



# LYNDON

*A vermont* STATE COLLEGE

**PUBLIC SAFETY**

**Annual**

**Security and Fire**

**Report**

**2016-2017**

*Includes crime statistics*

*for the 2013, 2014 and 2015 calendar years*

*Fire statistics for the 2013, 2014 and 2015 calendar years*

# **Annual Security and Fire Report, 2016-17**

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## **About This Report**

The Lyndon State College Public Safety Office prepares the Annual Security Report in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”). The report is prepared by the Director of Public Safety with the assistance of the Director of Human Resources and the Office of the Dean of Students. This report can be found on the Public Safety page of the Lyndon State College website: <http://lyndonstate.edu/offices-services/public-safety/>

Crime statistics for this report are compiled on a calendar-year basis in accordance with the definitions of crimes provided by the FBI for use in the Uniform Crime Reporting (UCR) system. The report includes statistics for the previous 3 calendar years concerning reported crimes that occurred on campus. In addition, these statistics are gathered from reported Clery Act crimes to the Public Safety Office, crimes reported to other campus officials with significant responsibility for student and campus activities (known as Campus Security Authorities or CSAs). These statistics also include persons referred for campus disciplinary action for categories required under the Clery Act, which are violations of liquor laws, drug laws, and illegal weapons violations. Statistical information for certain off-campus buildings or property owned or controlled by Lyndon State College, as well as public property within or immediately adjacent to and accessible from the campus, are collected or requested from the local police department.

Each year an email notification goes out to all students, faculty, and staff that provides the web site address to access this report. Paper copies of this report are also available from the Public Safety Office and the Office of Human Resources. Prospective students can obtain a copy from the Admissions Office, and all new employees are given a copy of this report at their employee orientation.

## **Public Safety Mission Statement**

Lyndon State College is concerned about the welfare and safety of students, staff, faculty, and their guests. The College has developed procedures, policies, and programs to help promote a safe and secure learning and working environment.

While no town, large or small, is truly free of all crime, we believe that the implementation of these policies and procedures, combined with the cooperation of the campus community, can make Lyndon State College a safer community.

## Message from the Director

Public Safety welcomes you to our fine community and invites you to use this guide to learn about Lyndon State College's public safety-related services, programs, policies, and statistics concerning crime on campus. Our goal is to assist all in improving our living environment so that you feel safe and secure while on our campus. We work with area law enforcement so this feeling of safety will transcend beyond our campus and into the surrounding community.

The Office of Public Safety encourages you to read, understand, and take the precautions outlined herein, and to use the services made available to you. By working together we can all help keep Lyndon State College a safe community.

If you have any questions or suggestions about campus safety at Lyndon State College, or how to improve this guide, please feel free to contact me at 802-626-6452 or via email: [george.hacking@lyndonstate.edu](mailto:george.hacking@lyndonstate.edu) with your comments or suggestions.

Sincerely,

George B. Hacking  
Director of Public Safety  
Lyndon State College

## Important Telephone Numbers

- **Police, fire, or medical emergencies dial 911.** Lyndon State College Public Safety officers will also respond to your location.
- Lyndon State College Public Safety - All calls dial 802-626-6452 or 626-6336. On-campus phones only require the last four digits, 6452 or 6336.
- Vermont State Police non-emergencies dial 802-748-3111
- Lyndon Police Department 802-626-1271
- Lyndon Rescue non-emergency 802-626-1101
- Lyndon State College emergency call box system – Press button or pick up the receiver and talk. These devices are located throughout campus both inside and outside of the buildings.
- Northeastern Vermont Regional Hospital 802-748-8141
- Umbrella (sexual and domestic violence assistance) 802-748-8645

**Emergency numbers can be dialed from any phone on campus. These numbers can also be dialed from the emergency call boxes that are located at the main entrance of the Stonehenge and Wheelock residence halls, at the main entrance to the Academic & Student Activity Center, and at the lower entrance of the Rita Bole Complex (from the parking lot). In the event of a 911 emergency, you will have to tell the operator what floor you are on and the room number.**

## Other Important Phone Numbers

<b>Class cancellation line</b>	<b>802-626-6767</b>
<b>Health and Counseling</b>	<b>802-626-6440</b>
<b>Human Resources</b>	<b>802-626-4865</b>
<b>Residential Life</b>	<b>802-626-6418</b>
<b>Switchboard</b>	<b>802-626-6200</b>

## About The Public Safety Department

The Office of Public Safety is located in the main entrance to the Academic & Student Activity Center (ASAC). The department consists of a director and four full-time and one part-time non-law-enforcement certified officers as well as a number of student patrol officers. All officers share the primary objective of providing a safe and secure environment through patrols, emergency response, and investigations. To further our commitment to safety on campus, and the surrounding community, we work with local and state law enforcement. The Vermont State Police is the primary law enforcement used as backup for our campus. We maintain a strong relationship with police agencies, as well as local fire and emergency ambulance services so that information flows in both directions. An emergency ambulance service is located on campus and is also a 24-hour, 7-day(s)-a-week operation.

Public Safety officers are on duty 24 hours a day. They are trained public safety officers who provide coverage for the campus area. All personnel are trained in first aid and CPR. The campus is equipped with life-saving AED devices, and officers carry portable radios and cell phones.

Full-time staff include George Hacking, director, and patrol officers Alex Allen, Charlie Forrest, Brian Michaud and Nate Rossetti.

## Enforcement Authority of Public Safety Officers

Campus safety personnel are not certified law enforcement officers and therefore cannot make arrests nor are they authorized to use firearms. Lyndon State College Public Safety officers are authorized to ask persons for identification and to determine whether individuals have a legitimate reason to be on College property. Lyndon State College Public Safety officers have the authority to issue parking tickets, which can be billed to students, faculty and staff. The authority to make arrests on campus and to respond to security or criminal actions off campus rests primarily with the Vermont State Police.

The College works regularly with the Vermont State Police and maintains a good relationship with all law enforcement in the area. In the event of a serious criminal incident on campus, Lyndon State College Public Safety will call and work with law enforcement consistent with its policies and procedures.

Prompt and accurate reporting of all suspected crimes to Public Safety and other appropriate personnel is encouraged. Department personnel train in proper reporting procedures along with other safety and security responsibilities. Prompt reporting will assure timely warnings notices on-campus and timely disclosure of crime statistics.

Campus Public Safety officers will investigate reports of violations of the Code of Conduct. The Code of Conduct and disciplinary procedures are available on the [Student Life](http://catalog.lyndonstate.edu/content.php?catoid=21&navoid=376#COC_and_procedures) page of the Lyndon State College website: [http://catalog.lyndonstate.edu/content.php?catoid=21&navoid=376#COC\\_and\\_procedures](http://catalog.lyndonstate.edu/content.php?catoid=21&navoid=376#COC_and_procedures)

## Off-Campus Disturbances

As members of Lyndon State College and members of our neighborhood community, students who reside off-campus have a responsibility to demonstrate respect and concern for all members of the local community. As a result, Lyndon State College expects its students to demonstrate responsible citizenship in the local neighborhood. Students who violate these expectations and/or whose behavior jeopardizes the College's positive relationship with the local community may be subject to College discipline.

Lyndon State College Public Safety officers do not routinely provide services to off campus residences, nor do they regularly patrol off campus areas.

Lyndon State College does not have any off-campus student organizations.

## Crime Prevention Efforts

Lyndon State College Public Safety has many on-going programs to educate members of the campus community about safety practices including, but not limited to, lectures, email warnings, and one-on-one contact with students. Programs include:

**Safety Presentations:** During Freshman Orientation week and with parents during Student Orientation & Registration (SOAR). Parents are encouraged to meet with the Director of Public Safety or his designee to discuss any and all topics of campus safety.

**Investigations:** The Director of Public Safety reviews all reports of incidents initially. If a report requires follow up, various officers as well as the director assist in additional investigation(s) and report to the Dean of Students and local agencies as needed. Specific incidents will be reviewed weekly at a joint meeting of Residential Life, Public Safety, and other strategic departments where options are discussed on best practices to alleviate a problem or present a possible solution to a potential problem.

**Walking Escorts:** The safety escort program provides service 24-hours/day. Campus community members can call Public Safety and we will provide a walking escort between points on campus.

**Lighting and Grounds Surveys:** Lyndon State College officers perform nightly walking tours of the campus to review exterior lighting and to identify safety issues that may arise from either weather conditions (snow & ice) or from poorly lighted and overgrown areas. Night-time patrols are also responsible for periodic interior building checks to ensure electrical and mechanical areas are safe and running properly.

## Parking

Public Safety is responsible for all parking matters on campus. This office will supply you with a parking permit for the year or in some cases offer our guests a temporary guest pass. Each year it is the responsibility of the incoming student to find his or her way to Public Safety and secure a new permit for the current school year. The permits are valid from September through August and are usually available by the middle of August. This should be done immediately upon your arrival.

### Parking Permit Form

All forms must be hand delivered to Public Safety, not mailed. Violations associated with improper parking include:

- No parking permit \$10.00
- Parking in a prohibited area \$15.00
- Parking in the roadway \$15.00
- Parking in a fire lane \$25.00
- Blocking building access \$25.00
- Driving on grassy area \$10.00
- Interior campus \$50.00
- Parking in handicapped space \$75.00
- Blocking security gates \$25.00

Payment of fines will be made through the Business Office. You also have a right to appeal any ticket you have been issued but you must do so with 7 days of receiving the ticket and your appeal must be in writing. If an appeal is not submitted properly, the violation will be forwarded to Student Services and attached to your bill.

### Appeal Form

More serious parking/driving violations may be handled through the on-campus judicial process or could be referred to the State Police. Parking on campus is a privilege and can be revoked.

## College I.D.s

The Public Safety Office is responsible for issuing student/faculty/staff identification. Students have their picture taken during SOAR, and when they arrive for “move in” day the ID will be waiting for them at the Public Safety table in the Stannard Gym. **If this ID is lost a replacement can be obtained for \$25.00** at the Public Safety Office. Payment for this ID must be first made at the Business Office. The student will be provided with a receipt which in turn will be given to Public Safety.

The ID is code encrypted and allows a student access to their assigned hall. The ID card can also be used at the bookstore, SHAPE, the dining hall, and the library.

## Building Security

Lyndon State College is an active member in the local community, hosting many activities and programs that are open to the public.

Generally, the campus and its buildings (with the exception of residence halls) are open to the general public during business hours. A lock-up routine is conducted on both administrative and academic buildings each night. During the school year, residence halls are locked 24 hours a day, except for specific events such as move in and move out days.

## Residence Hall Safety

Lyndon State College consists of nine (9) coed residence halls. Approximately 600 students reside on the Lyndon State College campus during the academic year.

Residents have electronic access to their residence hall using their campus ID card to activate the exterior door. The exception to this is the Gray House. The small number of students who reside in this location have a set of keys for access. Guests and delivery personnel must be escorted through residential living space, with overnight guests needing to register with Residential Life staff. Throughout the year, resident assistants (RAs) and Public Safety staff remind residents not to admit strangers into the residence halls.

Residents locked out of their room when no RA is on duty may contact Public Safety to gain entry into their room. Public Safety officers must see a photo ID and verify from a current student roster that the student is assigned to the room in question. If a student is unable to provide a student ID, they are taken to the Student Life or Public Safety office and their identity is verified through photo records.

## Reporting Criminal Actions or Emergencies

Call 911 immediately if a crime or other emergency is in progress, or if there is an imminent or continued threat of harm to persons or property.

To report all other incidents, a Public Safety Officer can be reached 24 hours a day throughout the calendar year by dialing 6452 from on campus and (802) 626-6452 from an off-campus phone. Your phone call will be answered by the switchboard operator who will take your call and relay the information to the on-duty officer, or your call will be automatically forwarded to the person on duty. All residence halls have emergency phones directly outside of the building that can be used to call directly to Public Safety. In addition, there are emergency “Blue Light” phones located throughout the campus.

Incident reports can be submitted by using the College’s online incident report form found at:

[Incident Report](#)

In addition, you may report a crime to the following areas:

- A. Dean of Students  
802-626-6419 @ Rita Bole
- B. Director of Student Life  
802-626-6417 @ Rita Bole
- C. Res Hall Director Cell Phone  
802-274-3152

**Remember: For emergencies dial 911 to reach the Vermont State Police**

Lyndon State College Public Safety works with local, county, state, and federal law enforcement agencies with primary service coming from the Vermont State Police. Lyndon State College does not have a formal Memorandum of Understanding with any of these partners; however, as a member institution of the Vermont State Colleges (VSC), the College is covered by a memorandum of understanding with the Vermont Special Investigation Units (collectively "VTSIU). This agreement allows the VSC and the VTSIU to exchange information and coordinate on investigations into allegations involving sexual assault and other sex-based crimes where the victim is affiliated with the VSC at the time of incident and consents to sharing of information.

If you are a victim of a crime and do not want to pursue action through the Public Safety office or the criminal justice system, you may still want to consider making a confidential report. With your permission, the Director of Public Safety, or a designee, can file a report on the details of the incident without revealing your identity. The purpose of this confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the College can keep an accurate record of the number of incidents involving students, and alert the campus community to potential danger. Reports filed anonymously are recorded and disclosed in the annual crime statistics. Please note that where circumstances warrant, the College may report and/or investigate an alleged violation even if you choose not to pursue official action. You are not obligated to cooperate in this process.

Lyndon State College will, upon written request, disclose to the alleged victim of a crime of violence, the results of any disciplinary hearing conducted by Lyndon State College against a student who is an alleged perpetrator of the crime or offense. If the alleged victim is deceased because of the crime or offense, Lyndon State College will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

A daily crime log is available at the Public Safety office. This log is available Monday through Friday from 8:00 a.m. to 4:00 p.m. and includes the last 60 days of reported crimes.

### **Campus Security Authority (CSA) Reporting Procedure**

The College encourages all campus community members to contact Public Safety as a victim or a witness to any criminal actions. However, under the Clery Act, certain individuals designated as Campus Security Authorities (CSAs) are required to promptly report statistical information about Clery-qualifying crimes that occur on or near College property to Public Safety for inclusion in this Report.

It is the responsibility of the Dean of Students, the Title IX Coordinator, the Policy 311 Coordinator, and the Director of Public Safety to identify who, because of their job duties at the College, constitutes a CSA, and falls into one of the following categories:

- A member of the Public Safety Department,
- An individual who has responsibility for campus security but does not constitute a member of Public Safety (for example monitoring the entrance to a building or specific area);



- An official of the institution who has significant responsibility for student campus activities, including but not limited to, student housing, student discipline and campus judicial/administrative proceedings, coaches and coaching staff, advisors to recognized student clubs, and
- Any additional individuals that meet the definition of a “Responsible College Administrator” or “RCA”

#### **Examples of CSAs:**

- Deans
- Public safety officers
- Directors of campus health centers
- Student housing staff
- Athletic coaches
- Student activities coordinators
- Officials who oversee a student center
- Student judicial officers
- Resident assistants (RAs)
- Student advisors
- Faculty advisors to student organizations

#### **Not CSAs**

- Administrative staff not responsible for student activities
- Clerical staff
- Maintenance staff
- Individual faculty who DO NOT serve as advisors to official student organizations
- Healthcare providers/counselors in the Health Services Center, who only provide care to individual students

#### **CSA procedures:**

1. Call 911 immediately if there is a crime or other emergency in progress or if at any time there is an imminent threat to the campus community.
2. CSAs should ask the victim or third party if they are in contact with or wish to file a report with Public Safety.
  - If yes, contact Public Safety at 802-626-6452.
  - If no, the College will respect the decision of the victim not to report an incident to Public Safety or to law enforcement. However, the CSA must still complete a report of the crime.
3. The CSA must promptly file an electronic Campus Security Authority Report by using the form available on the Public Safety page: <http://lyndonstate.edu/offices-services/public-safety/>

The CSA report must be completed regardless of whether the victim chooses to file a report with Public Safety or with local law enforcement. The names should not be included in the CSA report form unless permission was obtained from the victim to do so. CSAs are not responsible for investigating or determining if a crime took place unless this is part of their job duties. The report will be made solely on the information currently available to the CSA, including location, names of perpetrators, witnesses and a description of the incident.

Campus **“pastoral counselors” and campus “professional counselors,”** when acting as such, are not considered to be a campus security authority and are not required to report crimes for inclusion into the annual disclosure of crime statistics. As a matter of policy, they are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary basis for inclusion into the annual crime statistics. Under VSC Policy 311-A, counselors are required to report 311-A violations to Public Safety (without individually identifiable information) for inclusion in Clery statistics.

The rulemaking committee defines counselors as:

**Pastoral Counselor:** An employee of an institution who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential counseling and who is functioning within the scope of that recognition as a pastoral counselor.

**Professional Counselor:** An employee of an institution whose official responsibilities include providing psychological counseling to members of the institution's community and who is functioning within the scope of his or her license or certification.

Anyone with knowledge of a crime or possible crime should contact Public Safety at 802-626-6452. Your information will be held in confidence and will only be released to other investigating authorities as needed.

## Emergency Response

The College has developed an Emergency Operations Plan that includes information about College operating procedures, incident priorities and performance expectations; shelter-in-place and evacuation guidelines; and local contingency and continuity planning requirements. Individual departments are responsible for developing contingency plans and continuity of operations plans for their staff and areas of responsibility. The College Crisis Response team, comprised of campus administrators, is responsible for developing, maintaining and testing the plan on an annual basis. These tests are designed to assess and evaluate the emergency plans and capabilities of the institution. Prior to a drill or test, the College will publicize emergency response and evacuation procedures in conjunction with the drill or test. The College will document for each test a description of the exercise, the date, time, and whether it was announced or unannounced. The College is also a member of the Local Emergency Planning Commission for Caledonia/Essex counties and works regularly with local responders such as ambulance, fire and police agencies in said counties.

The Public Safety officers and members of the College Crisis Response Team have received training in Incident Command and Responding to Critical Incidents on Campus. When a serious incident occurs that causes an immediate threat to the campus, the first responders to the scene are usually the Lyndon State College Public Safety Department, Residential Life staff, area law enforcement, Lyndonville Ambulance Service, as well as the Lyndon Volunteer Fire Department. These groups are tasked to work together to manage the incident. Depending on the nature and scope of the incident, other Lyndon State College departments as well as other local, state, and federal agencies could also be involved in responding to the incident.

### Notification to the Lyndon State College Community about an Immediate Threat

Lyndon State College Public Safety has established procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on or near the campus. Notification will not include names of victims.

The College, without delay, and taking into account the safety of the community, will determine the content of the notification and initiate the notification system, unless the notification will, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency.

### How to Sign Up for an Emergency Alert

If warranted, a special campus alert notification will be sent to the campus community by an authorized member of the campus community. Authorized persons include the Director of Public Safety, Director of Student Life, and the Dean of Students. The alert system is available to Lyndon State College students, faculty and staff to warn about present dangers occurring on or near campus. Members of the College community are encouraged to register themselves to receive timely warnings from the E2Campus alert system, located at <http://campus.lyndonstate.edu/Alert/> Those taking advantage of this system will receive emergency notification via phone text message and/or email.

The campus alert notification system is tested annually during an announced exercise. Individualized emergency response and evacuation procedure considerations are taken into account for students with special needs. All students and employees at a minimum will receive notification of the emergency via email at their Lyndon State College email address.

In addition to emergency notifications, if circumstances warrant, special printed security alerts and advisories are also prepared by the Director of Public Safety and the Residential Life office. They are distributed to each building on campus by a Public Safety officer or a member of the Residential Life staff. In addition, these are also sent via e-mail to each member of the campus community—student, staff, and faculty.

### **Emergency Procedures**

All employees are provided with a campus emergency procedures guide. The guide is a flip-chart that includes instructions for responding to particular emergencies, as well as emergency phone numbers. This guide includes details about the College's procedures related to medical emergencies, fire emergencies, violent or disruptive behavior, and hazardous material releases, as well as information on notification and evacuation procedures. Posters containing similar information are posted in all classrooms, residence halls, and public gathering places. Lyndon State College also has developed a "Run, Hide, Fight" poster, which is also posted throughout the campus.

Residential students receive information about evacuation procedures in the student handbook and on evacuation plans posted on all residential room doors. Additionally, information is shared during fire drills that take place throughout the year. The Residential Life Staff members are trained in these procedures and act as an ongoing resource for the students living in residential facilities.

The College Crisis Response Team periodically conducts table top exercises and conducts follow-through activities, designed for assessment and evaluation of emergency operation plans and capabilities. The Public Safety Department also coordinates fire drills each semester, to test the emergency response and evacuation procedures. These also help to assess and evaluate the emergency evacuation plans and capabilities. Lyndon State College will publish a summary of its emergency response and evacuation procedures in conjunction with at least one drill or exercise each calendar year.

### **Timely Warnings**

In the event that a situation arises, either on or off campus, that, in the judgment of the Director of Public Safety or other College administrators, constitutes an ongoing or continuing threat, a campuswide "timely warning" will be issued by The Public Safety Department. The warning may be issued through the College e-mail system to students, faculty and staff, or through postings in potentially affected buildings or residence halls. The College will withhold as confidential the names of victims when issuing "timely warnings."

All reports of crime should be made promptly to the Department of Public Safety so that timely warnings to the community, when necessary, can be made. Reporting crimes in a timely manner will also insure that the reported crime is properly recorded for the *Campus Crime Statistics*. Criminal activity occurring off campus, but adjacent to campus property, is monitored by local, county, and Lyndon State College law enforcement.

### **Missing Students Who Reside On Campus**

All students residing in on-campus housing facilities must provide emergency contact information as part of the on-campus housing application. An emergency contact person is the person to be notified in the event that the student is determined to be missing. The student may indicate that person to be a parent or guardian or another person if they choose. Use and dissemination of emergency contact information is limited to authorized campus officials, Public Safety staff, and law enforcement in furtherance of a missing person investigation. This information is stored in a secure housing management system maintained by the Office of Residential Life and is accessible by professional residential staff and may not be disclosed outside of a missing person investigation. Emergency contact information is updated every year the student lives on campus.

Any individual who believes that a currently enrolled Lyndon State College resident student is missing shall immediately notify the Public Safety Office at 802-626-6452. Following receipt of this information, Public Safety will log the report, open an incident report, commence an investigation, research the student's identification card access log, and notify various College departments. Notification may include, but is not limited to, the Dean of Students, the Office of Residential Life, Dining Services, the Office of Information Technology, faculty members, roommates, friends and others as needed. If the student has not been located following an initial investigation, the Dean of Students will notify the President and the designated campus spokesperson.

In addition, should the investigation result in the conclusion that the student is missing, and has been missing for 24 hours, Public Safety will notify the Vermont State Police, as well as the student's emergency contact, within a span of time not to exceed 24 hours from the time the student was determined to be missing. If the missing student is under the age of 18, and not an emancipated individual, Public Safety will notify the student's parent or legal guardian immediately after the Office of Public Safety determines that the student is missing.

Public Safety will aid and assist the Vermont State Police in all aspects of the investigation until the missing student has been located.

## **Weapons Policy**

### **1.0 Introduction**

Lyndon State College prohibits the possession and use of dangerous or deadly weapons (concealed or otherwise) on the College campus or at any College-related event.

This policy pertains to all campus areas including, but not limited to, common areas, public buildings, vehicles, and student housing. The purpose of this policy is to provide a safe environment for students, faculty, staff, and visitors to campus.

### **2.0 Policy**

2.1 No persons, including but not limited to students, faculty, and staff, shall possess or use, whether openly or concealed, any dangerous or deadly weapon. Under Vermont state law, "a dangerous or deadly weapon" is defined as "any firearm, or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious or bodily injury." A "firearm" is defined as "any weapon, whether loaded or unloaded, which will expel a projectile by the action of an explosive and includes any weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun." "Dangerous or deadly weapons" include, but are not limited to, guns, rifles, dynamite cartridges, bombs, grenades, explosives, bowie knives, dirks, daggers, any knives with a blade greater than 3", sling-shots, leaded canes, switchblade knives, blackjacks, and metal knuckles. Replicas of dangerous or deadly weapons are similarly prohibited.

#### 2.2 Exceptions:

2.3.1. A weapon, real or replica, used solely for instructional or College-sanctioned ceremonial purposes, theatrical productions, or conference events. Prior written approval must be obtained from the Director of Public Safety.

2.3.2 Law enforcement personnel who are on campus in the conduct of their duties.

2.3.3 Residents of private residences on the Lyndon State College campus may possess firearms in their own residence, subject to notification to the Director of Public Safety. Firearms may not be carried on College property for any purpose except transportation to and from the private residence in which they are kept. Firearms must be stored so that they are inaccessible to unsupervised minors living in the residence.

## 2.3 Violations

2.3.1 Lyndon State College takes violations of this policy seriously. Any member of the College community who observes an individual possessing, manufacturing, transferring, selling, or using a dangerous or deadly weapon on campus or at a College-related event and who reasonably believes that the individual is doing so without prior approval of the College should report this immediately to the Department of Public Safety. In addition, any member of the College community who observes unattended items they reasonably believe to be dangerous or deadly weapons should report this immediately to the Department of Public Safety.

2.3.2 Violators may be subject to discipline, up to and including termination, suspension and/or expulsion from the College. Violations of this policy may also constitute a violation of state and/or federal law.

## Personal Responsibility

The involvement of students, faculty, and staff in the campus safety program is vital to its success. Everyone should assume responsibility for their own personal safety and the security of their personal belongings by taking simple, common-sense precautions. Room doors should be locked at night and whenever the room is unoccupied. Students should never hold a residence hall main door open allowing access to someone they do not know. No one should prop open a secured door thus allowing anyone without school permission to a secured area. Valuable items such as computers, stereos and cameras should be marked with an engraving instrument; the Public Safety Office can provide this tool.

It is important to promptly report any suspicious persons, activities or unusual incidents in residence halls or other campus buildings to the Public Safety Office.

## Fire Safety and Fire Statistics in Residence Halls

In accordance with the 2008 changes to the Higher Education Opportunity Act, institutions like Lyndon State College that maintain on-campus housing, shall, on an annual basis, publish a fire safety report. For compliance purposes this report is contained in this section of this annual report. Reporting a fire is everyone's responsibility. A daily fire log is kept in the Public Safety office in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. This log is available during normal office hours and includes the last 60 days of reported fires.

### Reporting a Fire

If a fire occurs on Lyndon State College campus property, community members should immediately call 911. This will ensure that the Lyndonville Fire Department is notified and can respond. If a member of the Lyndon State College community finds evidence of a fire that has been extinguished, and the person is not sure whether it has been reported to Public Safety, the community member should immediately notify Public Safety to investigate and document the incident.

### Fire Alarms and Evacuating

Fire alarms alert community members of a potential hazard, and community members are required to heed this warning and evacuate a building immediately upon hearing a fire alarm in a facility. Use the nearest stairwell and/or exit to leave the building immediately. Community members should familiarize themselves with the exits in each building.

Lyndon State College publishes this report as part of its annual Fire Safety Report, which contains information with respect to the fire safety practices and standards for Lyndon State College. This report includes statistics concerning the number of fires, the cause of each fire, the number of injuries and deaths related to a fire, and the value of the property damage caused by a fire.

## Fire & Safety Inspections

Annually, personnel from the Physical Plant Department perform a fire and safety inspection in each residence hall room at Lyndon State College. Fire hazards and safety issues are sought out and rectified. Routine fire and safety inspections are conducted nightly by Public Safety officers in each residence hall. The goal is to ensure exterior doors are accessible to authorized persons and that exit signs, life safety equipment, and points of egress are clearly marked and available for use. Room fire safety inspections will be done on a regular basis in the residence halls. Most often, these inspections take place during scheduled College breaks

## Residence Hall Fire Drills

Fire drills are held once a semester for each residence hall. Fire drills are mandatory supervised evacuations. The fire drill is scheduled with Public Safety, Residential Life staff, and the local fire department. The supervised fire drill is scheduled within the first month of the semester. Evacuation route maps and detailed instructions on evacuating appropriately are posted in each residence hall suite showing the closest exit route to the assembly area outside. Students who fail to leave the building during a fire drill are documented.

## Fire Life Safety Education

The Department of Residential Life provides fire safety training to all Resident Assistants and Residence Hall Directors at the start of each academic year. That training includes proper use of fire extinguishers, fire alarm evacuation and appropriately utilizing emergency personnel when necessary. Fire Safety Guidelines – Prohibited actions in the residence halls include smoking; having an open flame or fire (e.g., candles or incense); blocking doorways or exits; having anything covering or blocking a room heater; hanging items from the ceiling; or storing bikes or other equipment in corridors, stairwells, entryways, or bathrooms. Items that violate the fire safety code and are not permitted in the residence halls include, but are not limited to: decorative lights; live trees or wreaths; anything near, covering, or attached to the smoke detector or heat sensor; toaster ovens; hot plates; electric frying pans; toasters; indoor or outdoor grills; and space heaters.

## Smoking

At Lyndon State College, our desire is to ensure a safe and healthy environment for all students as well as employees and visitors who work in and use our facilities; therefore, all buildings, including residence halls, are smoke-free. This policy includes burning, carrying, or possessing any lighted tobacco product, such as cigarettes, cigars and pipes. **Tobacco smoking is only permitted in designated parking lots.**

## Outdoor Fires

Any student or group that wishes to have an outdoor fire of any kind on College premises must submit a request to the department of Student Life. The department will then notify the local fire department and receive a permit from the town for the fire. Fires will only be permitted if conditions are safe. Any fire found on College premises that is not authorized will be immediately extinguished and those responsible will be subject to disciplinary action including costs associated with cleanup.

## Fires – On-Campus Residence Halls

	2013	2014	2015
Arnold, 1142 McGoff Hill	0	0	0
Bayley, 1143 McGoff Hill	0	0	0
Rogers, 1144 McGoff Hill	0	0	0
Poland, 1145 McGoff Hill	0	0	0
Crevecoeur, 1146 McGoff Hill	0	0	0
Whitelaw, 1147 McGoff Hill	0	0	0
Wheelock, 306 Lower Campus Road	0	0	0
Rita Bole, 1077 College Road	0	0	0
Gray House, 180 Vail Drive	0	0	0

## Residence Hall Fire Safety Systems

Residence Hall	Fire Alarm Inspection by Alarmco (Bi-Annual)	Full Sprinkler (all common areas & individual rooms) Done Quarterly	Smoke Detection Bi Annual by Alarmco	Fire Extinguishers - Every month by employees, annually by Vt. Fire Extinguisher	Evacuation Plans/ Placards	Number of Evacuation Drills Conducted Annually
Arnold Hall	X	X	X	X	X	2
Bayley Hall	X	X	X	X	X	2
Whitelaw Hall	X	X	X	X	X	2
Crevecoeur Hall	X	X	X	X	X	2
Rogers Hall	X	X	X	X	X	2
Poland Hall	X	X	X	X	X	2
Wheelock Hall	X	X	X	X	X	2
Gray House	X	X	X	X	X	2
Rita Bole Complex	X	X	X	X	X	2

## Fire Safety Improvements and Upgrades

The College regularly reviews the fire systems in our residence halls and makes upgrades, repairs or revisions when problems are identified. Residence hall fire alarm systems have been replaced, and automatic dialers installed. Annually, personnel from the Physical Plant Department perform a fire and safety inspection in each residence hall room at Lyndon State College. Fire hazards and safety issues are sought out and rectified. Routine fire and safety inspections are conducted nightly by Public Safety officers. Smoking is prohibited in all campus buildings, including the residence halls.

### Definition of Terms

**Fire:** Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.

**Fire drill:** A supervised practice of a mandatory evacuation of a building for a fire.

**Fire-related injury:** Any instance in which a person is injured as a result of a fire, including an injury sustained from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of the fire. The term person may include students, faculty, staff, visitors, fire fighters, or any other individuals.

**Fire-related death:** Any instance in which a person is killed as a result of a fire, including death resulting from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of a fire, or deaths that occur within 1 year of injuries sustained as a result of the fire.

**Fire safety system:** Any mechanism or system related to the detection of a fire, the warning resulting from a fire, or the control of a fire including: Sprinkler or other fire extinguishing systems, Fire detection devices, standalone smoke alarms, devices that alert one to the presence of a fire, such as horns, bells, or strobe lights, smoke-control and reduction mechanisms, and Fire doors and walls that reduce the spread of a fire.

**Value of property damage:** The estimated value of the loss of the structure and contents, in terms of the cost of replacement in like kind and quantity, including: contents damaged by fire, related damages caused by smoke, water, and overhaul, however it does not include indirect loss, such as business interruption

## **Security and Access to Campus Facilities**

The Public Safety Department is responsible for control and access to campus building and grounds. The residence halls are locked 24 hours a day, 7 days a week. Guests of residential students must have valid passes, obtained from the Residential Life staff, and must follow all Lyndon State College regulations and policies. Residents are responsible for the actions of their guests.

## **Security Awareness and Programs**

All incoming students are informed of campus security procedures and practices, and we encourage the community to be proactive and to take responsibility for their own safety. During orientation weekend, Public Safety's presentations are co-instructed with Residential Life. At the beginning of each fall semester, a Public Safety officer will attend a mandatory meeting for all residence hall students where policies will again be reviewed with the incoming students and all questions from the students will be answered. The Director of Public Safety will also offer a class on the concept of "Run, Hide, Fight" at various times throughout the year.

## **Residence Hall Security**

Residence halls are locked 24 hours a day, 7 days a week. Only residents, Residential Life, Maintenance and Public Safety staff have access to individual residence hall rooms. All students who live in the residence halls are issued ID cards equipped with an electronic chip allowing them access to their particular res hall.

## **Drugs and Alcohol**

Lyndon State College condemns the illegal and inappropriate use of drugs. Violations of the drug policy will result in disciplinary action which may result in sanctions up to and including dismissal from the College. The possession of stimulants, narcotics, hallucinogens or any controlled or regulated drugs (except on a physician's or dentist's prescription), is prohibited; as is the selling, bartering, exchanging or giving away of such drugs to any person not intended to possess them. Offenses involving the use and/or possession of drugs or drug paraphernalia will subject a student to disciplinary action by the College, and possible civil litigation or criminal prosecution. The College will cooperate with local, state, and federal authorities in the elimination of illicit drug trafficking.

## **Maintaining a Drug-Free Environment**

Lyndon State College recognizes that substance abuse at the College poses a threat to the health, safety, and general well-being of all members of the College community. The effects are not only felt by the individual abuser, but by everyone associated with him or her. Accordingly, the College is committed to providing a learning and work environment free of the use of illicit drugs and the abuse of alcohol. This includes the promulgation of policies and the provision of educational and treatment programs which meet federal and state regulations as well as the needs of the College and its faculty, staff, and students. The Department of Student Life requires every residence hall to maintain a bulletin board detailing alcohol use and abuse topics. The resident assistants also provide alcohol and drug wellness programs to their residents. The Judicial Educator website for alcohol education is used by Student Life in conduct hearings, to include two levels on alcohol education and one level on marijuana education. Lyndon State College was awarded a grant which supported the creation of the "Healthy Hornet" website.

To reaffirm this commitment and to comply with the Drug-Free Schools and Communities Amendments of 1989 and the Drug-Free Workplace Act of 1988, the Office of Human Resources provides you with the following information. Intended for all faculty, staff, and students, it describes College policies with respect to substance abuse and the disciplinary sanctions which will be imposed on students and employees who violate these policies; federal and state laws pertaining to the unlawful possession, use, or distribution of illicit drugs



and alcohol; the health risks associated with the use of illicit drugs and the abuse of alcohol; and descriptions of how and where to seek assistance in dealing with a drug and/or alcohol problem.

Students, faculty, and employees are accountable for the consequences of their own decisions to use or distribute illicit drugs or to serve or consume alcohol. They are also responsible for knowing and complying with applicable College policies and federal, state, and local laws relating to drugs and alcohol.

### **Where to Get Help**

**Faculty and Staff** - If you would like to talk to someone in confidence about a drug- or alcohol-related problem, the Employee Assistance Program works closely with both public and private community agencies that provide medical and rehabilitative services to people in need of assistance with alcohol or drug dependency. Contact the Human Resources Office (ext. 4865, Vail 357) for additional information.

**Students** - While there is a popular myth that all college students binge drink, the actual national survey statistics show that most college students choose to drink moderately or not at all. Nonetheless, some students drink in high quantities and/or drink frequently. If you are concerned about your (or someone else's) relationship with alcohol and other drugs, there are a variety of resources available on campus through Health Services. A continuum of alcohol and other drug-related services and programs including prevention, education, intervention, and treatment are available to all students.

There are a number of agencies that can provide confidential information and consultation regarding drug and alcohol issues. Contact the College Health Services for further information or contact a member of Public Safety or Residential Life and they will assist you.

**The Lyndon State College Counseling Office offers students:**

- **information and referral on substance abuse and other related topics**
- **one-to-one counseling, group counseling, educational training sessions, and professional presentations**
- **confidential counseling on any issue**

**The College counselors, upon request and confidentially, will provide information on formal counseling, treatment, or rehabilitation programs for illicit drug use or alcohol abuse available in the community or the state.**

**With the exception of amnesty for the victims of sexual violence, violators of federal, state, or local laws regarding the use of alcohol or drugs will be subject to disciplinary action by the College and subject to criminal prosecution under said laws.**

### **Lyndon State College Alcohol Policy**

#### **Introduction**

Lyndon State College strongly opposes the illegal and inappropriate use of alcohol. Violations of alcohol policy and regulations will result in disciplinary action, which may result in sanctions up to and including dismissal from the College. The Lyndon State College Alcohol Policy is congruent with Vermont state law, local regulations, and the mission of the College and is promulgated to assure the appropriate distribution and consumption of alcoholic beverages on the campus.

The administration and interpretation of the Alcohol Policy ultimately rests with the President or designees, who, in this instance, are the Associate Dean of Student Affairs and the Director of Residential Life.

## **1.0 Basic Regulations**

- 1.1 Consumption of alcoholic beverages on College property is a privilege accorded under specified conditions to individuals of legal drinking age, according to Vermont law, in areas defined as private domicile (i.e., individual student rooms and the President's house). Reasonable use shall not include kegs, cases, or BYOB parties.
- 1.2 Recognizing that not all individuals may choose to consume alcoholic beverages and recognizing the social emphasis of all events, any function providing an alcoholic beverage must also provide two nonalcoholic beverages.
- 1.3 The sponsoring individual or organization must furnish information concerning the program, facility arrangements, food service needs, and the type and amount of beverages to be served, as directed on the Alcohol Permit and Event Registration Form. Forms are available from the Associate Dean of Student Affairs.
- 1.4 All recognized organizations and sponsors of registered social events are prohibited from providing alcohol to minors. Consistent with and related to this restriction, the serving of kegs, beerballs, and alcohol/punch drink may only be done by a licensed caterer (Sodexo). See 3.0 below for an explanation of the approved process.
- 1.5 Any event that includes alcohol as part of its program should focus upon the social nature of the event in its promotional campaign and not emphasize the sale or availability of alcoholic beverages at said event.
- 1.6 The safe occupancy level of the approved space must be determined and steps taken to insure compliance with the Fire and Safety Code of Lyndon State College and the State of Vermont.
- 1.7 No alcohol may be carried into or consumed in nonresidence hall areas, including outdoor areas and at intercollegiate athletic/intramural events, with the exception of approved designated areas, without the submission and approval of the Alcohol Permit and Event Registration Form.
- 1.8 Scheduled events must remain within the approved designated area.
- 1.9 A charge of no less than \$100.00 will be billed to the organization sponsoring an event if the facility used is not properly cleaned within eight hours after the function has ended.

## **2.0 Residence Halls**

- 2.1 Students who are age 21 or older may possess or consume alcohol in their residence hall rooms in rooms where at least one resident is age 21 or older. In rooms where all residents are under age 21, alcohol may not be possessed or consumed. In no instance may the number of open alcohol containers in a room exceed the number of individuals who are age 21 or older and are in the room. An excessive number of empty containers being present in a room could lead to the presumption that those of legal age provided alcohol to individuals present who are under age 21. In residence halls which are designated as alcohol-free, and on floors of residence halls which are so designated, no alcohol may be possessed or consumed.
- 2.2 No physical evidence of alcohol possession may be displayed or used as decorations that are visible in the window of a residence hall room.
- 2.3 Only a reasonable quantity of alcohol may be present in a legal drinker's residence hall room. No kegs, half-kegs, quarter-kegs, beer balls, cases or other quantities in excess of what may be reasonably and safely consumed may be present.

## **3.0 Campuswide, Licensed Events**

- 3.1 The sponsoring organization must complete and have approved the Alcohol Permit and Event Registration Form at least seven (7) days prior to the event, if scheduled in a licensed facility. For events not scheduled in a licensed facility, a minimum of fifteen (15) days advanced notice is required. These forms are available from the Associate Dean of Student Affairs. Completion of the form indicates an understanding of the Alcohol Policy and a responsibility to fulfill the regulations therein.
- 3.2 The sponsoring organization or individuals must assume financial responsibility for all associated costs (e.g., security, damages, etc.)

## **4.0 Responsibility and Liability**

- 4.1 For any party or other event, the persons who sign the required application or registration forms are responsible for the safe conduct of the event. Staff persons involved in clearance procedures are responsible for ensuring that the event is conducted in a safe and acceptable fashion and for monitoring the event for the general safety of the participants. Situations determined to be in noncompliance with regulations of the Alcohol Policy may be immediately suspended by appropriate College staff.
- 4.2 Responsibility for any adverse consequences that may occur as the result of a party or other event may implicate any person or group involved with that event, in particular those planning and monitoring its outcome.
- 4.3 Any violation of this policy shall be reported to the appropriate dean.

### **Controlled Substances**

The unlawful manufacture, possession, distribution, dispensing, or use of controlled substances is strictly prohibited on College property or at any College function or activity controlled or sponsored by the College.

### **Drug-Free Workplace Act of 1988 and Drug-Free Schools and Communities Act of 1989 Self-Disclosure Requirements**

Employees and students of any institution of higher education that receives federal grant monies are required to self-disclose any criminal drug statute conviction resulting from any infraction of the law occurring in the workplace no later than five calendar days after such conviction. Within ten calendar days after receiving notice from a student or employee, the College must notify the Dept. of Education with reference to the specific grant(s) affected. In addition, the College will, within 30 days of receiving a self-disclosure, either:

- Take the appropriate personnel or disciplinary action, up to and including probation, suspension, or termination of employment; or
- Require mandatory participation in drug abuse assistance or rehabilitation programs.

### **Federal Penalties for Violation of Controlled Substances Act**

Courts can sentence a person to up to 5 years for unlawful possession of a controlled substance. A sentence of life imprisonment can result from a conviction of possession of a controlled substance that results in death or bodily injury. Possession of more than 5 grams of cocaine can trigger an intent to distribute penalty of 10-16 years in prison.

### **Summary of the Health Effects of Drug and Alcohol Abuse**

The following is a partial list of drugs and the consequences of their use. The use of alcohol and other drugs is detrimental to the health of the user. Further, the use of drugs and alcohol is not conducive to an academic atmosphere. Drugs impede the learning process and can cause disruption for other students and disturb their academic interests. The use of drugs in the workplace may also impede the employee's ability to perform in a safe and effective manner and may result in injuries to others. Early diagnosis and treatment of drug and alcohol abuse is in the best interest of the student, employee, and the College.

Marijuana and hashish are deleterious to the health and impair the short-term memory and comprehension of the user. Their use alters the sense of time and reduces the ability of the user to perform tasks requiring concentration and coordination. It increases the heart rate and appetite. Motivation and recognition can be altered, making acquisition and retention of new information difficult. Long-term use may result in psychological dependence and can produce paranoia and psychosis. Because these drugs are inhaled as unfiltered smoke, they are damaging to the lungs and pulmonary system and they have more cancer-causing agents than tobacco.

Cocaine, or crack, stimulates the central nervous system and is extremely addictive. It can cause psychological and physical dependency on the drug, which can lead to dilated pupils, increased pulse rate, elevated blood

pressure, insomnia, loss of appetite, paranoia, and seizures. It can also cause death by disrupting the brain's control of the heart and respiration.

The use of other stimulants and amphetamines can have the same effect as cocaine use, causing increased heart rate and blood pressure, which can result in stroke or heart failure. Symptoms include dizziness, sleeplessness, and anxiety. It can also lead to psychosis, hallucinations, paranoia, and even physical collapse. Depressants and barbiturates can cause physical and psychological dependence that can lead to respiratory depression, coma, and death, especially when used in concert with alcohol. Withdrawal can lead to restlessness, insomnia, convulsions, and even death. LSD, PCP, mescaline, and peyote are classified as hallucinogens. Hallucinogens interrupt the brain messages that control the intellect and keep instincts in check. Large doses can produce convulsions and coma and heart and lung failure. Chronic users experience persistent memory problems and speech difficulties for up to a year after their use. Because the drug stops the brain's pain sensors, drug experiences may result in severe self-inflicted injuries.

Users of narcotics such as heroin, codeine, morphine, and opium develop dependence and increase the likelihood of an overdose, which can lead to convulsions, coma, and death.

Alcohol is chemically classified as a mind-altering drug because it contains ethanol and has the chemical power to depress the action of the central nervous system. This depression affects motor coordination, speech, and vision. In large amounts, it can affect respiration and heart-rate control. Death can result when the level of blood alcohol exceeds 0.40%. Prolonged abuse of alcohol can lead to alcoholism, malnutrition, and cirrhosis.

### **College Disciplinary Sanctions**

Students, faculty, and employees who violate the above-stated policies face disciplinary sanctions. Depending on the circumstances, these sanctions may range from a minimum of satisfactory participation in a rehabilitation program to a maximum of separation or termination from the College. Although the College does not act as a law enforcement agency, it will not protect individuals who have violated the law. Further, the College will cooperate with law enforcement officials if an on-campus investigation is necessary.

### **Federal and State Laws**

Various federal and state laws prohibit the illegal use, possession, manufacture, sale, or distribution of illicit drugs and alcohol.

Vermont alcohol statutes prohibit:

- Minors misrepresenting age or procuring or possessing liquors.
- Sale of alcoholic beverages to minors.
- Misrepresentation of age in order to procure, or misuse of an adult identification card.
- Driving while under the influence of alcohol or other mood-altering drugs--automatic license suspension for a BAC of .08% or higher.

Vermont and federal laws prohibit the possession and distribution of controlled substances. Common examples of controlled substances as defined by law are marijuana, cocaine, crack, heroin and LSD. Criminal sanctions for violation of these laws range from fines to imprisonment. The severity of the penalty depends upon factors such as the nature and the amount of the controlled substance and may be compounded for repeat offenses.

**Federal law now makes students convicted of the possession or distribution of controlled substances ineligible for any federally sponsored loan, grant or work-assistance program.** The period of ineligibility varies according to the type of offense and the number of prior offenses, as do the requirements for reinstatement. Students with concerns regarding the scope and effect of this law should consult their financial aid officer.

More information about local, state and federal laws concerning illicit drugs may be obtained at the Office of the General Counsel.

## Consequences for Violations of the Alcohol/Drug Policy

### Sanctions

#### 1. Interim Sanctions

- a. Interim Conditions - The College recognizes that students may be accused of offenses that may present a danger of the potential for serious harm to the accused or to other members of the College or surrounding community. In such cases, the appropriate College official may impose temporary sanctions pending a hearing by a hearing panel.
- b. Immediate Suspension from Housing; Suspension or Dismissal - Under the circumstances listed below, the Dean of Student Affairs or a designee may impose a suspension from housing, college suspension or dismissal or residence hall suspension or dismissal.
  - I. Immediate suspension or dismissal may be imposed only:
    - i. To ensure the safety and well-being of members of the College community or preservation of property;
    - ii. To ensure the student's own physical or emotional safety and well-being;
    - iii. If the student poses a definite threat of disruption of, or interference with, the normal operations of the College.
  - II. During the suspension or dismissal, students will be denied access to the residence halls and/or to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as one of the deans may determine to be appropriate.
  - III. This type of interim sanction will result in the case being heard by a hearing panel within ten business days of the interim sanction.

#### 2. Range of Sanctions - The following sanctions may be imposed upon any student found to have violated this code. Any combination of sanctions listed in this section may be imposed for any single violation. Sanctions are not necessarily progressive in nature. A first serious violation could result in suspension or dismissal from the College. This is not an exhaustive list:

- a. Verbal Warning: In instances of minor deviations from the Lyndon State College Code of Conduct, the student may be formally warned of possible consequences of continuing such behavior. No other specific action is taken unless further misconduct occurs.
- b. Disciplinary Warning: A written notice to the student that certain behavior is inappropriate.
- c. Fines: Fines may be assessed and the amount will reflect the degree of seriousness of the violation. All fines are considered legitimate debts to the College, and nonpayment may result in any of the following penalties: prevention from continuation in classes, and/or prevention from attending the graduation ceremony, receiving diploma and receiving copies of student transcripts and records. Damage fines will go to replace or repair the damage.
- d. Judicial Work Hours/Restitution: This action requires students to perform a specified number of work hours on or off campus at a community agency. Failure to work the assigned hours shall result in a fine twice the amount of the value of the hours of said work figured at the current minimum wage.
- e. On-line Certificate Program: This sanction requires students to enroll in a predetermined on-line course. Students have to pass the course by at least 80% or retake the course until they do score at least 80%.
- f. Disciplinary Probation: A period of time during which a student's behavior is subject to close examination. Students who are found responsible for further violations are subject to greater sanctions including residential suspension or dismissal or suspension or dismissal from the College.
- g. Loss of Privileges: Denial of specified privileges for a designated period of time. This includes, but is not limited to, any and all privileges pertaining to campus housing, operating and parking motor vehicles, use of other College facilities, visitation, or use of any campus facility or service as well as participation on athletic teams or clubs and organizations. This also includes access to the library, computer labs and campus activities.
- h. Restitution: Compensation for loss, damage, or injury may take the form of appropriate service and/or monetary or material replacement.

- i. Counseling Services: Students who violate alcohol and other drug policies on campus and/or demonstrate the need for emotional support by violating the Code of Conduct can be mandated to meet with a College counselor on campus.
- j. Residence Hall Suspension or Dismissal: Indicates that a student is not eligible to live in or visit the residence halls. It may be for a specific length of time, it may be permanent, and it may be limited to a specific residence hall or applied to all residence halls. Campus visits may be restricted to academic areas only. Housing and meal fees will be prorated.
- k. Completion of Substance Abuse Counseling/Treatment or Personal Counseling Program: Successful completion of an approved alcohol/substance abuse and or personal rehabilitation program off campus may be required as a condition for continued matriculation and/or readmission to the College. The financial responsibility of the cost belongs to the student who is sanctioned.
- l. College Suspension: Suspension from the College is traditionally for a period of one year, but may be for lesser or greater periods of time. Suspension may take effect immediately upon the dean's decision and includes suspension from classes, residence halls and all campus visitations, unless specifically authorized. Any student arrested by the civil authorities and charged with a felony may be immediately suspended from classes, pending further decision by the Dean of Academic and Student Affairs or designee. Tuition is refundable according to the published schedule set by the federal guidelines and adhered to by the Business Office of the College.
- m. College Dismissal: Permanent separation of the student from the College. Tuition is refundable according to the published schedule set forth by federal guidelines and adhered to by the Business Office of the College. Students who harm or have the potential of harming others will be disciplined and may forfeit their right to be members of the College community. If a situation warrants such action, completion of course credits will not guarantee students a degree.

## **SEXUAL HARASSMENT AND SEXUAL ASSAULT**

### **Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct (VSC Policy 311)**

Sexual harassment is illegal and The College will not tolerate sexual harassment of its students and employees, nor will the College tolerate unprofessional conduct which leads to and is associated with sexual harassment.

In the academic context, sexual harassment may be used to describe a wide range of behavior between students, between employees, or between students and employees. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment.

To initiate a sexual harassment complaint, formally or informally, or for further information, contact:

Policy 311 Coordinator Jonathan Davis  
Dean of Students  
3<sup>rd</sup> Floor Rita Bole  
(802) 626-6419  
jonathan.davis@lyndonstate.edu

This policy can be found in its entirety on the Students/Faculty/Staff page of the Lyndon State College website:

<http://lyndonstate.edu/pages/students-faculty-staff/title-ix-sexual-assault-harassment/>

## **Policy on Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking (VSC Policy 311A)**

### **I. NOTICE OF NONDISCRIMINATION**

As a recipient of federal funds, each member College of the Vermont State Colleges (collectively “the VSC”) is required to comply with Title IX of the Higher Education Amendments Act of 1972 (“Title IX”). In accordance with Title IX, as well as applicable state and federal law, the VSC prohibits discrimination on the basis of sex in its education programs and activities, admission, and employment. Prohibited sex discrimination includes sexual harassment, as defined in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*. Prohibited sex discrimination also includes sexual misconduct as defined in this policy.

Inquiries concerning the application of Title IX may be referred to VSC’s Title IX Coordinators or to the United States Department of Education for the Office of Civil Rights. Contact information for the Title IX Coordinators and the Office of Civil Rights is located in Appendix A to the *Chancellor’s Procedures for Implementation of Policy 311-A: Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking*.

### **II. POLICY STATEMENT**

The VSC is committed to maintaining an educational and working environment free from all forms of sex discrimination, including sexual misconduct. The VSC is also committed to maintaining an educational and working environment free from domestic violence, dating violence, sexual assault, and stalking. Such misconduct will not be tolerated. These acts not only violate a person’s feelings of trust and safety but can also substantially interfere with a person’s education or employment.

### **III. POLICY SUMMARY**

It is the policy of the VSC that, upon learning that an act of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking has occurred, prompt and appropriate remedial action reasonably calculated to stop the misconduct shall be taken. Disciplinary sanctions for any member of the VSC community engaging in conduct prohibited under this policy includes the suspension or dismissal/expulsion of students, the suspension or termination of employment or other appropriate disciplinary action such as warnings, reprimands and educational sanctions, as well as possible referral for criminal investigation and prosecution under Vermont law.

**Reporting:** The VSC encourages, and in the case of its employees requires, the prompt and accurate reporting of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking. This allows the VSC to respond quickly to allegations and offer support to individuals who may have been subjected to these forms of misconduct. The VSC is committed to protecting the confidentiality of victims, wherever possible, and will work closely with individuals seeking confidential assistance regarding misconduct under this policy. Certain professionals are permitted by law to offer confidentiality. Those who do not have the privilege of offering confidentiality are expected to handle reports discreetly to the extent permitted or required under the law and VSC policy. All allegations will be investigated promptly and thoroughly, and both the accuser and the accused will be afforded equal rights during the investigatory and adjudicatory process.

**Prevention and Education:** It is the collective responsibility of all members of the VSC community to foster a safe and secure campus environment. In an effort to promote this environment and prevent acts of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking from occurring, the VSC provides ongoing prevention and awareness programs. Incoming students and employees are expected to participate, and other members of the VSC community are encouraged to participate, in these programs.

**Retaliation:** Retaliation against any person for reporting, supporting a victim, or providing information in connection with a complaint of misconduct under this policy is prohibited and may result in disciplinary action, up to and including suspension, expulsion/dismissal or termination of employment. Retaliation may be found whether or not the underlying complaint is ultimately found to have merit. A complaint of retaliation should be reported, and will be investigated and adjudicated, using the procedures implementing this policy.

**False Information:** Providing false information in connection with a complaint of misconduct under this policy or intentionally misleading officials in the investigation or resolution of such a complaint is prohibited and may result in disciplinary action, up to and including suspension, expulsion/ dismissal or termination of employment.

**Academic Freedom:** This policy shall not be construed or applied to restrict academic freedom at the VSC, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant or even hateful.

**Interpretation:** This policy is to be read consistent with federal and state law. If there is any conflict between this policy and federal or state law, this Policy is to be interpreted consistent with federal or state law.

#### **IV. SCOPE OF COVERAGE**

**Who:** This policy applies to all members of the VSC community, including students, employees, and other third parties who come on to campus (such as parents, visitors, independent contractors, and vendors), who are involved in an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking (including those who witness an incident or report an incident on behalf of another). It covers misconduct between individuals in different types of relationships. These include, but are not limited to, student to student, employee to employee, faculty member to faculty member, visitor/contracted employee to employee/student, faculty member to student, employee to student, supervisor to subordinate, coach to student athlete, and student to employee/faculty member. Misconduct under this policy may be acts committed by an individual or collective actions committed by members of a group or organization. These acts may be committed against an individual or against a group or organization. These acts may be committed by a stranger, an acquaintance, or someone with whom the victim has a social, romantic, or intimate relationship. These acts may be committed by or against any individual, regardless of sexual orientation or gender identity.

**What:** This policy prohibits sexual misconduct, domestic violence, dating violence, sexual assault, and stalking as defined herein, in the VSC's educational, extracurricular, athletic, and other programs and activities, as well as in the employment setting. These terms are further defined in the Definitions section below. Sexual harassment is also prohibited by the VSC, and is addressed separately in VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.

**Where:** This policy covers conduct that takes place on VSC campuses and in any building or property owned or controlled by the VSC and used in direct support of, or in a manner related to, the VSC's mission. This includes public property within or immediately adjacent to and accessible from VSC property, as well as any building or property not within the same reasonably contiguous geographic area of VSC that supports or



relates to VSC's educational purposes and is used frequently by students. This policy also covers conduct that takes place off-campus, or through the use of online, electronic or digital technologies, that may have a nexus to any VSC education program or activity, for example by creating a hostile environment on campus or representing a threat to the safety of members of the VSC community or to the continuance of normal VSC operations.

**When:** The length of time between an incident and making a report of misconduct under this policy will not affect the willingness of the VSC to investigate the allegations or provide support and other services to the individual reporting the conduct. However, a prompt report will enhance the VSC's ability to conduct an investigation and the effectiveness of any criminal or VSC adjudicatory process. Therefore, the VSC strongly encourages individuals to report incidents of misconduct immediately following their occurrence.

## **V. RESOURCES FOR VICTIMS**

Written information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for individuals who report that they have been subjected to misconduct in violation of this policy, both on campus and in the local community, is available from the Office of the Chancellor and each of the member Colleges. The VSC will provide written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or other protective measures. The VSC will make such accommodations or provide such protective measures if requested and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Requests for accommodations should be made to the Title IX Coordinator.

## **VI. CLERY ACT**

The VSC is committed to complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").<sup>1</sup> Employees who are designated as Campus Security Authorities are required to report certain sex offenses and other crimes to the Department of Public Safety for the purpose of compliance with the Clery Act. The Offices of Public Safety for the member Colleges shall include any reported incidents of dating violence, domestic violence, sexual assault, and stalking, along with other crimes, in the daily crime log, and the annual security report. Public Safety will issue a timely warning when a Clery Act crime, which is considered to pose a serious or continuing threat to the VSC community, is reported to Public Safety or to local law enforcement (if local law enforcement makes Public Safety aware of such reports). No personally identifying information will be included in the public reports required by the Clery Act.

## **VII. CONFIDENTIALITY**

The VSC is committed to maintaining the privacy of all individuals involved in a report of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking to the extent it reasonably can do so. While the VSC encourages individuals to report incidents of misconduct in violation of this policy, the VSC understands that it can be difficult for individuals to come forward to report such misconduct. The following resources have differing obligations to maintain confidentiality and to report incidents.

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<sup>1</sup> The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and report information about crime on or near their campuses.

### **A. Confidential Off-Campus Resources**

Crisis services and off-campus healthcare providers will generally maintain confidentiality, to the extent permissible under applicable law.

### **B. Counselors and Health Services Professionals**

The VSC's licensed professional counselors and health services staff respect and protect confidential communications from students and employees to the extent permissible under applicable law. They may have the responsibility to disclose otherwise-privileged information in the event they perceive an immediate and/or serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under age 18. These professionals will report incidents, without any identifying information, to the Title IX Coordinator so VSC is aware that an incident of alleged misconduct under this policy has occurred. If the incident is a crime covered by the Clery Act, these professionals will report it, without any identifying information, to the appropriate Office of Public Safety for Clery Act purposes. The non-identifying information to be reported includes the nature, date, time and general location of the incident.

### **C. Employees**

Employees of the VSC, other than those employed by the VSC in their capacity as licensed professional counselors and health services staff, are not able to guarantee confidentiality. General inquiries or questions about policies and procedures do not have to be reported. Employees who learn of an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking are required to report this information to the Title IX Coordinator, the Dean of Students, or the President. Employees who are Campus Security Authorities are also required to report certain sex offenses and other crimes to the Department of Public Safety for the purpose of the VSC's compliance with the Clery Act. All information will be kept securely and, even if an individual does not request confidentiality, the information will be shared on a "need to know" basis only with those assisting in any review, investigation or adjudication of the report, or who otherwise need to know the information to perform the duties of their position. Although not bound by confidentiality, these individuals should be discreet and respect the privacy interests of all individuals involved in the process.

The VSC will strive to protect the privacy interests of individuals to the extent it can while fulfilling its obligations to uphold relevant policies and regulations, to conform to any legal requirements, and to take reasonable steps to promote the safety of members of the VSC community. The VSC has an obligation to investigate complaints of sexual harassment, sexual misconduct, dating violence, domestic violence, sexual assault, and stalking, and to take reasonable steps to prevent recurrence of such behavior. Therefore, in some circumstances, the VSC may report an incident of misconduct under this policy to law enforcement or investigate and pursue disciplinary action against the offender, even if an individual requests confidentiality or chooses not to file a complaint. For this reason, absolute or strict confidentiality cannot be guaranteed. The VSC will evaluate requests for confidentiality on a case-by-case basis, within the context of its responsibility to provide a safe and nondiscriminatory environment for all students, employees and third parties, and to promote the health, safety, and wellbeing of the VSC community.

If an individual filing a report insists that his or her name or other identifiable information not be revealed and the VSC is able to respect that request, the VSC's ability to respond fully to the report may be limited. For example, a person accused of engaging in misconduct under this policy has the right to know the name of the accuser and information regarding the nature of the allegations in order to defend against the allegations in an adjudicatory process. Thus, the VSC may not be able to maintain a request for confidentiality and also

adjudicate a complaint. If an individual insists on confidentiality, the VSC may be able to take action to limit the effects of the alleged sexual misconduct, domestic violence, dating violence, sexual assault, or stalking and prevent its recurrence to the extent warranted and practicable.

#### **D. Law Enforcement**

If a crime of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking appears to have occurred, the VSC encourages accurate and prompt reporting of these crimes to the Office of Public Safety and/or to state or local law enforcement. Victims subjected to such misconduct have the option to notify law enforcement, to be assisted by VSC officials in notifying law enforcement, or to decline to notify law enforcement. A victim may inform law enforcement of an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking without making a formal criminal complaint. A victim may choose to pursue a criminal complaint, a complaint through the VSC's disciplinary process, or both simultaneously. A victim who chooses not to notify law enforcement immediately has the option to notify law enforcement at a later time. Completing a forensic exam is important to preserve evidence and does not require the examinee to file a police report. Reports to law enforcement are not confidential.

### **VIII. DEFINITIONS**

#### **A. Clery Act Crimes**

The definitions of dating violence, domestic violence, sexual assault, 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, as well as in its primary prevention and awareness programs for students and employees, the VSC shall include the definitions of dating violence, domestic violence, sexual assault, and stalking under the criminal law of Vermont. However, the VSC utilizes its own definitions of these prohibited behaviors, which are consistent with the Clery Act as set forth below, for purposes of this policy and determines responsibility for violations of this policy through its own procedures and standards of proof (*i.e.* by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

**Dating Violence:** "Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(i) 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.

(ii) For the purposes of this definition—

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence."<sup>2</sup>

Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

**Domestic Violence:** "A felony or misdemeanor crime of violence committed—

(A) By a current or former spouse or intimate partner of the victim;

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<sup>2</sup> 34 C.F.R. § 668.46(a).

- (B) By a person with whom the victim shares a child in common;
- (C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
- (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred."<sup>3</sup>

Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

Examples of **domestic violence and dating violence** behaviors or activities directed against a family member, a household member, or a person one is dating or has dated include, but are not limited to: (1) violence or threats of violence (even in the absence of bodily injury); (2) negligent or reckless use of physical force; (3) conduct that may reasonably be expected to exploit or coerce another; (4) restraint; (5) prevention of another's ability to communicate or move freely by the use of threats, intimidation, abuse or physical force; (6) unauthorized entry and, specifically, uninvited threatening presence in another's room or office; and (7) other conduct intended to intimidate, manipulate, humiliate, terrorize, or isolate the other person. Domestic violence and dating violence can be a single act or a pattern of behavior in a relationship. Engaging in such behaviors or activities is a violation of VSC policy and is prohibited.

**Sexual Assault:** "An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program[.]"<sup>4</sup> The Federal Bureau of Investigation's Uniform Crime Reporting Program defines these offenses as follows:

**Rape:** "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."<sup>5</sup>

**Sex Offenses:** "Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. *Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

B. *Incest*—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. *Statutory Rape*—Sexual intercourse with a person who is under the statutory age of consent."<sup>6</sup>

Sexual assault can be committed by any person against another 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.

Any incident meeting one or more of these definitions is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

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<sup>3</sup> 34 C.F.R. § 668.46(a).

<sup>4</sup> 34 C.F.R. § 668.46(a).

<sup>5</sup> Appendix A to Subpart D of 34 C.F.R. Part 668.

<sup>6</sup> Appendix A to Subpart D of 34 C.F.R. Part 668.

**Stalking:** “(i) 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.

(ii) For purposes of this definition—

- (A) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- (B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- (C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.”<sup>7</sup>

Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. It is also a violation of VSC policy and is prohibited.

Examples of **stalking** behaviors or activities, when conducted in connection with the above definition, include, but are not limited to: (1) 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; (2) use of online, electronic or digital technologies, such as posting pictures or text in chat rooms or on websites, sending unwanted or 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, or using Global Positioning Systems (GPS) or similar technology to monitor a person; (3) pursuing, following, waiting for, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the person; (4) surveillance or other types of observation, including staring and voyeurism; (5) trespassing; (6) vandalism; (7) non-consensual touching; (8) direct verbal or physical threats against a person or a person’s family member, pet or personal property; (9) gathering information about a person from friends, family, or co-workers; (10) accessing private information through unauthorized means; (11) threats to harm self or others; (12) defamation and/or lying to others about the person; and (13) using a third party or parties to accomplish any of the above. Engaging in such stalking behaviors or activities is a violation of VSC policy and is prohibited.

## **B. Additional Definitions Applicable to This Policy**

**Coercion:** The act of compelling or forcing someone to act based on pressure, harassment, threats, or intimidation.

**Consent:** For purposes of this policy, effective consent means words or actions that demonstrate to a reasonable person a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective consent cannot be gained by threat, force, coercion or intimidation or by ignoring words or actions that indicate a lack of consent or objection to the activity. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be rescinded at any time. It is the responsibility of the person who wants to engage in the sexual activity to ensure that he or she has effective consent from any other person involved. Silence, lack of protest, or lack of resistance are not sufficient standing alone to establish consent. The actions of the individuals involved and the context in which those actions occurred will

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<sup>7</sup> 34 C.F.R. § 668.46(a).

be considered in determining whether or not there was consent. The existence of a dating relationship or a past sexual relationship between the persons involved is not a sufficient basis to assume consent. Past consent between two individuals does not imply present or future consent to sexual activity.

Consent is not valid when a person is incapable of giving consent: (1) due to the person's use or consumption of drugs or alcohol; (2) when intimidation, threats, physical force, or other actions that are coercive are applied; (3) when a physical or mental condition is present such that the person cannot knowingly or voluntarily give consent; or (4) when a person is under the age of 16.

Alcohol-related incapacity results from a level of alcohol ingestion that is more severe than mere impairment, being under the influence, drunkenness or intoxication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards and includes an analysis of the objective behaviors of the person alleging sexual misconduct and whether the accused person knew or reasonably should have known that the person was incapacitated, or if the accused person played a role in creating the circumstances of incapacity. Whether the accused person knew or reasonably should have known the other person was incapacitated will be assessed in light of all relevant circumstances. Objective physical indications of incapacity include slurred speech, difficulty walking or standing, vomiting, and losing consciousness.

The use of alcohol or other drugs does not make a victim at fault for sexual misconduct. The use of alcohol or other drugs does not minimize or excuse a person's responsibility for committing sexual misconduct. Nor does the use of alcohol or other drugs minimize or excuse a person's responsibility for determining whether another person is capable of giving consent, as described above.

**Retaliation:** Retaliation against any person for reporting, supporting a victim, or providing information in connection with a complaint of sexual misconduct, domestic violence, dating violence, and stalking includes, but is not limited to: (1) pressuring a person to drop or not support a complaint; (2) encouraging a person to provide false and misleading information; (3) engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living or work environment; (4) threatening, intimidating or coercing the person; or (5) otherwise discriminating against any person for exercising their rights and responsibilities under this policy. Depending on the particular circumstances, retaliation may also be unlawful.

Retaliation as defined here violates VSC policy and is prohibited.

**Sexual Misconduct:** Any non-consensual act of a sexual nature, which may or may not involve physical contact. Sexual misconduct may vary in severity and includes a range of behaviors and attempted behaviors, including, but not limited to sexual harassment as defined in Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*.<sup>8</sup> Sexual misconduct includes sexual assault (as defined above) and also includes unwelcome sexual conduct that does not constitute sexual assault but is sexually violating in nature, such as nonconsensual physical contact of a sexual nature including, but not limited to, intentional contact of a sexual nature with the breasts, buttocks, groin, or mouth or contact of a sexual nature with any other body parts.

Sexual misconduct also includes sexually exploitative behavior and attempted sexually exploitative behavior. Examples of sexually exploitative behavior include, but are not limited to: (1) prostituting another person; (2)

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<sup>8</sup> Conduct that violates both Policy 311 and this Policy may be addressed under either policy.

recording or capturing (through any means) images or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent, and/or sharing this material without the other person's consent; (3) viewing or allowing or aiding others to view another person's sexual activity, intimate body parts, or nudity without the person's consent; and (4) sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.

Exception: The VSC's prohibition of sexual exploitation is not intended to prohibit the use of sexually-explicit materials that are reasonably related to the VSC's academic mission. Specifically, this section is not intended to proscribe or inhibit the use of sexually-explicit materials, in or out of the classroom, when in the judgment of a reasonable person the use of such materials appropriately promotes genuine discourse, inquiry and learning.

Sexual misconduct as defined here violates VSC policy and is prohibited.

## **IX. PROCEDURES**

The Chancellor shall establish and periodically update the procedures for handling complaints of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking to ensure that the process is prompt, fair and impartial. Officials who are responsible for investigating and adjudicating complaints under this policy shall receive annual training relevant to their specific duties and responsibilities on how to conduct investigations involving sexual misconduct, domestic violence, dating violence, sexual assault, and stalking, and the adjudication process so as to protect the safety of victims and promote accountability. The procedures shall identify the persons responsible for overseeing the development of prevention and awareness programs at each of the member Colleges and the Office of the Chancellor. The procedures shall outline the steps available to victims of misconduct prohibited by this policy and describe the procedures for reporting, investigating and adjudicating incidents of such misconduct. The procedures shall contain the definitions of dating violence, domestic violence, sexual assault, stalking, and consent under the criminal laws of Vermont.

The standard of proof applicable in investigating and adjudicating complaints under this policy shall be "by a preponderance of the evidence," meaning that it is more likely than not (*i.e.* there is more than a 50% likelihood) that the alleged actions or behavior in violation of the policy occurred.

The procedures established by the Chancellor may be modified as necessary to comply with federal and state law so that the VSC may respond promptly and effectively to incidents of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking.

## **X. DUTY TO COOPERATE**

All students and employees have a duty to cooperate in investigations undertaken pursuant to this policy and are expected to provide complete, accurate, and truthful information. They may be asked to sign statements or other documents memorializing the information they provide, and may be asked to keep the substance of any interview confidential. Failure to cooperate fully with the investigation may subject the individual to the full range of disciplinary actions, up to and including expulsion or termination.

All actions taken to investigate and resolve complaints pursuant to this policy shall be conducted with as much privacy, discretion and confidentiality as possible without compromising the thoroughness and fairness of the investigation. All persons involved are expected to treat the situation under investigation with respect. To conduct a thorough investigation, the investigator(s) may discuss the complaint with witnesses and those persons involved in or affected by the complaint, and those persons necessary to assist in the investigation or

to implement appropriate disciplinary actions. Nothing herein shall be deemed to limit the procedural rights of unionized and other employees with regard to such investigations.

## **XI. SANCTIONS**

Violation of the prohibitions set forth in this policy is grounds for discipline up to and including the dismissal/expulsion of students or the termination of employees. Generally, the range of sanctions for **students** includes verbal and written warnings, written reprimands, counseling, loss of privileges, probationary status, removal from College housing, suspension, dismissal/expulsion, revocation of degree, and/or withholding of transcript or other action determined to be appropriate under the circumstances. Generally, the range of sanctions for **employees** includes verbal warnings, written warnings, written reprimands, probation, suspension, termination of employment, non-renewal of a contract, or other action determined to be appropriate under the circumstances.

The VSC may also impose certain non-disciplinary remedial actions where appropriate, such as required counseling or training for the respondent and/or a group of students or employees, to stop the misconduct, prevent its recurrence, and remedy its effects. Additional non-disciplinary outcomes, such as extending and modifying no contact orders, room changes, class changes, work schedule changes, building restrictions, and extracurricular activity restrictions may also be imposed, regardless of the finding, to maintain an environment free from sexual misconduct, dating violence, domestic violence, sexual assault, sexual misconduct, and stalking.

## **XII. OTHER POLICY VIOLATIONS**

The VSC's primary goals in responding to complaints of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking are to promote the safety of the VSC community, to address the misconduct, and to prevent it from recurring. A person (whether a victim of misconduct under this policy or someone with knowledge of such an incident) should not be deterred from reporting a violation of this policy because alcohol, drugs, or other violations of VSC's policies were involved in the incident. VSC officials may, in their discretion and on a case-by-case basis, decide not to pursue relatively minor drug, alcohol or other policy violations related to incidents of misconduct under this policy or, if they do pursue such violations, to handle them separately from complaints brought under this policy.

Misconduct that does not meet the definition of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking may violate other VSC policies, student handbooks, codes of conduct, or collective bargaining agreements and, if so, shall be handled as set forth in such other documents. Where related misconduct involves a combination of elements of alleged sexual assault, domestic violence, dating violence, sexual assault, or stalking and other types of sexual misconduct, it will be handled under the procedures adopted in connection with this policy.

Signed by:

Jeb Spaulding, Chancellor



## **Relevant Legal Authorities**

- 20 U.S.C. § 1681 *et seq.*, Title IX of the Higher Education Amendments of 1972
- 34 C.F.R. Part 106 (Title IX regulations)
- 20 U.S.C. § 1092(f), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Section 485(f) of the Higher Education Act of 1965 (as amended)
- 34 C.F.R. § 668.46 (Clery Act regulations)
- 42 U.S.C. § 13925(a)(20), Violence Against Women Act of 1994 (as amended) (definition of personally identifying information)
- 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act of 1974 (FERPA)
- 34 C.F.R. Part 99 (FERPA regulations)
- 13 V.S.A. § 3251(3), Sexual Assault - Definitions
- 13 V.S.A. § 3252, Sexual Assault
- 13 V.S.A. § 1042, Domestic Assault
- 15 V.S.A. § 1101(2), Domestic Relations, Abuse Prevention - Definitions
- 13 V.S.A. § 1061, Stalking – Definitions
- 16 V.S.A. § 178, Harassment and Hazing Prevention Policies; Postsecondary Schools
- 16 V.S.A. § 14, Harassment; Notice and Response
- 16 V.S.A. § 11(a)(26), Classifications and Definitions, Harassment

## **Additional Resources**

- United States Department of Education Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence*, issued April 29, 2014 (<http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>)
- United States Department of Education Office for Civil Rights, *Dear Colleague Letter*, issued April 4, 2011 (<http://www.title9.us/wp-content/uploads/2014/03/colleague-201104.pdf>)
- United States Department of Education Office for Civil Rights, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, issued January 19, 2001 (<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>)
- United States Department of Education's *Handbook for Campus Safety and Security Reporting* (2011) (<http://www2.ed.gov/admins/lead/safety/handbook.pdf>)
- White House Task Force to Protect Students from Sexual Assault, *Not Alone*, issued April 29, 2014 ([http://www.whitehouse.gov/sites/default/files/docs/report\\_0.pdf](http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf))

## **Cross References**

- VSC Policy 311, *Non-Discrimination and Prevention of Harassment and Related Unprofessional Conduct*

*Chancellor's Procedures for Implementation of Policy 311-A: Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking* "VSC" refers collectively to the Vermont State Colleges and the five individual member Colleges, Castleton University, Community College of Vermont, Johnson State College, Lyndon State College, and Vermont Technical College. Therefore, the following policy applies to Lyndon State College.

# CHANCELLORS'S PROCEDURES FOR IMPLEMENTATION OF POLICY 311-A: SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

## I. INTRODUCTION

The following procedures outline the steps available to individuals who may have been subjected to sexual misconduct, domestic violence, dating violence, sexual assault, or stalking, as defined in Policy 311-A, and describe the institutional procedures for handling complaints involving such misconduct. These procedures incorporate by reference the terms and conditions of Policy 311-A, *Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking*, and are to be read consistently with the requirements of any state or federal laws and regulations, any collective bargaining agreement, and any personnel handbook governing the rights and responsibilities of the Vermont State Colleges ("VSC"), its member Colleges and its employees. These procedures may be modified as necessary to comply with federal and state law and to respond promptly and effectively to incidents of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking.

## II. DEFINITIONS

The definitions set forth in Policy 311-A are incorporated here by reference. The following additional definitions apply to these procedures.

**"Complainant"** means a person who files a complaint alleging that she or he has been subjected to conduct that violates Policy 311-A.

**"Dean of Students"** means the Dean of Students at a member College or any person carrying out that function, however named.

**"Designated contact person"** means those persons designated by the Office of the Chancellor and the member Colleges to advise individuals with questions about Policy 311-A, to provide information about available resources for victims, to assist in the reporting of an incident that may constitute a violation of Policy 311-A, and to explain the process for filing a complaint. The names of the designated contact persons at each institution shall be published online and made available at the office of the Dean of Students and the office of the Human Resources Administrator for each member College, as well as the office of the Director of Human Resources at the Office of the Chancellor.

**"Employee"** means all VSC employees, including student employees, such as Resident Advisors and work study students (within their capacity as work study students).

**"Parties"** means the complainant and the respondent.

**"Respondent"** means a person against whom a complaint has been filed alleging that the person's conduct violated Policy 311-A.

**"Responsible College Administrator" or "RCA"** means (1) the President or Dean of Students from the member College where the violation allegedly occurred; (2) the Director of Human Resources at the Office of the Chancellor, if the violation allegedly occurred at the Office of the Chancellor; (3) the Chancellor, if the VSC Director of Human Resources or a President allegedly violated Policy 311-A; (4) the Chair of the Board of Trustees, if the Chancellor allegedly violated Policy 311-A; and (5) any designee of the aforementioned.

**“Third Parties”** means individuals who are neither students nor employees, such as visitors, parents, vendors, and independent contractors.

**“Title IX Coordinator”** means the administrator at each College selected by the President, and the person at the Office of the Chancellor selected by the Chancellor, to serve as Title IX Coordinator for the purposes of coordinating the VSC’s efforts to comply with and carry out its responsibilities under Title IX, as well as any designee of the Title IX Coordinator. For the purposes of Policy 311-A, the Title IX Coordinator’s responsibilities include overseeing the process for handling all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Title IX Coordinator prepares annual reports on the nature and outcome of complaints at the institution, which are to be used for satisfying any VSC or member College legal reporting requirements and for planning and assessing progress toward the goal of preventing sexual misconduct. Contact information for the Title IX Coordinators is located in **Appendix A** to these Procedures.

**“VSC”** and **“Colleges”** refer collectively to the Vermont State Colleges and its individual member institutions: Castleton University, Community College of Vermont, Johnson State College, Lyndon State College, and Vermont Technical College, however named or configured.

### **III. CONTACT INFORMATION**

Any person (including students, employees, and third parties) who believes that she or he is the victim of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking, or who has information about such an incident, may seek advice or information from the Title IX Coordinator, designated contact persons, or Responsible College Administrators. Victims of conduct prohibited by Policy 311-A have the option to notify law enforcement, to be assisted by VSC officials in notifying law enforcement, or to decline to notify law enforcement.

The VSC encourages all members of the VSC community affected by sexual misconduct, domestic violence, dating violence, sexual assault, or stalking to seek immediate assistance. Seeking prompt assistance is important to ensure a person’s physical safety, to obtain medical care or other support, and to preserve evidence for any legal or disciplinary action. Preservation of evidence is important even if an individual initially chooses not to pursue a complaint, criminal charge or protective order, because the individual may decide to do so at a later time.

Contact information for: (1) trained campus and community advocates and counselors who can provide an immediate confidential response in a crisis situation; and (2) Public Safety, state and local law enforcement, and other first responders, shall be published on VSC websites and made available at the offices of the Chancellor, President, Dean of Students, Human Resources, Public Safety, and counseling/student health center.

### **IV. SUPPORT AND ASSISTANCE**

#### **(A) Court Orders**

The VSC is committed to ensuring the safety and well-being of individuals who are being or who may have been subjected to sexual misconduct, domestic violence, dating violence, sexual assault, or stalking. Such individuals may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from Vermont courts. Upon request, the VSC will assist individuals in making contact with law enforcement

authorities and other external resources to seek such orders. This assistance is available regardless of whether an individual chooses to file a complaint with the VSC.

## **(B) Protective Measures**

Sometimes it may be necessary to take steps to protect the rights and interests of an individual before or during an investigation so that the individual feels safe in his or her work or educational environment. Upon request, the Title IX Coordinator, with the assistance of other VSC officials as appropriate, will provide victims of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking with changes to academic, transportation, working and/or living situations or other protective measures, if reasonably available. Individuals do not have to file a formal complaint, participate in a disciplinary process, or file a criminal complaint in order to request such help from the VSC. The VSC will maintain as confidential any accommodations or protective measures provided, to the extent that maintaining such confidentiality does not impair the VSC's ability to provide the accommodations or protective measures. Examples of possible measures that may be taken prior to the final outcome of any disciplinary process or criminal charge, include: changing academic or work schedules; permitting students to withdraw from or retake a class without penalty; facilitating access to academic support services; changing residence hall assignments; providing written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims at the member College and/or in the community; issuing no contact and no trespassing orders; and increasing security. Factors that may be considered include, but are not limited to, the following: the specific need expressed by the requesting individual; the age and position of the individuals involved; the severity or pervasiveness of the alleged conduct; any continuing effects on the requesting individual; whether the individuals involved share the same residence hall, dining hall, classes, transportation or job location; and, whether any judicial measures, such as court orders, have been taken to protect the requesting individual.

Any measure taken should seek to minimize the burden on the victim while respecting the due process rights of the person accused of engaging in the prohibited conduct. The imposition of any of these measures does not indicate a presumption of guilt, nor does it preclude subsequent disciplinary action. A no contact order in and of itself does not constitute discipline and will not appear in an employee's personnel file or on a student's disciplinary record, but refusal to comply with a no contact order (or other protective measure) is a violation of policy and may result in disciplinary action. A no trespass notice prohibits the presence of an individual in a designated area. Such notices are legally enforceable and, if violated, may lead to arrest.

## **(C) Interim Suspension**

If the VSC has reasonable cause to believe that a student accused of violating Policy 311-A poses a substantial threat to him or herself, the alleged victim, other people, property, or the continuance of normal VSC operations, the VSC may suspend the student for an interim period, pending the outcome of the disciplinary process. Careful consideration should be given to alternative interim measures, such as changing class schedules, changing residence hall assignments, and issuing no contact orders or building access restrictions, before imposing an interim suspension.

An interim suspension may not be imposed without prior notice to the student (either written or oral) of the contemplated suspension and the factual basis for it. The student shall have forty-eight hours in which to submit a letter to or appear personally before the Dean of Students (or the Dean's designee) to contest the interim suspension. The Dean of Students (or the Dean's designee) shall consider: (1) the reliability of the identification of the student; and (2) whether the alleged conduct, if true, based on the surrounding

circumstances, reasonably indicates that the continued presence of the student on campus poses a substantial threat to him or herself, the alleged victim, other people, property, or the normal operations of the VSC. The Dean (or the Dean's designee) may require the student to meet certain conditions in lieu of an interim suspension. Unless the Dean of Students (or the Dean's designee) determines that it would be unreasonably difficult or dangerous to delay the interim suspension, the student shall have the opportunity to be heard in person or in writing before the interim suspension takes effect.

**V. REPORTING SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**(A) Report by Victims or Others with Information**

Any person (including students, employees, and third parties) who believes that she or he is the victim of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking, or who has information about an alleged incident, may report the incident to the Title IX Coordinator, a designated contact person, a Responsible College Administrator, Public Safety, or Human Resources.

Individuals with a disability may request accommodations to ensure their full and equal participation in reporting incidents of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking, as well as the investigatory and adjudicatory process under this policy. Requests for accommodations in the Policy 311-A process are determined on an individual basis by the Title IX Coordinator, in consultation with the ADA/Section 504 Coordinator as appropriate.

**(B) Reporting Obligations of Employees**

Except in circumstances where an employee is acting within the scope of his or her role as a specifically-designated confidential resource, employees who are aware or have been made aware of an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking are required to report this information to one of the following: the Title IX Coordinator, the Dean of Students, the President, or, if the employee works in the Office of the Chancellor, to the Director of Human Resources.

Employees are not expected to and should not investigate alleged incidents, unless this is part of their job duties or they are assigned to investigate a complaint made under this policy. The report should include all known relevant details, including a description of the alleged incident, the names of anyone involved or present, the date, time, and location.

Failure by an employee to report a complaint or alleged acts of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking is considered a violation of policy and may result in disciplinary action. The procedures and mutual obligations of the VSC and the employee under any collective bargaining agreement, or the VSC personnel handbook, will apply to any such disciplinary action.

**(C) Reporting to Law Enforcement Agencies**

The VSC encourages accurate and prompt reporting of all crimes to Public Safety and/or to state and local enforcement, when the victim of a crime elects to make a report, as well as when the victim is unable to make a report due to physical or mental incapacity. Definitions of consent and the crimes of dating violence, domestic violence, sexual assault, and stalking under Vermont law are set forth in **Exhibit B** to these Procedures. Contact information for Vermont's Special Investigation Units, by county, is set forth in **Exhibit C**

to these Procedures. Additional contact information for local law enforcement agencies shall be published on VSC websites and made available at the offices of the Chancellor, President, the Dean of Students, Human Resources, Public Safety, and any campus counseling/health center.

The VSC will not wait for the conclusion of a criminal investigation or proceeding to process complaints or begin its own investigation under this policy. The VSC will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation and may, if so requested, temporarily delay an investigation while law enforcement initially gathers evidence.

In certain circumstances, the VSC may need to report an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking to law enforcement, such as where the incident warrants undertaking safety and security measures for the protection of an individual and/or the VSC community, including those situations where there is clear and imminent danger and/or where a weapon may be involved. The alleged victim may choose whether to assist law enforcement.

## **VI. FILING A FORMAL SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING COMPLAINT<sup>9</sup>**

### **(A) Complaints against Students**

A formal complaint of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking by a student shall be filed with the Title IX Coordinator.

### **(B) Complaints against Employees**

A formal complaint of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking by an employee shall be filed with the Title IX Coordinator. A complaint against a Title IX Coordinator shall be filed with the President of the College, who will designate an alternate contact person. A complaint against a President shall be filed with the Chancellor, who will designate an alternate contact person. A formal complaint against an employee in the Office of the Chancellor shall be filed with the VSC Director of Human Resources (or the Director's designee). A complaint against the VSC Director of Human Resources shall be filed with the Chancellor, who will designate an alternate contact person. A formal complaint of such misconduct against the Chancellor shall be filed with the Chair of the Board of Trustees.

Respondents who are represented by a union may exercise their rights, pursuant to federal and state labor law, through this adjudicatory process, including, but not limited to, the right to have a union representative present for any interview or meeting.

### **(C) Complaints against Third Parties**

A formal complaint of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking committed by a third party shall be filed with the Title IX Coordinator. The VSC's ability to take disciplinary

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<sup>9</sup> Individuals who believe that they have been subjected to unwelcome conduct of a sexual nature and/or sexual harassment may seek informal resolution of the issues, without filing a formal complaint, as set forth in the *Chancellor's Procedures for Implementation of Policy 311: Non-Discrimination and Prevention for Harassment and Related Unprofessional Conduct*. Informal resolution will not be used in cases involving sexual assault.

action against a third party may be limited, depending on the particular circumstances, but may include banning the third party from campus.

#### **(D) Complaints brought by the VSC**

The VSC may investigate and pursue disciplinary action against a respondent whose conduct allegedly violates Policy 311-A even if the alleged victim chooses not to file a formal complaint. If this occurs, the VSC will follow the procedures set forth below to the extent reasonably possible.

#### **(E) Written Complaint**

After an initial discussion, the complainant will be asked to prepare a written statement describing the alleged conduct. The statement should include information such as the date and time of the alleged misconduct, the name of the respondent, the circumstances surrounding the alleged conduct, and the identity of any person who may have knowledge or information about the conduct. The complainant may designate a previously-prepared statement (such as an e-mail, an affidavit, or a statement provided to law enforcement) as the complainant's statement. The Title IX Coordinator may draft a statement, based upon the complainant's verbal description of the alleged conduct, for the complainant's review and approval. Complainant's statement may be provided to respondent, at the investigators' discretion, during the course of the investigation but will be provided, in any event, no later than the release of the investigators' report to the parties.

#### **(F) Preliminary Evaluation**

The Title IX Coordinator shall review the complainant's written 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 the policy, the procedures set forth below will be followed. If the alleged actions of the respondent would not be a violation of the policy, the Title IX Coordinator will consider whether the alleged actions would otherwise subject the respondent to discipline. If so, the procedures applicable for handling such other alleged offenses will be followed. The Title IX Coordinator shall take no further action, other than to inform the complainant, if the alleged actions of the respondent as set forth in the written statement, if true, would not constitute an offense subject to discipline.

#### **(G) Notice to Respondent**

If the complaint is not dismissed following the preliminary evaluation, the Title IX Coordinator shall inform the respondent, in writing, of the alleged policy violation(s) and provide a summary of complainant's allegations. The respondent shall also be given a physical copy of and/or the website links to Policy 311-A and its implementing procedures, as well as information on existing counseling, health and mental health services available on campus and/or in the community. The respondent shall be notified that taking any retaliatory action (directly or through others) against any person involved in the investigation is prohibited and will be considered a separate violation of VSC policy. Copies of the written notice to the respondent shall be provided to the complainant, the Title IX Coordinator, the investigators, and VSC's general counsel.

#### **(H) Acceptance of Responsibility**

If at any point during the investigation, a respondent chooses to accept responsibility under this policy, the RCA may issue a determination and impose disciplinary sanctions upon the respondent in accordance with Article VIII below. The RCA may also take other action that is reasonably calculated to address the conduct

and prevent its recurrence, including further investigation of the allegations. By accepting responsibility and the imposition of any assigned disciplinary sanction, the respondent waives the right to appeal.

## **VII. THE INVESTIGATION**

### **(A) Appointing Investigators**

The Title IX Coordinator shall appoint two impartial, qualified, and trained investigators to investigate complaints alleging violations of this policy. Investigators may be employees of the member College, other VSC employees, or outside investigators.

The complainant or respondent may raise an objection to the selection of a particular investigator if either believes there is a conflict of interest or demonstrable or perceived bias on the part of the investigator. Any such objections must be raised upon receipt of notice of the appointments. The RCA shall have final authority in the appointment of investigators.

### **(B) Conducting the investigation**

The investigators shall conduct an investigation that is prompt, fair, impartial, and appropriate under the circumstances. The nature and scope of the investigation is within the discretion of the investigators.

#### **(1) Witnesses and Evidence**

The investigators will interview the complainant, respondent, and any witnesses separately. The complainant and respondent will be asked to identify: (a) relevant evidence they would like the investigators to review; (b) witnesses they would like the investigators to interview; and (c) questions they would like the investigators to ask the witnesses. The investigators have discretion as to what evidence to pursue, which witnesses to interview, and which questions to ask, depending on their determination of what they reasonably believe to be related to the issues in dispute. The investigators may, in their discretion, share the written statements of the parties and witnesses with the complainant and/or respondent at any time during the course of the investigation but, in any event, shall share such statements no later than the release of the investigators' report to the parties.

#### **(2) Cross-Examination**

The parties are not permitted to question or cross-examine each other during the course of the investigation but, if they wish, may provide a list of questions they would like the investigators to ask the other party. The investigators have discretion as to whether to ask such questions precisely as posed, or at all, depending on their determination of what questions would reasonably lead to the discovery of relevant information. Questions about the complainant's sexual history with anyone other than the respondent shall not be permitted.

#### **(3) Advisors**

Complainants and respondents are entitled to the same opportunity to have an advisor of their choosing present at any interview or meeting they have with investigators. Any such advisor may advise the complainant or respondent privately, but cannot act as a speaking advocate. An investigator may terminate the meeting and proceed with the investigation based on otherwise-available information if advisors refuse to comply with these requirements. Because a Policy 311-A investigation may lead to discipline, a respondent who is a bargaining unit member has the right to be accompanied to the interview by a union representative.



#### **(4) Additional Policy Violations**

If, in the course of the investigation, other allegations against the respondent surface which could result in discipline under this policy, other VSC policies, policies of the member College, any collective bargaining agreement, or personnel handbook, the investigators will inform the respondent, in writing, of such allegations and the respondent will be given an opportunity to respond to the additional allegations before the investigators submit their report. If the alleged additional violations are unrelated to the allegations contained in the complaint, the VSC may choose to address these separately and not as part of the ongoing investigatory and adjudicatory process.

### **(C) Investigators' Report**

At the conclusion of their investigation, the investigators shall prepare a report setting forth their findings and recommendations.

#### **(1) Standard**

The findings and recommendations will be based on the preponderance of evidence standard, *i.e.*, whether it is more likely than not that the policy was violated.

#### **(2) The Report**

The report shall include:

- A statement summarizing the allegations;
- A procedural summary, including the date the investigators were appointed, the names of the witnesses and dates when each was interviewed, and a list of the documents reviewed;
- Applicable definitions, including the definition of the alleged violation(s) of Policy 311-A;
- The investigators' findings of fact, including how they weighted the evidence and reconciled any significant discrepancies in the statements of witnesses;
- The conclusion, in which the investigators explain how the findings of fact are applied to the standards set forth in Policy 311-A to reach a determination as to whether the policy was violated; and
- Any general recommendations for consideration by the RCA, such as trainings, education, or other actions that may reduce/eliminate prohibited misconduct in the future. Unless specifically requested to do so by the RCA, investigators will not make recommendations about possible sanctions.

#### **(3) Time-frame**

The investigation will be conducted as promptly as possible, without compromising thoroughness. The investigators will endeavor to prepare their report within forty-five (45) calendar days of submission of the written complaint. Where extenuating circumstances are present and documented by the investigators, this time-frame may be extended with written notification to the parties.

#### **(4) Parties' Response**

The investigators shall send the report to the complainant and respondent, with a copy to the Title IX Coordinator. Certain identifying information may be redacted from the materials provided to the complainant and respondent, if necessary, to comply with the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. § 1232g. The parties will each have the opportunity to review the investigators' report and to provide a written response to the report to the investigators within seven (7) calendar days.

**(5) Submission of Report**

The final report, along with copies of any written responses, will be sent to the Title IX Coordinator. The Title IX Coordinator will forward the final report (plus any responses, supplements, and attachments) to the RCA, with copies to the VSC's general counsel, the complainant, and the respondent.

**VIII. DETERMINATION AND SANCTIONS**

**(A) Student Respondents**

**(1) Determination**

The RCA is not bound by the investigators' report and may accept or reject the investigators' recommended conclusion in whole or in part, or may request additional relevant information before making a final determination. The complainant and respondent may request to meet individually with the RCA before a final determination is made and may be accompanied by an advisor of their choosing. The advisor may confer privately with the individual but cannot act as a speaking advocate. The RCA may request to meet with either party or any other person(s) the RCA considers appropriate before making a final determination.

After conducting any such meetings and considering the investigators' report, any supplements to the report, and any additional relevant information, the RCA will issue a determination as to whether a violation of Policy 311-A (or a violation of other VSC policies, if applicable) occurred. The determination will be based on the preponderance of the evidence standard.

**(2) Disciplinary Action**

If the RCA determines that a student has engaged in conduct that violates this policy (or other VSC policies, if applicable), the RCA shall impose disciplinary sanctions on the student. The RCA shall consider what sanctions are: (1) fair and appropriate given the facts of the particular case, including whether the respondent has accepted responsibility for his or her actions; (2) consistent with the sanctions imposed in similar cases; and (3) adequate to protect the safety of the complainant and the VSC community.

Possible disciplinary sanctions include verbal and written warnings, written reprimands, education, counseling, loss of privileges, probationary status, removal from College housing, suspension, dismissal/expulsion, revocation of degree, and/or withholding of transcript or other action determined to be appropriate under the circumstances. The sanctions of probation, removal from College housing, and suspension will be for a particular period of time, ranging from a number of days to a number of semesters, as determined on a case-by-case basis.

Regardless of the finding, other non-disciplinary action may be taken as appropriate under the circumstances, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of no contact orders, and other actions to preserve the right of the complainant to a safe environment.

To the extent permitted by law, the complainant and respondent will be notified, simultaneously and in writing, of: (1) the RCA's determination; (2) the disciplinary sanctions, if any, to be imposed; and (3) the VSC's procedures for complainants and respondents to appeal the determination and disciplinary

sanctions. The notification will include the rationale for the determination and for any sanctions. A copy of the RCA's determination shall be sent to the Title IX Coordinator and to VSC's general counsel.

**(3) Time-frame**

Absent extenuating circumstances, the RCA will endeavor to issue a determination as to whether a violation of VSC's policies has occurred and the imposition of any sanctions (or other action) within seven (7) calendar days after receiving the investigators' report, obtaining additional information, or meeting with the parties, whichever is later. This period may be extended, with written notification to the parties, if the RCA determines that further information or investigation is needed.

**(B) Employee Respondents**

**(1) Determination**

The RCA is not bound by the investigators' report and may accept or reject the investigators' recommended conclusion in whole or in part, or may request additional relevant information before making a final determination.

Within seven (7) calendar days of receiving the investigators' report or any additional relevant information, whichever is later, the RCA shall notify the complainant and respondent, simultaneously and in writing, of the RCA's initial determination as to whether a violation of Policy 311-A (or a violation of any other policy, agreement or handbook, if applicable) occurred and shall outline the discipline, if any, being contemplated, to the extent permitted by law. The determination will be based on whether the RCA finds, by a preponderance of the evidence, that the respondent violated Policy 311-A (or other applicable VSC policies). The RCA shall consider what sanctions are: (1) fair and appropriate given the facts of the particular case, including whether the respondent has accepted responsibility for his or her actions; (2) consistent with the sanctions imposed in similar cases; and (3) adequate to protect the safety of the complainant and the VSC community.

The complainant and respondent may request to meet individually with the RCA, before a final determination is made, and may be accompanied by an advisor of their choosing. If the respondent is an employee who is covered by a collective bargaining agreement, the procedures and mutual obligations of the VSC and the employee regarding disciplinary action delineated in those agreements will apply.

**(2) Disciplinary Action**

Within seven (7) calendar days of issuing the initial determination or meeting with the parties, whichever is later, the RCA shall notify the complainant and respondent, simultaneously and in writing, of the RCA's final determination as to whether a violation of Policy 311-A (or a violation of any other policy, agreement or handbook, if applicable) occurred and the disciplinary sanction(s) to be imposed, to the extent permitted by law. The RCA shall also notify the complainant and respondent, in writing, as to any right that the parties may have to appeal the determination and disciplinary action, pursuant to the relevant employee collective bargaining agreement or the VSC personnel handbook for those employees not covered by a collective bargaining agreement. A copy of the RCA's determination shall be sent to the Title IX Coordinator and to VSC's general counsel.

Disciplinary action under existing policies and/or contracts may include verbal warnings, written warnings, written reprimands, probation, suspension, termination of employment, non-renewal of a contract, or other action determined to be appropriate under the circumstances. The sanctions of

probation and suspension will be for a particular period of time, ranging from a number of days to a number of semesters, as determined on a case-by-case basis.

Regardless of the finding, other non-disciplinary action may be taken as appropriate under the circumstances, including, but not limited to, extending and modifying no contact orders, room changes, class changes, work schedule changes, building restrictions, and other actions to preserve the rights of the complainant to a safe environment.

### **(3) Time-frame**

Absent extenuating circumstances, the RCA will endeavor to issue a final determination as to whether a violation of the VSC's policies has occurred and the imposition of any discipline (or other action) within the time frame set forth in (1) and (2) above, however this time period may be shorter or longer depending on the circumstances, including any contractual rights of the parties. The parties will be notified if changes are made to the time-frame. A copy of the RCA's determination shall be sent to the Title IX Coordinator and to VSC's general counsel.

## **IX. APPEAL**

### **(A) Student Respondents**

In cases where the respondent is a student, both the complainant and respondent have the right to appeal the outcome on the following grounds: (1) procedural error where the error prevented fundamental fairness; (2) the discovery of previously unavailable evidence that could significantly impact the outcome of the case; (3) the determination is arbitrary and capricious; or (4) the sanction is substantially disproportionate to the findings.

Within seven (7) calendar days of receiving the final determination and notification of any discipline or sanctions to be imposed, the parties may appeal to the President of the College (or the President's designee) by delivering a written statement of appeal to the President and to the Title IX Coordinator. The Title IX Coordinator will notify the other party of the appeal and the other party will be given seven (7) calendar days in which to submit a written response to the appeal to the President (or the President's designee), with a copy to the Title IX Coordinator. Both parties will be informed simultaneously and in writing, of (1) any change to the discipline and/or sanctions imposed while the appeal is pending, and (2) the final decision, to the extent permitted by law. The decision of the President (or the President's designee) is final. A copy of the President's decision shall be sent to the Title IX Coordinator and to VSC's general counsel.

### **(B) Employee Respondents**

In cases where the respondent is an employee, the right to appeal shall be governed by the relevant employee collective bargaining agreement or the VSC personnel handbook for those employees not covered by a collective bargaining agreement. Both parties will be informed simultaneously and in writing, of (1) any change to the discipline and/or sanctions imposed while the appeal is pending, and (2) the final decision, to the extent permitted by law. A copy of the decision shall be sent to the Title IX Coordinator and to VSC's general counsel.

## **X. NOTICES**

For purposes of this policy, written notifications to the parties and written responses from the parties may be hand-delivered, mailed, and/or sent to or from the parties' official VSC e-mail addresses and/or other e-mail

addresses if known to the VSC. The same method of communication will be used where practicable for both the complainant and the respondent.

## **XI. RECORD-KEEPING**

The Title IX Coordinator and designated College officials will treat reports of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking and related complaints, investigative reports, and final determinations as confidential, to the extent allowed by law. The Title IX Coordinator will track these reports for statistical and reporting purposes.

## **XII. EDUCATIONAL PROGRAMMING**

The VSC will provide educational programming for students and employees addressing the issues of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking, which will include: (1) primary prevention and awareness programs for incoming students and new employees; (2) safe and positive options for bystander intervention; (3) information on risk reduction to recognize warning signs of abusive behavior; and (4) ongoing prevention and awareness programs for students and employees. The VSC shall take the following steps:

- Include VSC Policy 311-A: *Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking* and its implementing procedures on the VSC's Policies and Procedures page of its website (<http://www.vsc.edu/about-vsc/Pages/Policies-and-Procedures.aspx>) and on the websites of member Colleges;
- Include links to Policy 311-A and its implementing procedures in appropriate publications provided to students and employees;
- Provide educational materials on sexual misconduct, dating violence, domestic violence, sexual assault, stalking, and bystander intervention;
- Identify those individuals responsible for overseeing the development and implementation of prevention and awareness programs;
- Develop primary and ongoing prevention and awareness programs for students and employees;
- Select and train Title IX Coordinators;
- Select and train designated contact persons;
- Select and train investigators annually regarding the issues related to sexual misconduct, domestic violence, dating violence, sexual assault, and stalking, and how to conduct investigations that are prompt, fair, and impartial; and
- Train Responsible College Administrators annually and any others responsible for adjudicating complaints and considering appeals regarding the issues related to sexual misconduct, domestic violence, dating violence, sexual assault, and stalking, and how to conduct an adjudication process that is prompt, fair, and impartial.

The member Colleges and the Office of the Chancellor shall continue to support, monitor and revise the educational prevention and awareness programs and informational materials as they work toward the goals of eliminating sexual misconduct, domestic violence, dating violence, sexual assault, and stalking and of enhancing mutual trust and respect.

### **XIII. OTHER REMEDIES**

Individuals who believe that their rights under Title IX have been violated may file a claim with the United States Department of Education's Office for Civil Rights:

#### Regional Office

Office for Civil Rights  
8th Floor  
5 Post Office Square  
Boston, MA 02109-3921

Telephone: 617-289-0111  
FAX: 617-289-0150  
TDD: 800-877-8339  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

#### National Headquarters

Office for Civil Rights  
Lyndon Baines Johnson Dep't of Education Bldg  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Telephone: 800-421-3481  
FAX: 202-453-6012  
TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Revised effective August 9, 2016.

### **Appendix A to Chancellor's Procedures for Implementation of Policy 311-A: Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking**

#### **TITLE IX COORDINATORS**

Office of the Chancellor:

Nancy Shaw, Director of Human Resources  
575 Stone Cutters Way, Montpelier, VT 05602  
[Nancy.Shaw@vsc.edu](mailto:Nancy.Shaw@vsc.edu)  
(802) 224-3011

Castleton University:

Janet Hazelton, Director of Human Resources  
Woodruff Hall, 62 Alumni Drive, Castleton, VT 05735  
[Janet.Hazelton@castleton.edu](mailto:Janet.Hazelton@castleton.edu)  
(802) 468-1207

Community College of Vermont:

Robert "Bo" Finnegan, Director of Human Resources  
660 Elm Street, Montpelier, VT 05602  
[Robert.Finnegan@ccv.edu](mailto:Robert.Finnegan@ccv.edu)  
(802) 828-2816

Johnson State College:

Michele Whitmore, Interim Dean of Students  
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Vermont Technical College: Mary Kathryn Juskievicz, Director of Residence Life  
Room 122B, Office of Student Affairs  
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[MJuskiew@vtc.vsc.edu](mailto:MJuskiew@vtc.vsc.edu)  
(802) 728-1673

Inquiries regarding the application of Title IX and other laws, regulations and policies prohibiting discrimination may also be directed to the United States Department of Education's Office for Civil Rights at 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921; Tel: (617) 289-0111; Fax: (617) 289-0150; Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

**Appendix B to Chancellor's Procedures for Implementation of Policy 311-A:  
Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault, and Stalking**

**DEFINITIONS OF CONSENT, DATING VIOLENCE, DOMESTIC VIOLENCE,  
SEXUAL ASSAULT AND STALKING UNDER VERMONT LAW**

**Dating and Domestic Violence**

**15 V.S.A. § 1101. Definitions**

"The following words as used in this chapter shall have the following meanings: . . .

(2) 'Household members' means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. "Dating" means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists or existed include:

- (A) the nature of the relationship;
- (B) the length of time the relationship has existed;
- (C) the frequency of interaction between the parties;
- (D) the length of time since the relationship was terminated, if applicable."

**13 V.S.A. § 1041. Definition**

"As used in this subchapter, 'family or household members' means persons who are eligible for relief from abuse under chapter 21 of Title 15."

**13 V.S.A. § 1042. Domestic assault**

"Any person who attempts to cause or wilfully or recklessly causes bodily injury to a family or household member, or wilfully causes a family or household member to fear imminent serious bodily injury shall be imprisoned not more than 18 months or fined not more than \$5,000.00, or both."

**13 V.S.A. § 1043. First degree aggravated domestic assault**

"(a) A person commits the crime of first degree aggravated domestic assault if the person:

- (1) attempts to cause or wilfully or recklessly causes serious bodily injury to a family or household member; or
- (2) uses, attempts to use or is armed with a deadly weapon and threatens to use the deadly weapon on a family or household member; or
- (3) commits the crime of domestic assault and has been previously convicted of aggravated domestic assault.”

### **13 V.S.A. § 1044. Second degree aggravated domestic assault**

“(a) A person commits the crime of second degree aggravated domestic assault if the person:

- (1) commits the crime of domestic assault and such conduct violates:
  - (A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;
  - (B) a final abuse prevention order issued under 15 V.S.A. § 1103 or a similar order issued in another jurisdiction;
  - (C) a final order against stalking or sexual assault issued under 12 V.S.A. § 5133 or a similar order issued in another jurisdiction; or
  - (D) a final order against abuse of a vulnerable adult issued under 33 V.S.A. § 6935 or a similar order issued in another jurisdiction.
- (2) commits the crime of domestic assault; and
  - (A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or
  - (B) has a prior conviction for domestic assault under section 1042 of this title.”

## **Consent and Sexual Assault**

### **13 V.S.A. § 3251. Definitions**

“As used in this chapter:

- (1) A ‘sexual act’ means conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person’s body or any object into the genital or anal opening of another.
- (2) ‘Sexual conduct’ means any conduct or behavior relating to sexual activities of the complaining witness, including but not limited to prior experience of sexual acts, use of contraceptives, living arrangement and mode of living.
- (3) ‘Consent’ means words or actions by a person indicating a voluntary agreement to engage in a sexual act.
- (4) ‘Serious bodily injury’ shall have the same meaning as in subdivision 1021(2) of this title.
- (5) ‘Bodily injury’ means physical pain, illness or any impairment of physical condition.
- (6) ‘Actor’ means a person charged with sexual assault or aggravated sexual assault.
- (7) ‘Deadly force’ means physical force which a person uses with the intent of causing, or which the person knows or should have known would create a substantial risk of causing, death or serious bodily injury.



(8) 'Deadly weapon' means:

(A) any firearm; or

(B) any weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury."

### **13 V.S.A. § 3252. Sexual assault**

"(a) No person shall engage in a sexual act with another person and compel the other person to participate in a sexual act:

(1) without the consent of the other person; or

(2) by threatening or coercing the other person; or

(3) by placing the other person in fear that any person will suffer imminent bodily injury.

(b) No person shall engage in a sexual act with another person and impair substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person.

(c) No person shall engage in a sexual act with a child who is under the age of 16, except:

(1) where the persons are married to each other and the sexual act is consensual; or

(2) where the person is less than 19 years old, the child is at least 15 years old, and the sexual act is consensual.

(d) No person shall engage in a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild.

(e) No person shall engage in a sexual act with a child under the age of 16 if:

(1) the victim is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild; or

(2) the actor is at least 18 years of age, resides in the victim's household, and serves in a parental role with respect to the victim."

### **13 V.S.A. § 3253. Aggravated sexual assault**

"(a) A person commits the crime of aggravated sexual assault if the person commits sexual assault under any one of the following circumstances:

(1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting or sexually assaulting the victim.

(3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping.

(4) The actor has previously been convicted in this state of sexual assault under subsection 3252(a) or

(b) of this title or aggravated sexual assault or has been convicted in any jurisdiction in the United States or territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault if committed in this state.

(5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another and the victim reasonably believes that the actor has the present ability to carry out the threat.

- (7) At the time of the sexual assault, the actor applies deadly force to the victim.
- (8) The victim is under the age of 13 and the actor is at least 18 years of age.
- (9) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.”

## **Stalking**

### **13 V.S.A. § 1061. Definitions**

“As used in this subchapter:

- (1) (A) ‘Course of conduct’ means two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of ‘course of conduct.’  
(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.
- (2) ‘Emotional distress’ means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
- (3) ‘Reasonable person’ means a reasonable person in the victim’s circumstances.
- (4) ‘Stalk’ means to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should know would cause a reasonable person to fear for his or her safety or the safety of another or would cause a reasonable person substantial emotional distress.

### **13 V.S.A. § 1062. Stalking**

“Any person who intentionally stalks another person shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.”

### **13 V.S.A. § 1063. Aggravated stalking**

“(a) A person commits the crime of aggravated stalking if the person intentionally stalks another person, and:

- (1) such conduct violates a court order that prohibits stalking and is in effect at the time of the offense;
- (2) has been previously convicted of stalking or aggravated stalking;
- (3) has been previously convicted of an offense an element of which involves an act of violence against the same person;
- (4) the person being stalked is under 16 years of age; or
- (5) had a deadly weapon, as defined in section 1021 of this title, in his or her possession while engaged in the act of stalking.

(b) A person who commits the crime of aggravated stalking shall be imprisoned not more than five years or be fined not more than \$25,000.00, or both.

(c) Conduct constituting the offense of aggravated stalking shall be considered a violent act for the purposes of determining bail.”

### **13 V.S.A. § 1064. Defenses**

“In a prosecution under this subchapter, it shall not be a defense that the defendant was not provided actual notice that the course of conduct was unwanted.”

## **Orders against Stalking or Sexual Assault**

### **12 V.S.A. § 5131. Definitions**

“As used in this chapter:

- (1) (A) ‘Course of conduct’ means two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of ‘course of conduct.’  
(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.
- (2) [Repealed.]
- (3) ‘Nonphysical contact’ includes telephone calls, mail, e-mail, social media commentary or comment, or other electronic communication, fax, and written notes.
- (4) ‘Reasonable person’ means a reasonable person in the victim’s circumstances.
- (5) ‘Sexually assaulted the plaintiff’ means that the defendant engaged in conduct that meets elements of lewd and lascivious conduct as defined in 13 V.S.A. § 2601, lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602, sexual assault as defined in 13 V.S.A. § 3252, aggravated sexual assault as defined in 13 V.S.A. § 3253, use of a child in a sexual performance as defined in 13 V.S.A. § 2822, or consenting to a sexual performance as defined in 13 V.S.A. § 2823 and that the plaintiff was the victim of the offense.
- (6) ‘Stalk’ means to engage purposefully in a course of conduct that the person engaging in the conduct knows or should know would cause a reasonable person to:
  - (A) fear for his or her safety or the safety of a family member; or
  - (B) suffer substantial emotional distress as evidenced by:
    - (i) a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death; or
    - (ii) significant modifications in the person’s actions or routines, including moving from an established residence, changes to established daily routes to and from work that cause a serious disruption in the person’s life, changes to the person’s employment or work schedule, or the loss of a job or time from work.
- (7) ‘Stay away’ means to refrain from knowingly:
  - (A) initiating or maintaining a physical presence near the plaintiff;
  - (B) engaging in nonphysical contact with the plaintiff directly or indirectly; or
  - (C) engaging in nonphysical contact with the plaintiff through third parties who may or may not know of the order.
- (8) [Repealed.]”

### **12 V.S.A. § 5132. Jurisdiction and venue**

“(a) The Superior Court shall have jurisdiction over proceedings under this chapter.

(b) Proceedings under this chapter may be commenced in the county in which the plaintiff resides. If the plaintiff has left his or her residence to avoid being stalked or sexually assaulted, the plaintiff shall have the option to bring an action in the county of the previous residence or the county of the new residence.”

### **12 V.S.A. § 5133. Requests for an Order against Stalking or Sexual Assault**

“(a) A person, other than a family or household member as defined in 15 V.S.A. § 1101(2), may seek an order against stalking or sexual assault on behalf of him- or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 5134 of this title, the court shall grant the order only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff.

(c) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit any of the following:

(1) evidence of the plaintiff's past sexual conduct with the defendant;

(2) evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease; or

(3) evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(d) If the court finds by a preponderance of evidence that the defendant has stalked or sexually assaulted the plaintiff, or has been convicted of stalking or sexually assaulting the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other order it deems necessary to protect the plaintiff or the plaintiff's children, or both.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff or the plaintiff's children, or both. It is not necessary for the court to find that the defendant stalked or sexually assaulted the plaintiff during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge.

(h) Form complaints and form orders for an 'Order Against Stalking or Sexual Assault' shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: 'VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.'

(k) Affidavit forms required pursuant to this section shall bear the following language: 'MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.'

(l) A finding by the court pursuant to this chapter that the defendant stalked or sexually assaulted the plaintiff shall not be admissible in any subsequent civil proceedings for the purpose of establishing liability."

## **12 V.S.A. § 5134. Emergency relief**

"(a) In accordance with the Vermont Rules of Civil Procedure, a person other than a family or household member as defined in 15 V.S.A. § 1001(2) may file a complaint for a temporary order against stalking or sexual assault. Such complaint shall be filed during regular court hours. The plaintiff shall submit an affidavit in support of the order. The court may issue a temporary order under this chapter ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has stalked or sexually assaulted the

plaintiff. The court may order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other such order it deems necessary to protect the plaintiff or the plaintiff's children, or both.

(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall state upon its face a date, time, and place that the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 10 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff. If the court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other orders as it deems necessary to protect the plaintiff or the plaintiff's children, or both.

(c) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(d) Every order issued under this chapter shall bear the following language: 'VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.'

(e) Affidavit forms required pursuant to this section shall bear the following language: 'MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.'

**Appendix C to Chancellor's Procedures for Implementation of Policy 311-A:  
Sexual Misconduct, Domestic Violence, Dating Violence, Sexual Assault and Stalking**

**CONTACT INFORMATION FOR VERMONT'S SPECIAL INVESTIGATION UNITS**

<p><b><u>Addison County</u></b> Addison County Unit for Special Investigations Fred Saar, Executive Director 35 Court Street Middlebury, VT 05753 802-274-5724 <a href="mailto:Fred.saar@partner.vermont.gov">Fred.saar@partner.vermont.gov</a></p>	<p><b><u>Bennington County</u></b> Bennington County Child Advocacy Center/SIU Joy Kitchell, Executive Dir. P.O. Box 163, 129 Elm Street Bennington VT 05201 (802) 442-5107 <a href="mailto:Joy.Kitchell@partner.vermont.gov">Joy.Kitchell@partner.vermont.gov</a></p>	<p><b><u>Caledonia &amp; Southern Essex</u></b> Caledonia Children's Advocacy Center Fred Saar, Executive Director PO Box 272 Saint Johnsbury, VT 05819 (802) 274-5724 <a href="mailto:fred.saar@partner.vermont.gov">fred.saar@partner.vermont.gov</a></p>
<p><b><u>Chittenden County</u></b> Chittenden Unit for Special Investigations (CUSI) Veronica Rathgeb, Exec. Dir. 50 Cherry Street, Suite 102 Burlington, VT 05401 (802) 652-0991 <a href="mailto:vrathgeb@bpdvt.org">vrathgeb@bpdvt.org</a></p>	<p><b><u>Franklin &amp; Grand Isle</u></b> Northwest Unit for Special Investigations NUSI/CAC Robert White, Executive Dir. 5 Lemnah Drive St. Albans, VT 05478 (802) 524-7961 <a href="mailto:Robert.White@vermont.gov">Robert.White@vermont.gov</a></p>	<p><b><u>Lamoille County</u></b> Lamoille County Special Investigation Unit Karen Garbarino, Exec. Dir. P.O. Box 16 Hyde Park, VT 05655 (802)-888-0509 <a href="mailto:Karen.garbarino@partner.vermont.gov">Karen.garbarino@partner.vermont.gov</a></p>
<p><b><u>Orange County</u></b> Orange County SIU/CAC Monique Braman, Exec. Dir. 354 VT Route 110 PO Box 254 Chelsea, VT 05038 (802) 685-4712 <a href="mailto:mbraman@orangecountyvt.gov">mbraman@orangecountyvt.gov</a></p>	<p><b><u>Orleans and Northern Essex</u></b> Orleans Co. Child Advocacy Center Joe Malgeri, Executive Director PO Box 308 Newport, VT 05855 (802) 334-6002 (802) 225-8357 <a href="mailto:joseph.malgeri@partner.vermont.gov">joseph.malgeri@partner.vermont.gov</a></p>	<p><b><u>Rutland County</u></b> Child First Advocacy Center/ Rutland Office for Sp. Inv. Wendy Loomis, Executive Dir. 80 West Street, P.O. Box 6822 Rutland, VT 05702 (802) 747-0200 <a href="mailto:wendy@childfirstadvocacycenter.org">wendy@childfirstadvocacycenter.org</a> <a href="mailto:wendy.loomis@partner.vermont.gov">wendy.loomis@partner.vermont.gov</a></p>

<p><b><u>Washington County</u></b>  OUR House of Central Vermont, Inc.  CAC/SIU  Rebecca Duranleau, Exec. Dir.  38 Summer Street  Barre, Vermont 05641  (802) 476-8825  <a href="mailto:ourhousebarredirector@gmail.com">ourhousebarredirector@gmail.com</a></p>	<p><b><u>Windham County</u></b>  Windham County Safe Place  CAC/ SUI  Alyssa Todd, Executive Director  112 Hardwood Way  Brattleboro, VT 05301  (802) 579-1358  <a href="mailto:Alyssa.todd@partner.vermont.gov">Alyssa.todd@partner.vermont.gov</a></p>	<p><b><u>Windsor County</u></b>  The CACs of the Family Place/ Windsor  County SIU  Julie Gaudette, Director  319 US Route 5, South  Norwich, VT 05055  (802) 295-3882  <a href="mailto:julieg@the-family-place.org">julieg@the-family-place.org</a>  <a href="mailto:Julie.gaudette@partner.vermont.gov">Julie.gaudette@partner.vermont.gov</a></p>
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**Preventing and Responding to Sexual Misconduct, Domestic Violence, Dating Violence and Stalking**

Sexual misconduct often creates difficult emotional issues for the individual. Through regular educational programs, the College seeks to promote awareness and to inform students of risk reduction strategies and of the steps to take in the event of sexual misconduct. Copies of, or links to, this policy are made available annually to all students and employees.

Victims of SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING have the following options:

- To notify either police or campus authorities,
- To obtain assistance from campus authorities to notify the police,
- The option decline to notify police or campus authorities.

The College is committed to taking action against those who violate code of conduct policies. A sexual misconduct violation can result in consequences up to and including criminal charges and dismissal from the College. The College is also committed to assisting individuals, regardless of whether the conduct occurs on or off campus. The following are important steps to take should an act of sexual misconduct occur:

If you are a victim of sexual assault:

- Get to a safe place as soon as possible.
- Contact a trusted person for support.  
Resources include: an RHD, an RA, a member of Public Safety:
  - RHD 24 hour duty phone (802) 274-3152
  - Public Safety, ASAC Front Desk or Room 118, ext. 6452
  - Your academic advisor
  - Director of Student Life Erin Rossetti, Rita Bole 302, ext. 6417
  - Lyndon State College Health & Counseling Services, ext. 6440
  - Umbrella crisis intervention service, 748-8645 or the 24-hour hotline, 748-8141 (ask for the Umbrella advocate)
  - Northeast Kingdom Mental Health, 748-3181
  - Local medical providers
  - Parents or a trusted friend
- Do not wash, go to the bathroom, or change clothing, if it can be avoided. This will help to preserve physical evidence, should the individual decide to take legal action. If you must change clothing, all of the clothing worn at the time of the assault should be put in a paper bag (not plastic).
- Seek medical attention as soon as possible.
- Decide what actions to take (see below).

Everyone is strongly encouraged to report alleged violations. All Lyndon State College employees who are not otherwise designated as a confidential source shall report any alleged violation of which they are aware or made aware to the Dean of Students (Title IX Coordinator). If the alleged violation is reported to any official at the College the general information will become part of the College’s crime statistics. Personally identifiable information about victims will not be included in any publicly available record keeping, including the reporting and disclosure of annual crime statistics.

If you are a victim of sexual misconduct, you may still decide what, if any, further action you would like to take. You may report it to the state or local police and/or you may report it to Public Safety, the Dean of Students Office or the Policy 311 Coordinator (see above). Regardless of where the offense occurred, the College will provide you with a written explanation of your rights and options.

Choosing not to request official action at the time of the incident does not preclude requesting action at a future date, though the process of adjudication becomes more difficult over time. Please note, that where circumstances warrant, the College may report and/or investigate an alleged violation even if you choose not to pursue official action. You are not obligated to cooperate in this process.

The institutional disciplinary process shall provide a prompt, fair, and impartial investigation and resolution. The process will be conducted by officials who receive annual training on issues related to sexual misconduct (including sexual assault), domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The College will use the preponderance of the evidence standard (i.e. whether it is more likely than not that a violation occurred).

The accuser and accused are entitled to have an advisor of their choosing present during the College's disciplinary and adjudication process. Both the accuser and accused shall be simultaneously informed, in writing, of: (a) the outcome of any College disciplinary proceeding that arises from an allegation of sexual misconduct, domestic violence, dating violence, or stalking; (b) the College's appeal procedures; (c) any change to the result that occurs prior to the time that the result becomes final; and (d) when the result of the disciplinary proceeding becomes final.

### **Confidentiality**

Lyndon State College is committed to maintaining the privacy of all individuals involved in a report of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking to the extent it reasonably can do so. While the College encourages individuals to report incidents of misconduct in violation of this Policy, the College understands that it can be difficult for individuals to come forward to report such misconduct. The following resources have differing obligations to maintain confidentiality and to report incidents.

**Confidential Off-Campus Resources** - Crisis services and off-campus healthcare providers will generally maintain confidentiality, to the extent permissible under applicable law.

**Campus Counselors and Health Services Professionals** – Lyndon State College's licensed professional counselors and health services staff respect and protect confidential communications from students and employees to the extent permissible under applicable law. They may have the responsibility to disclose otherwise-privileged information in the event they perceive an immediate and/or serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under age 18. These professionals will report incidents, without any identifying information, to the Title IX Coordinator so the College is aware that an incident of alleged misconduct under this Policy has occurred. If the incident is a crime covered by the Clery Act, these professionals will report it, without any identifying information, to the appropriate Office of Public Safety for Clery Act purposes. The non-identifying information to be reported includes the nature, date, time and general location of the incident.

**Other College Officials** - Other College officials are not able to guarantee confidentiality. General inquiries or questions about policies and procedures do not have to be reported. Employees who learn of an incident of sexual misconduct, domestic violence, dating violence, sexual assault, or stalking are required to report this information to the Title IX Coordinator, the Dean of Students, or the President. Employees who are Campus Security Authorities are also required to report certain sex offenses and other crimes to the Department of Public Safety for the purpose of Lyndon State College's compliance with the Clery Act. All information will be kept securely and, even if an individual does not request confidentiality, the information will be shared on a "need to know" basis only with those assisting in any review, investigation or adjudication of the report, or who otherwise need to know the information to perform the duties of their position. Although not bound by confidentiality, these individuals should be discreet and respect the privacy interests of all individuals involved

in the process. Lyndon State College will strive to protect the privacy interests of individuals to the extent it can while fulfilling its obligations to uphold relevant policies and regulations, to conform to any legal requirements, and to take reasonable steps to promote the safety of members of the College community. The College will evaluate requests for confidentiality on a case-by-case basis, within the context of its responsibility to provide a safe and nondiscriminatory environment for all students, employees and third parties, and to promote the health, safety, and wellbeing of the Lyndon State College community. Strict confidentiality cannot be guaranteed.

**Law Enforcement** - Reports to law enforcement are not confidential.

### **Immigration & Visa Information for Victims of Sexual & Interpersonal Violence**

International students and scholars with questions about their immigration and visa status are advised to seek the assistance of an immigration attorney. This information is being provided as a resource to explain certain aspects of the law, but is not a replacement for legal advice.

#### **I've been a victim of assault, does my immigration status affect my ability to access on-campus resources?**

No. Under the law, students and staff who are victims or survivors of sexual and interpersonal violence receive the same rights under Title IX of the 1972 Education Amendments (Title IX) and the Violence Against Women Act (VAWA), regardless of immigration and visa status. Information about on-campus medical and counseling resources, as well as available accommodations, may be found on the Lyndon State College website at <http://lyndonstate.edu/pages/students-faculty-staff/title-ix-sexual-assault-harassment>

The College will not retaliate against you or treat you differently on the basis of reporting a crime.

#### **Can I press criminal charges as a documented or undocumented immigrant?**

Yes. Information about Vermont's criminal definitions of sexual assault, domestic violence, dating violence and stalking are set forth above in Appendix B to the Chancellor's Implementing Procedures for Policy 311-A. Specific questions about filing charges may be addressed to Jonathan Davis, Dean of Students, [jonathan.davis@lyndonstate.edu](mailto:jonathan.davis@lyndonstate.edu).

#### **Are there specific visa and immigration statuses for victims of crimes?**

Yes. For victims of sexual assault, domestic violence, dating violence and stalking, there may be other visa options, including U and T Visas. For specifics, talk to an immigration attorney.

#### **U visa**

- For victims of substantial physical or mental abuse as the result of certain criminal activity, including sexual abuse, domestic violence, rape, assault, or other related crimes
- Victim/applicant must be a victim of qualifying criminal activity and likely to be helpful to the investigation and/or prosecution of that criminal activity
- Generally valid for four years
- For more information, consult an immigration attorney, and see: <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>

#### **T visa**

- For victims of human trafficking
- Must comply with reasonable requests from law enforcement for cooperation in investigation or prosecution of trafficking act(s) (unless unable to cooperate because of physical or psychological trauma), and must be able to demonstrate that the victim/applicant would suffer extreme hardship if removed from the United States
- Generally valid for four years



- For more information, consult an immigration attorney, and see:  
<http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

### **Is there an office on campus that can provide me additional information?**

The Admissions Office, located in Vail, can provide useful information regarding immigration status. Note that for questions regarding changes to other visa statuses, or legal options that fall outside of standard F-1 and J-1 student visas, or employer-sponsored work visas, consult a qualified immigration attorney.

## **Visa Options**

### **F-1 and J-1 status students**

- Options for reduced course-load approval due to medical conditions certified by a licensed medical doctor, doctor of osteopathy, or licensed clinical psychologist
- Options for, and consequences to, withdrawing from your academic program
- Information about returning to the academic program at a later date, if the student chooses to withdraw
- Options and consequences for accompanying spouses
- General information on options for changing visa status.
- General information on U and T visas. (Referral to a qualified immigration attorney)
- Referral to a qualified attorney

### **H-1B, O-1, E-3, or TN employees**

- Options for a work leave of absence, and consequences to your immigration status
- Options and consequences for accompanying spouses
- General information on options for changing visa status. Referral to a qualified immigration attorney
- General information on U and T visas. (Referral to a qualified immigration attorney)
- Referral to a qualified immigration attorney

### **Pending U.S. permanent residents (green card not yet approved):**

- Impact of leaving your employment on your pending employer-sponsored permanent resident application;
- Referral to a qualified attorney

### **What is an immigration lawyer and what do they do?**

Immigration lawyers are licensed attorneys who specialize in the field of immigration law. They function as the client's advocate, and can represent them before immigration agencies, both in immigration court as well as in filing applications for immigration benefits. The lawyer can give general advice and can discuss immigration options. Like all lawyers, immigration lawyers are bound by professional ethical and legal requirements, and keep client discussions confidential.

### **Where can I find a local immigration attorney?**

U.S. Citizenship and Immigration Services (USCIS), a bureau of the Department of Homeland Security (DHS), offers two sites to help individuals find free or low-cost legal representation:

**USCIS Find Help in your Community Webpage** <https://www.uscis.gov/citizenship/learners/find-help-your-community>

**USCIS Find Legal Services Webpage** <https://www.uscis.gov/avoid-scams/find-legal-services>

The Board of Immigration Appeals (BIA) provides a **listing of attorneys by state who provide immigration services either for free or for little cost**. <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers-map/>

The American Immigration Lawyers Association <http://www.aila.org/> (AILA) offers an online Immigration Lawyer Referral Service <http://www.ailalawyer.org/> that can help a student or scholar find an immigration lawyer. The American Bar Association also provides information on **finding legal services** <http://apps.americanbar.org/legalservices/findlegalhelp/home.cfm/> by state.

### Registered Sex Offender Information

In 1996, the Vermont Sex Offender Registry was established at the Vermont Crime Information Center. Information regarding the registry is available on the State of Vermont Department of Public Safety website at [www.dps.state.vt.us](http://www.dps.state.vt.us), or you can contact the Vermont State Police at 748-3111.

### Training and Programs for Risk Reduction

All new students and employees receive an orientation to the campus, which includes emergency procedures and assistance available from the Public Safety Department. Residence hall staff is trained to respond quickly and appropriately to emergencies and to provide safety and wellness training to students.

The College has education programs to promote the awareness of rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking. These education programs include primary prevention and awareness programs for all incoming students, athletes and coaches, and at the annual new employee orientation. Education programs include: a statement that these crimes are prohibited at the College; definitions of consent, domestic violence, dating violence, sexual assault, and stalking in the College's jurisdiction; reporting procedures and mandated reporting requirements; and bystander awareness training.

### Warning Signs of Abuse

Because relationships exist on a spectrum, it can be hard to tell when a behavior crosses the line from healthy to unhealthy or even abusive. Use these warning signs of abuse by a partner to see if your relationship is going in the wrong direction:

- Checking your cell phone or email without permission
- Constantly putting you down
- Extreme jealousy or insecurity
- Explosive temper
- Isolating you from family or friends
- Making false accusations
- Mood swings
- Physically hurting you in any way
- Possessiveness
- Telling you what to do
- Pressuring or forcing you to have sex

(Author Unknown. "Is this abuse?" Love is respect.org <http://www.loveisrespect.org/is-this-abuse/is-this-abuse>)

### Bystander Intervention Options

If you see someone in danger of being assaulted:

- Step in and offer assistance. Ask if the person needs help. NOTE: Before stepping in, make sure to evaluate the risk. If it means putting yourself in danger, call 911 instead.
- Don't leave. If you remain at the scene and are a witness, the perpetrator is less likely to do something.
- If you know the perpetrator, tell the person you do not approve of their actions. Ask the person to leave the potential victim alone.

Be an ally:

- When you go to a party, go with a group of friends. Arrive together, check in with each other frequently and leave together.
- Have a buddy system. Don't be afraid to let a friend know if you are worried about her/his safety.

- If you see someone who is intoxicated, offer to call a cab.  
(Sebold, Alice. “*What Can Bystanders Do?*” RAINN <https://rainn.org/get-information/sexual-assault-prevention/bystanders-can-help>)

### **Crime Prevention Tips and What You Can Do to Help**

- Report all emergencies and possible criminal activities to Public Safety by calling 6452 from on campus or 626-6452 from an off campus location
- Keep your car locked at all times.
- Keep your residence hall room or apartment locked at all times.
- Report lost or stolen ID cards and keys immediately to Public Safety.
- Do not prop open the front door of your building, if you find the front door propped open, close it.
- Be aware of any one that might be trying to gain entry into your residence hall by following closely behind you as you swipe in.
- Avoid walking alone after dark.
  - Walk with friends or
  - Please call Public Safety for an escort at any time
- Do not leave property unattended in suites, lounges, hallways, classrooms, or elsewhere on campus.
- Do not bring valuables such as jewelry with you to your residence hall room- leave valuables at home.
- Empty your vehicle of all valuables, including skis, boots, camping gear and electronics.
- Record all serial numbers from computers, electronics and other equipment.
- Engrave or otherwise label your belongings such as computers, electronics and camping gear.
- Take advantage of training programs available on campus

### **Lyndon State College Crime Statistics**

The following information is provided in accordance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*. Crime statistics are compiled by the Director of Public Safety, through information obtained from security incident reports, residential life incident reports, College judicial sanctions, and crimes reported to other campus officials with significant responsibility for student and campus activities (known as Campus Security Authorities).

Statistical information for public property within or immediately adjacent to and accessible from the campus is also collected or requested from local, county, and state law enforcement agencies, and when provided is included in our crime statistics.

Definitions of crime categories are taken from the FBI’s Uniform Crime Reporting program.

Amendments made to the Clery Act in 2009 and 2013 altered the law’s reporting requirements, expanding the list of reportable offenses and creating new reporting categories, including domestic violence, dating violence, and stalking incidents that were reported to campus Public Safety authorities. The most recent changes to the Clery Act also expanded the categories of bias for hate crimes to include national origin and gender identity.

Each year an email notification is sent to all students, faculty, and staff that provides the website address to access this report. Physical copies of the report are available from the Office of Public Safety (ASAC 218, ext. 6452), and from the Director of Human Resources (Vail 357, ext. 4865). Copies are provided to new employees, and are available in the Admissions Office for prospective students.

Category	Location								
	On Campus			Residence Halls			Public Property		
	2013	2014	2015	2013	2014	2015	2013	2014	2015
<b>Criminal Offenses:</b>									
Murder/Non-negligent manslaughter	0	0	0	0	0	0	0	0	0
Negligent manslaughter	0	0	0	0	0	0	0	0	0
Sex Offenses – Forcible	0			0			0	0	
Rape		2	0		2	0			0
Fondling		0	0		0	0			0
Sex offenses – Non-forcible									
Incest	0	0	0	0	0	0	0	0	0
Statutory rape	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0
Aggravated assault	1	0	0	0	0	0	0	0	0
Burglary	1	5	0	0	3	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
Dating violence	0	0	0	0	0	0		0	0
Domestic violence	0	0	0	0	0	0		0	0
Stalking	0	1	0	0	1	0		0	0
<b>Arrests:</b>									
Weapons: carrying, possessing, etc.	0	0	0	0	0	0	0	0	0
Drug abuse violations	1	0	0	1	0	0	0	0	0
Liquor law violations	3	0	0	0	0	0	0	0	0
<b>Disciplinary Actions:</b>									
Weapons: carrying, possessing, etc.	0	0	0	0	0	0	0	0	0
Drug abuse violations	128	99	51	100	99	36	0	0	15
Liquor law violations	97	96	50	81	96	38	0	0	12

### Annual Hate Crime Statistics

In addition to the crime statistics listed above, the Higher Education Opportunity Act of 2008 and the Campus Sexual Violence Elimination Act (SaVE ACT) of 2013, requires the College report Clery crimes of larceny, intimidation, simple assault, and vandalism, if those crimes were determined to be bias motivated. To be a bias or hate crime, the victim must be intentionally selected because of their actual or perceived race, gender, religion, sexual orientation, gender identity, ethnicity, national origin or disability.

**There were no reported hate crimes for the years 2013, 2014 or 2015.**

### Definition of Terms

The following terms are defined from the Code of Federal Regulations, Title 34, Volume 3, and revised as of October 20, 2014. (34CFR668.46)

**The term “On-Campus” means:**

- Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and
- Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

**The term “On-Campus Student Housing Facility” means:**

- Any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus is considered an on-campus student housing facility.

**The term “Noncampus Building or Property” means:**

- Any building or property owned or controlled by a student organization that is officially recognized by the institution; or
- Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

**The term “Public Property” means:**

- All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

Under the Clery Act, campuses are required to report crime statistics for certain offenses, hate crimes, arrests and disciplinary referrals for violations of the law. The Clery Act may define a particular crime differently than the crime is defined under the Vermont Law. For purposes of this report, the College uses the Clery Act definitions, which have been adopted from the FBI’s Uniform Crime Reporting Handbook, UCR, The National Incident-Based Reporting Systems Edition of the UCR for sex offenses, and the Violence Against Women’s reauthorization Act of 2013.

The following definitions are to be used for reporting the crimes listed in Sec. 668.47, in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program. The definitions for murder, robbery, aggravated assault, burglary, motor vehicle theft, weapon law violations, drug abuse violations and liquor law violations are excerpted from the Uniform Crime Reporting Handbook. The definitions of forcible and nonforcible sex offenses are excerpted from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Handbook.

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Murder/Non-Negligent Manslaughter:** The willful (non-negligent) killing of one human being by another. NOTE: deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides are excluded.

**Manslaughter by Negligence:** The killing of another person through gross negligence.

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a

gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

**Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned--including joyriding.)

**Weapon Law Violations:** The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.

**Drug Abuse Violations:** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, Benzedrine). Bath salts and their derivatives; and illegally obtained prescription drugs.

**Liquor Law Violations:** The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. Drunkenness and driving under the influence are not included in this definition, nor is possession of alcohol by an individual 21 years of age or older where such possession is in violation of College policy, i.e. in an alcohol/drug free residence hall.

**The term "Arrest" as defined for Clery Act purposes is:** *Persons processed by arrest, citation or summons*, such as: Those persons arrested and released without a formal charge being placed against them. (An arrest has occurred when a law enforcement officer detains an adult with the intention of seeking charges against the individual for a specific offense(s) and a record is made of the detention.)

**Sexual Assault:** "An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program[.]" The Federal Bureau of Investigation's Uniform Crime Reporting Program defines these offenses as follows:

**Rape:** "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."

**Sex Offenses:** "Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. *Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

B. *Incest*—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. *Statutory Rape*—Sexual intercourse with a person who is under the statutory age of consent."

The following definitions are from The Federal Violence Against Women Act of 1994. (42 U.S. Code § 13925)

**Dating Violence:** "Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(i) 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.

(ii) For the purposes of this definition—

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence.”

**Domestic Violence:** “A felony or misdemeanor crime of violence committed—

(A) By a current or former spouse or intimate partner of the victim;

(B) By a person with whom the victim shares a child in common;

(C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;

(D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

(E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.”

**Dating Partner:** The term “dating partner” refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, and where the existence of such a relationship shall be determined based on a consideration of—

(A) the length of the relationship;

(B) the type of relationship; and

(C) the frequency of interaction between the persons involved in the relationship.

**Stalking:** “(i) 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.

(ii) For purposes of this definition—

(A) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

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