

## **COMMUNITY COLLEGE OF VERMONT**

### **VSC SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING POLICY (311-A)**

#### **ABOUT THE [POLICY](#) AND IMPLEMENTING [PROCEDURES](#)**

**September 2014**

Community College of Vermont, and all Vermont State Colleges, are committed to the safety, dignity, and respect of all of its students, staff, faculty, visitors, and volunteers. Therefore, CCV will not tolerate any form of sexual misconduct.

The purpose of this policy and the accompanying procedures is to provide community members with the structure, tools, and guidance to assist those who have experienced or been affected by sexual misconduct whether as a complainant (victim), a respondent (person against whom a complaint has been filed), or a third party (visitors, parents, vendors, independent contractors).

#### **WHAT IS THE SCOPE OF THIS POLICY?**

- This policy applies to all members of the College community, including students, staff, instructors, visitors, independent contractors, volunteers, and any individuals regularly or temporarily employed, studying, visiting, conducting business, or having any official capacity at the College.
- The policy applies to all members of the College community, regardless of sexual orientation, gender, or gender identity
- This policy applies to sexual misconduct occurring at a CCV academic center or at College-sanctioned events or programs that take place outside a CCV academic center, including study abroad, dual enrollment and contracted courses.
- Incidents that occur outside an academic center may also be covered by this policy if the incident has jeopardized the safety of the College community or the operations of the College.

## WHAT CONDUCT IS PROHIBITED UNDER POLICY 311-A?

1. **Sexual Misconduct:** any uninvited or unwelcome sexual touching, contact, or exploitation that includes but is not limited to sexual assault. Sexual misconduct may include sexual contact between persons who know each other or even have a close relationship. Regardless of current or prior relationship, sexual contact should not occur without consent of the individuals involved. Please refer to VSC Policy 311-A and the accompanying Procedures for further definitions and procedures.
2. **Sexual Assault:** Sexual assault is defined as any sexual act forced on another person without his or her consent. Please refer to VSC Policy 311-A and the implementing Procedures for further definitions and procedures.
3. **Dating Violence:** Please refer to VSC Policy 311-A and the implementing Procedures for further definitions and procedures.
4. **Sexual Violence:** Please refer to VSC Policy 311-A and the implementing Procedures for further definitions and procedures.
5. **Stalking:** Please refer to VSC Policy 311-A and the implementing Procedures for further definitions and procedures.

## WHAT SHOULD I DO IF I AM THE VICTIM OF SEXUAL MISCONDUCT?

If you are a victim of sexual misconduct, [get help now](#). Acts of sexual misconduct, including sexual assault, dating violence, domestic violence, and stalking, often create difficult emotional issues for victims. If you are a victim, consider these important steps:

- Get to a safe place as soon as possible. We encourage you to contact local law enforcement.
- Contact a trusted person for support. This could include a family member, friend, the local rape crisis line or the sexual violence statewide hotline at 1-800-489-7273.
- To the extent possible, preserve all evidence. Avoid washing, going to the bathroom, and changing clothes if possible. This will help to preserve physical evidence should you decide to take legal action. If you must change clothing, all the clothing worn at the time of the assault should be placed in a paper bag (not a plastic one).
- Seek medical attention as soon as possible.
- To the extent possible preserve all evidence. Do not erase text messages, voicemail messages, or social media posts related to sexual misconduct. Keep any written communications and take pictures of any property damage related to sexual misconduct.

### **WHAT IS EFFECTIVE CONSENT FOR SEXUAL ACTIVITY?**

Effective consent for sexual activity is clear indication, given freely through mutually understandable words and/or actions, that parties are willing and active participants.

- Consent must be free of force, threat, intimidation, or coercion.
- Consent to some form of sexual activity is not necessarily consent to other forms of sexual activity.
- People who have a mental illness or intellectual disability may be incapable of providing consent.
- People who are unconscious for any reason or who are physically unable to communicate are assumed to be incapable of consent. Silence, lack of protest, or an absence of resistance does not by itself imply consent.
- Past consent does not imply future consent.
- The existence of a dating relationship or a past sexual relationship between the persons involved does not mean one can assume consent.
- Consent can be withdrawn at any time.
- Consent is present only where an individual is not incapacitated by alcohol or other substances. Alcohol or drug use may impair the ability of persons to give consent. Slurred speech, difficulty walking or standing, vomiting, and losing consciousness are physical indications of incapacity.
- Impairment due to alcohol or drugs is not an excuse for committing sexual misconduct. Impairment due to alcohol or drugs is not an excuse for inability to determine another's incapacity.
- People who are under the age of 16 may not give consent.

### **WHAT BEHAVIORS CONSTITUTE DOMESTIC VIOLENCE AND DATING VIOLENCE?**

- Dating and domestic violence may involve one act or an ongoing pattern of behavior.
- Dating and domestic violence can encompass a broad range of behavior, including, but not limited to, physical violence, sexual violence, emotional violence, and economic abuse. Dating and domestic violence can take the form of threats; assault; restraint; unauthorized entry and, specifically, uninvited threatening presence in another's room or office; property damage; or violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Dating and domestic violence can also be conduct intended to intimidate, manipulate, humiliate, terrorize, or isolate the other person.
- Dating and domestic violence affects individuals of all genders, gender identities, gender expressions, and sexual orientations and does not discriminate by racial, social, or economic background.
- Dating and domestic violence applies to "household members." Household members do *not* include roommates who have not had a dating, sexual, or romantic relationship.

## **WHAT BEHAVIORS CONSTITUTE STALKING?**

Stalking, as presented in Policy 311-A, includes, but is 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, such as posting pictures or text in chat rooms or on websites, posting private or public messages on Internet sites, social networks, and/or school bulletin boards, installing spyware on a person's computer, and using Global Positioning Systems or similar technology to monitor a person
- Pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person
- Surveillance or other types of observation
- Trespassing
- Vandalism
- Direct verbal or physical threats against a person or a person's family member, pet, or personal property
- Gathering information through unauthorized means
- Threat to harm self or others
- Defamation and/or lying to others about the person
- Using a third party or parties to accomplish any of the above

## **WHO SHOULD REPORT VIOLATIONS?**

Any student, faculty or staff member who believes s/he is a victim of sexual misconduct or a person who has information about alleged incidents concerning a CCV community member, is encouraged to report incidents to [designated contact persons](#) or the College's Equity officer/Title IX coordinator.

Designated contact persons are persons at each academic center who are trained to advise individuals about the policy and its procedure, assist them in reporting violations, and may participate in informal resolution processes and/or refer them to the Equity officer/Title IX coordinator.

The Equity officer/Title IX coordinator is the person at the College who coordinates the efforts to comply with and carry out the institution's responsibilities under Title IX of the Education Amendments of 1972, which prohibits discrimination and harassment on the basis of sex, including acts of sexual violence.

The CCV Equity officer/Title IX coordinator is [Heather Weinstein](#), Dean of Students.  
(802)828-3010.

### **WHO MUST REPORT VIOLATIONS UNDER THIS POLICY?**

All CCV staff and faculty must report any alleged violation of which they are aware or have been made aware to a [designated contact person](#) or the [College's Equity officer/Title IX coordinator](#).

### **WHEN SHOULD I REPORT A VIOLATION UNDER THIS POLICY?**

CCV encourages individuals to report incidents of sexual misconduct immediately following their occurrence. However, you can report an incident of sexual misconduct at any time. A prompt report of sexual misconduct is important for safety and will allow CCV to conduct a more effective investigation and will allow for a more effective VSC adjudicatory (legal hearing) process.

A prompt report of sexual misconduct to law enforcement enhances criminal investigations.

### **WHAT RIGHTS MIGHT I BE PROVIDED IF I REPORT SEXUAL MISCONDUCT?**

Any student or employee reporting victimization of sexual misconduct will be provided with his/her rights to:

- Be assisted by CCV staff in reporting a crime to law enforcement.
- Change academic or work situations to avoid a hostile environment.
- Obtain a no contact directive. This means that the respondent will be told not to contact you – this includes contact in person, by phone, text, email, social media and any other form of contact.
- Have a clear description of VSC Policy 311-A and the accompanying Procedures and know the range of possible sanctions.
- Receive information about counseling, health, mental health, victim advocacy, legal assistance, and other services available in Vermont communities.

### **DO I HAVE TO FILE A REPORT WITH LAW ENFORCEMENT (POLICE)?**

Victims of sexual misconduct are strongly encouraged to report violations to [state](#) or [local police](#) as soon as possible; College personnel will assist victims who want help in reporting offenses to the proper authorities.

Victims have the option to decline to notify law enforcement of sexual misconduct.

Victims may choose to report violations to law enforcement and pursue a complaint through CCV's disciplinary process at the same time.

**WILL CCV HELP ME ENFORCE AN ORDER OF PROTECTION, A RESTRAINING ORDER, OR OTHER ORDERS ISSUED BY THE COURTS?**

CCV does not employ a campus security force, but fosters a close relationship with local police departments. CCV staff and faculty are not equipped to enforce orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court. Students with protective and court orders should work with the local police department. Upon request, CCV staff will assist students in contacting police and other resources to both enforce and seek such orders.

**IF I FILE A COMPLAINT, WILL I HAVE TO SEE THE PERSON/S I AM ALLEGING VIOLATED THE SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING POLICY?**

Following an alleged incident of sexual misconduct, victims may request, through the Dean of Students or President, reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect the parties involved. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the complainant (the victim) or the College.

The College, at its discretion will implement interim measures with potential remedies that may be applied to the complainant and/or the respondent, including:

- imposition of a "no-contact directive" on CCV grounds;
- rescheduling of exams and assignments;
- providing alternative course completions;
- changing class schedules, including the ability to withdrawal from a course without penalty;
- voluntary leave of absence
- providing academic support services, such as tutoring;
- College-imposed leave or separation; and/or
- any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

When determining such measures, CCV will work to eliminate a hostile environment for the complainant while respecting the due process rights of the person accused of violating Policy 311-A.

**WHO WILL FIND OUT IF I REPORT A VIOLATION OR IF I AM NAMED IN A VIOLATION?**

Community College of Vermont is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. In any report under this policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the allegation.

**WHAT IS THE DIFFERENCE BETWEEN PRIVACY AND CONFIDENTIALITY?**

Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those College employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

Confidentiality means that personally identifying information (names or information that directly or indirectly identifies the individuals involved in the incident) shared by an individual with designated CCV professionals cannot be revealed to any other individual without express permission of the individual, unless there are circumstances posing an imminent risk of harm to self or others.

**IF I REPORT AN INCIDENT TO A CCV EMPLOYEE, CAN S/HE KEEP OUR CONVERSATION CONFIDENTIAL?**

All CCV employees are required to share a report of sexual misconduct with the Title IX coordinator. The Title IX coordinator will conduct an initial assessment of the conduct, the complainant’s desired course of action, and the necessity for any interim remedies or accommodations to protect the safety of the complainant and the community.

**WHAT IS THE DIFFERENCE BETWEEN REPORTING AN INCIDENT AND FILING A COMPLAINT?**

Sharing any information about an incident of sexual misconduct, dating violence, domestic violence or stalking is considered reporting an incident. Any person who has information about sexual misconduct, sexual assault, dating violence, domestic violence or stalking should report the information to a [designated CCV contact person](#).

Only a person who believes s/he is the victim of sexual misconduct, domestic violence, dating violence or stalking may file a complaint. After an initial discussion, the complainant will be asked to prepare a written statement describing the alleged conduct. When the College receives a written complaint, VSC Policy 311-A Procedures will be followed. Please see [Policy 311-A Procedures](#) for more details.

**WHAT HAPPENS IF THE RESPONDENT ACCUSED OF SEXUAL MISCONDUCT, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING IS NOT A CCV STUDENT, STAFF, OR FACULTY?**

A formal complaint of sexual misconduct, domestic violence, dating violence, or stalking by a third party may be filed with the Dean of Students or the President of CCV. VSC's ability to effectively investigate may be limited as a third party may not be compelled to cooperate. VSC's ability to take disciplinary action against a third party may be limited, depending on the particular circumstances, but may include banning the third party from CCV academic centers.

**DO I NEED TO BE WORRIED SOMEONE WILL "TRY TO GET BACK AT ME" FOR REPORTING AN INCIDENT OR FILING A COMPLAINT?**

Retaliation is any act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of a sexual misconduct allegation. Retaliation can take many forms, including continued abuse or violence, threats, and intimidation. Any individual or group of individuals, not just a complainant or respondent, can engage in retaliation.

Retaliation against a student, faculty, staff member or third party who has filed a complaint or made a good faith report under this policy, or cooperated in an investigation, is strictly prohibited and will be considered a violation of this policy.

**WHAT WILL HAPPEN IF I'M NOT SURE I WANT TO MOVE FORWARD WITH A FORMAL COMPLAINT?**

The College will seek action consistent with the complainant's request where possible. Where a complainant makes a report but requests that a name or other identifiable information not be shared with the respondent or that no formal action be taken, CCV will balance this request with its dual obligation to provide a safe environment for all Community College of Vermont community members and to ensure the respondent has fair due process. In making this determination, CCV will consider, among other factors:

- whether the complainant has requested confidentiality,
- whether the complainant wants to participate in an investigation,
- the severity and impact of the sexual misconduct,
- the respective ages of the parties,
- whether the complainant is a minor under the age of 18,
- whether the respondent has admitted to the sexual misconduct,



- whether the respondent has a pattern of committing sexual misconduct, the existence of independent evidence,
- and the extent of prior remedial methods taken with the respondent.

If a report of misconduct discloses a serious and immediate threat to the College community, CCV will issue a timely notification to the community to protect the health and safety of the community. The timely notification will not include any identifying information about the complainant.

### **IS FILING A FORMAL COMPLAINT WITH THE COLLEGE MY ONLY OPTION?**

Individuals who believe they have been subjected to sexual harassment or unwelcome sexual behaviors may seek informal resolution of the issues without filing a formal complaint. The informal complaint process will follow the procedures outlined in [VSC Policy 311: Non-Discrimination and Prevention for Harassment and Related Unprofessional Conduct](#).

An informal complaint involves a report to a [designated contact person](#) or the Equity officer/Title IX coordinator that specifically requests an informal resolution process such as a meeting between a designated contact person or responsible College administrator and the subject of the complaint, a letter to the subject of the complaint requesting that the offending behavior stop, or other informal methods to stop the offending behavior.

A complainant does not need to file an informal complaint before filing a formal complaint.

A complainant may choose to file a formal complaint after filing an informal complaint.

Informal resolution will not be used in cases involving sexual assault.

### **WHAT HAPPENS WHEN A COMPLAINT IS FILED?**

When a written complaint is received, the Dean of Students or President will review the statement to determine whether the allegations, if true, would constitute a violation of Policy 311-A. If the alleged actions of the respondent would be a violation of Policy 311-A, an investigation will be conducted. If the alleged actions of the respondent would not be a violation of Policy 311-A, the Dean of Students or President will consider whether the alleged actions would be disciplinable under a different policy; if so, the procedures for the respective policy will be implemented.

### **WHAT RIGHTS DO BOTH THE COMPLAINANT AND THE RESPONDENT HAVE?**

- All persons will be treated with respect by College officials.
- Both parties will be provided links to VSC Policy 311-A and its implementing procedures.
- Both parties will be provided information on community counseling, health and mental health services available.

- If a formal complaint is filed, an investigation will be conducted as promptly as possible without compromising thoroughness. The final investigative report shall be filed within 45 calendar days of the filing of the formal complaint. Where special circumstances are present and documented by College officials, the above timelines may be extended with due notification to all parties.
- The process must be fair and impartial to each party.
- Both the complainant and the respondent are entitled to the same opportunity to be accompanied to any related meeting by an advisor of their choice.
- Both the complainant and the respondent will receive simultaneous written notice of:
  - The outcome of an investigation
  - CCV's appeal procedures

#### **HOW IS AN INVESTIGATION CONDUCTED?**

- The respondent will be informed, in writing, of the alleged policy violation (s) and given a summary of the allegations.
- Both the complainant and the respondent will be asked to identify evidence they would like the investigators to evaluate and consider, as well as witnesses they would like investigators to interview. Complainants and respondents may also provide questions they would like witnesses to answer; however, interviewers have full discretion as to what evidence to consider, witnesses to interview, and questions to ask.
- The respondent and the complainant may provide a list of questions they would like investigators to ask the other party; however, interviewers have full discretion as to what questions to ask.

Complainants and respondents are not permitted to directly question or cross examine each other.
- The investigators shall meet separately with the complainant and the subject of the complaint.
- The investigators shall request information concerning the complaint and shall seek information from others who might know about the incident or behavior or who have information that may be helpful to the investigation.
- If in the course of the investigation other allegations surface against the subject of the complaint which may, by themselves, constitute a violation of this policy or other College policy, the investigators shall inform him or her of these allegations, in writing, and s/he shall be given an opportunity to respond to these allegations before the investigators submit their report and statement of findings.
- Notes shall be taken by the investigators on meetings they have with the complainant, the respondent and witnesses.

- At the conclusion of the investigation, the investigators shall prepare a report that will include:
  - a statement summarizing the allegations
  - a summary of the procedures
  - the definition of the alleged violation/s of Policy 311-A
  - the findings of fact, including a summary of the information provided by the witnesses and how any discrepancies between different versions were reconciled.
  - the conclusion
  - any general recommendations such as trainings or education.
- The respondent and the complainant will each be given the opportunity to review the investigators' report and to provide written response to the report within 7 calendar days.
- The final report, along with copies of the complainant's and respondent's written responses, shall be sent to the Title IX Coordinator, the Dean of Students or President, the complainant and the respondent.

### **CAN COMPLAINANTS OR RESPONDENTS BRING A FRIEND, SPOUSE, PARENT, OR ATTORNEY TO MEETINGS AS SUPPORT?**

Complainants and respondents may bring an advisor of their choosing. The advisor may speak privately with the individual, but the advisor cannot address investigators nor the responsible college administrator directly.

### **WHO DETERMINES WHETHER THERE HAS BEEN A VIOLATION OF POLICY 311-A?**

The CCV responsible college administrator determines whether there has been a violation of Policy 311-A.

- The Dean of Students is the responsible college administrator where a formal complaint of sexual misconduct, domestic violence, dating violence, or stalking is against a student.
- The President of CCV is the responsible college administrator where a formal complaint of sexual misconduct, domestic violence, dating violence, or stalking is against an employee.
- A formal complaint of sexual misconduct, domestic violence, dating violence, or stalking by third party may be filed with the Dean of Students or the President of CCV.

### **HOW IS AN INVESTIGATION CONCLUDED?**

- The responsible college administrator will review the investigators' report and accept or reject the investigators' recommended conclusion. The administrator may request additional information before making a decision.
- The complainant and respondent may choose to meet with the responsible college administrator before a final determination is made and may be accompanied by an advisor of their choosing.
- The responsible college administrator will review and consider the investigators' report and recommending findings and information disclosed in subsequent meetings, and then determine whether a violation of Policy 311-A occurred.

### **WHAT STANDARD WILL BE USED TO DETERMINE WHETHER POLICY WAS VIOLATED?**

The findings, recommendations and final determination will be based on the preponderance of evidence – that is whether it is more likely than not that the policy was violated.

### **WHAT TYPE OF DISCIPLINARY ACTION MIGHT BE APPLIED IF IT IS DETERMINED THE RESPONDENT VIOLATED POLICY 311-A?**

The range of sanctions for a student that has engaged in conduct that violates Policy 311-A includes:

- Verbal and written warnings
- Written reprimands
- Counseling
- Loss of privileges
- Suspension
- Expulsion
- Revocation of degree
- Withholding of transcript
- Other action determined to be appropriate under the circumstances

Regardless of the determination, other actions such as class changes, no contact orders, and building restrictions might be imposed to preserve the right of the complainant to a safe environment.

The range of sanctions for an employee that has engaged in conduct that violates Policy 311-A includes:

- Verbal and written warnings
- Written reprimands
- Probation

- Suspension
- Termination of employment
- Non-renewal of contract
- Other action determined to be appropriate under the circumstances

Regardless of the determination, other actions such as extending no contact orders may be imposed to preserve the right of the complainant to a safe environment.

### **CAN RESPONDENTS OR COMPLAINANTS APPEAL THE COLLEGE'S DECISION?**

In cases where the respondent is a student, both the complainant and respondent have the right to appeal the outcome on the following grounds:

- A procedural error that made the investigative and decision-making process unfair.
- The discovery of new information and/or evidence that could change the outcome of the case
- The disciplinary sanction is not warranted given the findings (i.e., the punishment is unfair)

To appeal a final determination, a party can deliver a written statement to the President of the College and to the Dean of Students.

In cases where the respondent is an employee, the right to appeal is governed by the VSC personnel handbook.

Please see page 14 of [Policy 311-A Procedures](#) to learn more about the Appeal process.