, documentary, photographic or other evidence that might be relevant to an incident or incidents of sexual assault, domestic violence, dating violence or stalking. This would include electronically-stored information such as text messages, emails, or video and audio files.

ARTICLE IV. VERMONT LAW SCHOOL DISCIPLINARY ACTION

- A. Sexual misconduct, domestic violence, dating violence, and stalking are violations of the Vermont Law School Code of Conduct. The Code applies to conduct:
1. by 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. by 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. that occurs 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; and
 4. 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 (such as, by way of example but not limitation, where alleged conduct involves interactions between VLS employees, officers, trustees and/or students).
- B. A person who believes she or he has been subjected to conduct that violates this policy by another member of the Law School community, may, in addition to any other available legal remedy, make a report about that conduct to the Law School.

C. The following procedural rules apply to reported violations of this Policy:

1. **Complaint.** The Associate Dean for Student Affairs and Diversity (the Associate Dean) will meet with the complainant, who will make a written or oral complaint describing the incident. The complaint should include the date of the alleged assault, the name of the person who allegedly committed the assault (hereinafter, the respondent), and should describe the circumstances of the alleged assault. The complainant should also identify any witnesses who may have knowledge of the circumstances. The Associate Dean will make an initial determination as to whether or not the complaint alleges conduct prohibited by this policy. The complainant may request that charges be withdrawn at any time and the Law School will attempt to honor the wishes of the complainant. However, to accommodate cases where compelling evidence suggests significant individual or community safety concerns, the decision whether to discontinue an investigation or dismiss charges rests within the sole discretion of the Law School. Safety for the student and the campus community as a whole is of primary concern.
2. **Advisors and Support Persons.** The Associate Dean may, at his or her discretion, appoint advisors for the complainant and respondent. The appointed advisors serve as advisors only, and do not give legal advice. There is no attorney/client privilege between the students and the advisors. The students may retain legal counsel at their own expense. The complainant and respondent are entitled to be accompanied by an advisor of their choice whenever meeting with the investigator or during any meetings related to the investigation. Such persons may, but need not, be the student's appointed advisor or retained legal counsel. Support persons can confer privately with the complainant or respondent, but cannot act as advocates or address the investigator.
3. **Investigation Overview.** If the Associate Dean determines that the complaint as reported does fall within this policy, he/she will appoint an investigator to investigate the facts and prepare a written report. The Investigator may be a Vermont Law School employee or official or may be an external investigator with appropriate experience or expertise. The complainant and respondent will be provided with notice of the identity of the appointed Investigator, and will be informed that any objections to the service of the appointed Investigator on grounds of conflict of interest or a lack of impartiality should be submitted in writing to the Associate Dean within 3 days of notice of the appointment. The Associate Dean will decide promptly whether the appointed Investigator will or will not continue to conduct the investigation. Any materials collected or notes prepared by the Investigator during the objection period will be turned over to any replacement Investigator. The replacement Investigator will decide whether to use such materials or not. Absent extenuating circumstances, this initial determination and appointment of an Investigator will occur within five business days of receipt of the complaint. The Associate Dean will advise the respondent that charges have been filed against him/her and are being investigated. Should a

respondent who has been notified of an investigation fail to cooperate with the investigator, the investigation may proceed, a finding may be reached, and a sanction may be imposed based upon the information available. The parties will be given periodic status updates throughout the investigation. At no point will the complainant be forced to be in contact or be in the same room as the respondent.

4. **Interim Remedial Measures.** During the investigation, the Associate Dean or Title IX Coordinator may issue interim remedial measures, such as issuance of a no-contact order to restrict contact and communication between the complainant and the respondent. Other preventative measures may be taken where requested and reasonably available, such as room changes, class changes or, in particularly serious cases, interim removal of a student from campus.
5. **Additional Violations.** If, prior to or during the investigation, Vermont Law School becomes aware that additional violations have allegedly occurred or additional policies have allegedly been violated, additional charges may be added to and resolved through this investigation or separately, as determined at the discretion of the Associate Dean. In the event that additional charges are added to the investigation, the Associate Dean will notify the respondent of the additional charges promptly and in writing.
6. **The Investigation.** The investigation will be conducted in a prompt, thorough, impartial, and equitable manner. Absent extenuating circumstances, the investigation of a complaint under this policy will ordinarily be completed within 30 calendar days. If the complainant or respondent requests an extension of this general 30 day period, he or she should make a written request for an extension to the Investigator, who will make a decision on the request after having provided the other party notice of the request and an opportunity to respond.

The complainant and respondent will be asked to identify all relevant witnesses they would like the Investigator to interview. Both parties may provide, if they wish, a list of questions they would like the Investigator to ask of particular witnesses or of each other. The Investigator is not required to interview any particular witness, even if identified by one of the parties. Nor is the Investigator required to ask questions provided by either party. At the conclusion of the investigation, the Investigator will share the witness statements and relevant materials with both the complainant and the respondent. Both will have the opportunity to respond to this information in writing within five business days. The deadline for the receipt of such responses is also the deadline for receipt by the Investigator of character reference letters for each party. If new evidence is gathered at any stage, it will be shared with both the complainant and the respondent and each will have an opportunity to submit a written response within a time frame set by the Associate Dean. When the final responses, if any, have been received from the complainant and respondent, the Associate Dean will share each party's response with the other party. The Investigator will submit a final report to the Associate Dean. The final report will include all investigation

materials, the responses from the complainant and respondent, any character references, and the Investigator's recommended finding of whether this SMDVS Policy (or, where the procedure is being used to adjudicate alleged violations of the Policy Against Harassment, Sexual Harassment, Discrimination, and Retaliation ("HSHDR Policy")) has been violated, based on a preponderance of the evidence standard, *i.e.* whether it is more likely than not that the policy was violated, along with the Investigator's rationale for this recommendation.

7. **Sexual Misconduct Review Panel.** Upon receipt of the Investigator's report, the Associate Dean will convene a Sexual Misconduct Review Panel. This Panel will ordinarily consist of five members drawn from a pool. The pool includes five faculty members selected by the Deputy Vice Dean of Academic Affairs, five staff members selected by the Dean and President, and five students appointed by the President of the Student Bar Association. The Associate Dean will choose five panel members from this pool to attend the hearing and make determinations. Each panel will have at least one member from each of the three groups listed and, if possible, gender diversity will be considered when selecting the panel. All pool members will receive annual training by the Title IX coordinator or her alternate.

The claimant and/or respondent may challenge the participation of any member of the review panel for conflict of interest or other good cause. Familiarity alone does not create a bias issue. Only where there is a determination that a panel member will not be able to provide an unbiased and impartial decision should an alternate be selected by the Associate Dean.

8. **Hearing.** The Panel will be provided with the Investigator's complete report and supporting materials but is not bound by his/her recommended finding. Absent extenuating circumstances, the Sexual Misconduct Review Panel will hold a closed hearing on whether the Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy (or, where this procedure is being used to adjudicate an alleged violation of the HSHDR Policy) has been violated. The Sexual Misconduct Review Panel will hold this hearing within fifteen business days after receipt of the Investigator's complete report. The complainant and respondent shall be notified concurrently of the date, time, and location of the hearing. The complainant and the respondent will have an equal opportunity to present relevant witnesses and other evidence, to have an advisor of their choice present, to access information to be used at the hearing, and to present character witnesses. The hearing shall not be a formal adversarial one in the sense that there will be a prosecution versus a defense. The purpose of the hearing is to gather information to enable the Sexual Misconduct Review Panel to determine whether SMDVS Policy (or, as applicable, the HSHDR Policy) has been violated. To that end, the Sexual Misconduct Review Panel, as well as the complainant and respondent, shall have the right to call witnesses, question witnesses and examine documents offered as evidence. Neither the complainant nor the respondent will be permitted to question or cross-examine each other, either directly or through counsel, but may submit questions to the Panel. Neither party's advisor person may address the Panel or the witnesses. The Panel shall have full

discretion to decide whether to ask the requested questions or not. Either the complainant or the respondent may request physical separation from the other at the hearing, including visual separation, such as through the use of a screen, video-conferencing or other such technology. Because this is not a civil or criminal trial, the rules of evidence may be more relaxed in the interest of gathering relevant information. It should be noted that extraneous information such as the complainant's or the respondent's prior sexual history with others may not be included, and not considered by the Panel in its deliberations on whether the charged misconduct occurred. A respondent's involvement in other incidents may, however, be considered by the Panel in its determination of sanctions, as discussed below.

9. **Finding and Sanction.** The Panel will issue a finding regarding whether the SMDVS Policy (or as applicable, the HSHDR Policy) has been violated, based upon the preponderance of evidence standard. Absent extenuating circumstances, the Sexual Misconduct Review Panel will issue its findings, in writing, within 10 business days after the Hearing. A majority of the Panel members must find that a policy violation occurred for a finding of responsibility. The Associate Dean will notify the complainant and respondent concurrently and in writing of the finding to the extent permitted by law. If a finding is made that no policy has been violated, the respondent will have no record of the charge or its outcome in his/her permanent file. Complainants may appeal a finding of no responsibility and respondents may appeal a finding of responsibility, as set forth below. If the Panel determines that there has been a policy violation, the complainant may submit an Impact Statement to the Panel and the respondent may submit a Sanction Statement to the Panel, within three business days of the notification. The Panel will reconvene, consider the Impact Statement and Sanction Statement if any have been submitted, and determine a sanction.

10. **Sanctions.** A violation of the Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy will be subject to Class One sanctions. Class One sanctions include, expulsion or withdrawal of an awarded degree. A violation of the Harassment, Sexual Harassment, Discrimination, and Retaliation Policy will be subject to Class Two sanctions. Class Two sanctions include expulsion, suspension, or withdrawal of an awarded degree, a fine, restitution, community service, probation, reference to counseling, termination of employment, or other action as deemed appropriate under the circumstances. If the student complained against receives either a Class One sanction or a Class Two sanction the fact of the violation and the sanction shall be noted in the student's official file, unless the President and Dean decides otherwise. If the student complained against receives a Class One sanction the fact of the violation and the sanction shall be noted on the student's official transcript. Prior conduct and judicial history may be taken into account in determining a sanction. Respondents should also be advised that additional non-disciplinary outcomes, such as (by way of example but not limitation) extending and modifying no-contact orders, may also be imposed regardless of the finding. The Associate Dean will notify the complainant and respondent simultaneously and in writing of any sanction to the extent permitted by law. Absent extenuating circumstances, the Sexual Misconduct Review Panel will issue a decision regarding

sanctions, if applicable, within 5 business days after receipt of an Impact Statement and/or Sanction Statement, if any. If neither Statement is submitted, the Panel will issue a decision on sanctions within 8 business days of issuing its finding.

11. **Appeals.** The complainant and respondent both have the right to appeal the decision of the Sexual Misconduct Panel to the President and Dean. The purpose of the appeal is to review the adjudication process. Appeals may be made on the basis of one or more of the following: discovery of significant new factual material not available to the Sexual Misconduct Review Panel that could have affected the original outcome (but omission of factual information by the appealing party that was or should reasonably have been available to the appealing party before the hearing is not grounds for appeal), or violation of procedure where the violation prevented fundamental fairness. The right of appeal is only available to a complainant or respondent who participated in the investigative process. An appeal must be made in writing within 5 business days of receipt of the finding in cases where no violation is found and within 5 business days of receipt of the sanction in cases where a policy violation has been found. The appeal must include the grounds for appeal and provide an outline of supporting evidence. The President and Dean will notify the Associate Dean and the other student of the appeal and will request his or her response to the appeal. The Associate Dean and the other student may provide a written response within five business days of the request. The President and Dean may deny the appeal or, if the appeal grounds have been met, may return the case to the Sexual Misconduct Review Panel for reconsideration, or convene a new Sexual Misconduct Review Panel. If the case is returned to the Sexual Misconduct Review Panel, the President and Dean shall identify which aspects of the case merit further review. Absent extenuating circumstances, the President and Dean will notify the complainant and respondent concurrently, in writing, of his/her determination within 15 business days, to the extent permitted by law, and will notify the Associate Dean, in writing, with instructions for any further action. All decisions by the President and Dean are final.

The Law School will notify the parties of any change to the results of a disciplinary decision that occurs prior to the time that such results become final, and when such results become final.

12. **The Record.** The Sexual Misconduct Review Panel will tape record the hearing in each case. The recording, the documents received, and the findings and action shall be retained in the President and Dean's Office. This record may be referred to by the Panel for any purpose, but the confidentiality of the record will otherwise be maintained. At any time after 6 years, the President and Dean's Office may destroy the record except for the final determination, unless there is a pending request for the record or the President and Dean determines that there is some need to continue to maintain the record confidentially. Additional information on sanctions, notations in student files and status if a student withdraws while disciplinary action is pending is set forth in Article V of the Code of Conduct.

Addendum A: **Title IX Coordinator's Functions and Responsibilities**

The following is a non-exhaustive list of the Title IX coordinator's functions and responsibilities.

(1) Training for Students, Faculty, and Staff

The Title IX Coordinator provides or facilitates ongoing training, consultation, and technical assistance on Title IX for all students, faculty and staff, including:

- regular training for faculty and staff outlining their rights and obligations under Title IX, including the appropriate response to reports of sexual misconduct, the obligation to report sexual misconduct to appropriate Law School officials, and the extent to which counselors and advocates may keep a report confidential, and
- regular training for students outlining their rights under Title IX; with regard to sexual misconduct, this training will include what constitutes sexual misconduct and when it creates a hostile environment, the definition of consent, reporting options (including reports to responsible employees, campus and local law enforcement, and confidential reporting to counselors or advocates), the grievance procedures used to process complaints, applicable disciplinary code provisions relating to sexual misconduct and the consequences of violating those provisions, the role of alcohol and drugs in sexual misconduct, the effects of trauma, strategies and skills for bystander intervention, the offices or individuals with whom students can speak confidentially, the offices or individuals who can provide support services, the employees who must report incidents to the Title IX coordinator, and Title IX's protections against retaliation.

(2) Investigations

The Law School will conduct adequate, reliable, and impartial investigations of reports and complaints of sexual misconduct. The Title IX Coordinator oversees many aspects of this response, including:

- determining whether the report or complaint alleges conduct that may, upon investigation, constitute prohibited sexual misconduct,
- appointing an investigator or investigators upon such determination,
- making certain that individual reports and complaints are handled properly and in a prompt and timely manner,
- informing all parties regarding the grievance process,
- confirming that all parties have been notified of grievance decisions and of the right to, and procedures for, appeal,
- maintaining information and documentation related to the investigation in a secure manner, and
- monitoring compliance with timeframes specified in the grievance procedures.

The Title IX Coordinator evaluates requests for confidentiality by those who report or complain about sexual misconduct in the context of the Law School's responsibility to provide a safe and nondiscriminatory environment for all students and employees. Confidentiality issues are discussed in more detail in the Law School's Policy Against Harassment, Sexual Harassment, Discrimination and

Related Retaliation, and its Sexual Misconduct, Domestic Violence, Dating Violence and Stalking Policy.

(3) Remedies, Including Interim Measures

Upon learning of a report or complaint of sexual misconduct, the Title IX Coordinator promptly takes steps to ensure the complainant's equal access to the Law School's programs and activities and protect the complainant as necessary. Such steps include taking interim measures before the final outcome of any investigation, providing remedial measures after the final outcome of an investigation, and making the complainant aware of all available resources, including resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. Interim measures are discussed in more detail below.

Upon a finding of prohibited sexual misconduct, the Title IX Coordinator determines whether campus-wide remedies should be adopted in response, including, by way of example but not limitation, review and revision of the Law School's sexual misconduct policies, increased monitoring, supervision or security at locations where sexual misconduct is reported to occur, and increased education and prevention efforts, including to targeted populations.