

**UNIVERSITY OF VIRGINIA
POLICY AND PROCEDURES
FOR STUDENT SEXUAL MISCONDUCT COMPLAINTS**

Executive Summary of Revisions

September 28, 2011

The following summary highlights some of the ways in which the University's new sexual misconduct policy (the "Policy") is different from its former policy, last revised in 2005. The new Policy reflects the University's experience with sexual misconduct complaints and investigations since 2005 and responds to the "Dear Colleague" letter issued by the U. S. Department of Education's Office for Civil Rights on April 4, 2011. The "Dear Colleague" letter provides specific guidance and clarification to all schools with respect to sexual misconduct under Title IX and requests immediate compliance.

Summary of Revisions Reflected in New Policy:

1. Emphasis on Assistance to Victims. The new Policy begins by setting out, in clear terms, where a victim of sexual misconduct can turn to obtain immediate assistance and support.
2. Definition of "Sexual Misconduct" Significantly Broadened. Under the new Policy, "Sexual Misconduct" is a broad term that encompasses any unwelcome sexual behavior that occurs without effective consent. Sexual Misconduct has therefore been revised to include "sexual harassment," which is broadly defined and may include instances of stalking, cyberstalking or relationship violence, and "sexual exploitation," which includes causing another's incapacitation, recording or transmitting sexual images, voyeurism, and the knowing transmission of a sexually transmitted infection ("STI") to another person.
3. Clarification of the Definitions of "Effective Consent" and "Incapacitation." The concepts of "effective consent" and "incapacitation" play a central role in most sexual misconduct cases. Under the new Policy, these terms have been elaborated and clarified.
4. No Geographical Limit on Jurisdiction. Under the new Policy, there is no geographical limit on jurisdiction. Although conduct that is alleged to have occurred far from the Grounds may prove difficult to investigate, the new Policy covers sexual misconduct by a University student, wherever it occurs.
5. No Time Limit on Invoking Procedures. There is no time limit to invoking jurisdiction under the new Policy, as long as the accused student is a University student at the time the complaint is made.

6. Clarification of Intake Procedures. The new Policy clarifies the initial steps in the process, from intake through the complainant's decision whether or not to pursue adjudication.
7. Clarification of University's Response Where Complainant Does not Wish to Pursue Adjudication or Insists on Confidentiality. Pursuant to the "Dear Colleague" letter, the new Policy clarifies how the University will respond when a complainant asks that her or his complaint not be investigated and pursued through adjudication or requests confidentiality of her or his complaint.
8. Closed-Circuit Technology. Under the new Policy, witnesses may request to testify by closed-circuit technology in appropriate cases.
9. Evidentiary Standard Changed. Pursuant to the "Dear Colleague" letter, the evidentiary standard in adjudication of sexual misconduct cases has been changed from "clear and convincing evidence" to a "preponderance of the evidence."
10. Unanimity Required. Under the new Policy, a finding that the accused student is responsible for Sexual Misconduct requires a unanimous vote by the Sexual Misconduct Board.
11. Mediation Eliminated. Pursuant to the "Dear Colleague" letter, traditional mediation between the parties is no longer available, although a complainant may choose between a formal and an informal process of adjudication.