



Policies and Procedures

TITLE: STUDENT SEXUAL MISCONDUCT

POLICY NO: 1-14

EFFECTIVE DATE: 04/20/93

VCCS POLICY NO: [6.5.6](#)

REVISED DATE: 10/18/11

I. Purpose:

To define sexual misconduct, specify the college's policy prohibiting sexual misconduct, and outline procedures to address and report complaints of sexual misconduct by students toward students, employees, or non-employees.

II. Definitions:

Complaint: a formal written allegation of sexual misconduct, signed by the complainant, which includes a description and dates of the alleged act or acts of sexual misconduct and name of the respondent.

Complainant: an employee, student or non-employee who files a complaint alleging that an incident or incidents of sexual misconduct have occurred.

EEO officer: the college's director of human resources.

Employee: full- and part-time teaching faculty, administrative and professional faculty, classified staff, and wage employees.

Non-employee: individuals who are not employed by J. Sargeant Reynolds Community College.

Preponderance of evidence: the standard of judgment that indicates the weight of the evidence is sufficient to convince the fact-finder that the issue in question is more likely true than not.

Respondent: a person against whom a sexual misconduct complaint has been filed.

Sexual assault: sexual intercourse without consent, including rape (whether by acquaintance or stranger), sodomy, or other forms of sexual penetration. To constitute lack of consent, the acts must be committed either by force, threat of force, intimidation, or through use of victim's mental helplessness of which the accused was aware or should have been aware. Mental helplessness includes incapacitation by alcohol or other drugs. Sexual assault also includes intentionally touching, either directly or through clothing, of the victim's genitals, breast, thighs, or buttocks without the victim's consent, as well as touching or fondling of the accused by the victim when the victim is forced to do so against his or her will.

Sexual harassment: as defined in guidelines published by the U.S. Equal Employment Opportunity Commission, includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct or written communication of a sexual nature when:

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- accepting or tolerating such conduct is made a term or condition of a student's status or an individual's employment either explicitly or implicitly.
- accepting or rejecting such conduct is used as the basis for academic- or personnel-related decisions affecting the student or the employee.
- such conduct creates an intimidating, hostile, or offensive working or learning environment, or substantially interferes with an employee's work performance or a student's academic performance.

Sexual misconduct: sexual assault, sexual harassment, or verbal misconduct, as defined in this policy.

Student: any person currently enrolled in at least one credit, non-credit, or developmental course offered by J. Sargeant Reynolds Community College.

Verbal misconduct: direct propositions of a sexual nature, subtle and/or persistent pressure for sexual activity, conversation, jokes or stories of a sexist or sexual nature, sexual remarks about a person's clothing, body, or sexual relations, or the display of sexually explicit materials may constitute misconduct if shown to be unwelcome and sufficiently pervasive or severe a condition to affect academic performance or employment. Verbal misconduct may constitute sexual harassment.

III. Policy:

- A. J. Sargeant Reynolds Community College (JSRCC) will not tolerate sexual misconduct inclusive of sexual assault, sexual harassment and verbal misconduct, in any form, including acquaintance rape by any student toward another student, members of the faculty or staff, other employee/non-employee, or campus visitors. These charges are a serious violation of the college's regulations, punishable through sanctions. Moreover, it is a crime subject to both criminal and civil legal actions. Students who violate this policy will have college charges processed against them in the normal manner of due process provided by college rules.
- B. This policy is applicable to students on campus, off campus at college-leased facilities, or attending any activities that are sponsored, initiated, authorized, or supervised by J. Sargeant Reynolds Community College.
- C. This policy is applicable to any student, employee, or non-employee who feels as though he/she is the victim of sexual misconduct by a student.
- D. Any student, employee, or non-employee who feels as though he/she is the victim of sexual misconduct by a college employee should follow [JSRCC Policy No. 3-7](#), Employee Sexual Misconduct. This policy is not applicable to these situations.
- E. In order to assure that sexual misconduct is precluded, the college strongly encourages individuals who believe they have experienced sexual misconduct to report the alleged misconduct according to the procedures described in Section IV of this policy. Situations

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of an emergency nature should be reported immediately to the Department of Police or by calling 911.

- F. Any member of the college community making an intentionally false accusation of sexual misconduct shall be subject to the provisions of [JSRCC Policy No. 1-35](#), Student Conduct.
- G. All matters will be handled in compliance with [JSRCC Policy No. 1-26](#), Student Privacy and Release of Student Information, and the Family Educational Rights to Privacy Act (FERPA).

IV. Procedures:

The college encourages all members of the college community to be aware of both the consequences of sexual misconduct and the options available to victims of sexual misconduct.

A person who believes that he/she may have experienced sexual misconduct, but are uncertain as to whether a complaint is justified or whether they wish to initiate a formal complaint, may find it helpful to discuss their concerns confidentially and informally with the college's Title IX coordinator, who is the vice president of student affairs (VPSA), or his/her designee.

If a person believes that a student's behavior is sexual misconduct, it is recommended that the offended individual first inform the alleged offender about the unwelcome behavior. If the alleged offender does not change the unwelcome behavior after being informed or if the offended student is uncomfortable about approaching the alleged offender, the procedures specified in this policy for filing a complaint should be followed.

Because of the sensitive nature of situations involving sexual misconduct and in order to assure efficient and confidential resolution of these issues while preserving the rights of all affected persons, the college has established the following procedures to address sexual misconduct complaints against students of the college. Specific time limitations stated in this policy may be extended by mutual agreement or by extenuating circumstances.

Complainants may have three options to voice their complaints. Options include: the college's informal procedure, the college's formal procedure, or outside legal proceedings. Collegial and outside legal proceedings are not mutually exclusive and may be used simultaneously.

The college urges complainants of sexual misconduct to seek assistance from any appropriate resource. Complainants are also encouraged to seek medical attention as well as contact the Virginia Sexual and Domestic Violence Hotline at 1-800-838-8238.

A. Informal procedure

The purpose of the informal procedure is to provide assistance to individuals complaining of sexual misconduct and to provide opportunities for both the complainant and the respondent to resolve the problem in an informal manner without the necessity for disciplinary action or the need to resort to formal procedures. These discussions will be held in a professional and confidential matter.

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1. A complainant of sexual misconduct is encouraged to make contact with the VPSA, or designee, at the Office of Student Affairs at 1651 E. Parham Road, Room 350, Georgiadis Hall, (804) 523-5296.
2. The VPSA or designee will schedule a meeting with the complainant at the earliest convenience of the complainant, but ordinarily no later than ten (10) business days after the complainant has contacted the Office of Student Affairs.
3. During the scheduled meeting the VPSA, or designee, and the college's EEO officer will listen to the complainant and assist the complainant in clarifying his/her experiences and discuss a number of options for redress, including options outside of the college's internal complaint procedures. The complainant has the option to:
 - a. initiate the formal procedure by submitting a written letter of complaint to the VPSA or designee. The complaint must be made in writing to the VPSA, or designee, within one (1) calendar year of the time the complainant first knew or should have known the identity of the respondent.
 - b. seek private legal consultation and file criminal and/or civil charges in the Commonwealth of Virginia, as appropriate (refer to section IV.C. Legal proceedings).
 - c. If the alleged offender is a non-employee of the college, option 3.a. is not available. The complainant may request that the VPSA or designee send a letter to the alleged offender or the offender's employer, if applicable. If the unwelcome behavior does not cease, as a result of the communication, the complainant may proceed with legal proceedings, as identified in this policy.
4. If the complainant elects to proceed with the informal procedure, the VPSA or designee, and the college's EEO officer will meet with the respondent, advise him/her about the informal complaint, and review the college's Student Sexual Misconduct policy in an attempt to informally resolve the complaint. The respondent will be allowed to rebut and/or provide any information relative to the informal complaint. The complainant may request that his/her name not be revealed to the person accused. Under no circumstances will the complainant be required to meet with the alleged offender.
5. Within five (5) business days, the VPSA, or designee, and the college's EEO officer, in consultation with each other, will further investigate the complaint (if necessary) and render a decision, which will be limited to one of the following:
 - a. The complaint is dismissed due to lack of information.
 - b. The complaint is dismissed based on the conclusion that the behavior/acts in question do not constitute sexual misconduct.

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- c. The VPSA, or designee, and college's EEO officer are unable to determine if an act(s) of sexual misconduct was committed.
 - d. The accused individual is responsible for some degree of sexual misconduct and a letter, warning, or reprimand is to be issued by the VPSA or designee.
6. The VPSA, or designee, will then notify the complainant of the outcome in writing. If the complainant is satisfied with the outcome, documentation of the outcome of the informal procedure will be filed in the Office of Student Affairs and no further action will be taken. If the complainant is not satisfied with the outcome, the VPSA, or designee, will again advise the complainant of his/her options, including options outside the college's internal complaint procedure.
7. Efforts will be made to resolve complaints informally whenever informal resolution appears possible. If the VPSA, or designee, and the EEO officer determine that an informal resolution is not possible or if attempts to achieve such informal resolution do not succeed, the respondent will be informed of the formal procedure.

B. Formal procedure

Where informal resolution is not achieved or attempted, the complaint will be dealt with as a formal accusation and heard by a panel. The purpose of the formal procedure is to provide a process for the handling of a formal, written complaint of sexual misconduct. Private attorneys or other student advisors will be allowed to be present at the hearing on behalf of either party. They may consult with and advise the parties during the proceeding but may not cross examine witnesses or otherwise directly participate on behalf of either party.

- 1. Complainants of sexual misconduct must make a written complaint to the VPSA or designee. The complaint must be made in writing to the VPSA, or designee, within one (1) calendar year of the time the complainant first knew of or should have known the identity of the respondent. It is the responsibility of the complainant to consult with the VPSA, or designee, concerning the accused student's intended date of graduation and to file in a timely manner in cases where jurisdiction over the accused might otherwise be lost.
- 2. Within ten (10) business days of receipt of the formal written complaint the VPSA, or designee, and the EEO officer will organize a panel to hear the complaint.
- 3. The review panel will consist of three members: one faculty member, one administrative staff member, and one student. Furthermore, to ensure an impartial panel, no member may have had prior involvement in the complaint process or have direct or indirect supervisory or teaching responsibility for either party.

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4. The VPSA or designee will notify the panel members, complainant, and respondent in writing regarding the time and place of the hearing. The hearing will be scheduled no more than fifteen (15) business days after the receipt of the written notice from the complainant. In addition, the complainant and respondent will be:
 - a. provided with a written statement of the charges.
 - b. provided with the names of persons serving on the hearing panel, a list of potential witnesses against him/her and the nature of their proposed testimony, unless it is determined that providing the names of witnesses might be threat to the witnesses' welfare. The accused student may request the removal of a member of the hearing panel on the grounds of personal bias by submitting a written statement to the VPSA or designee specifying the basis of the challenge no later than three (3) business days prior to the hearing. The VPSA or designee will determine whether to sustain or deny the challenge. If the request is sustained, a replacement will be appointed to serve on the hearing panel.
 - c. advised of the right to appear alone or with an advisor who may advise the accused but not question witnesses or participate in any part of the hearing.
 - d. allowed to examine, in advance, any written evidence or exhibits that the complainant plans to submit; reciprocally, the respondent will allow the complainant to examine, in advance, any written evidence or exhibits the complainant plans to submit. All evidence or exhibits will be submitted to the Office of Student Affairs five (5) business days prior to the hearing panel.
 - e. advised of the right to argue in his/her behalf, present evidence and witnesses, and question witnesses present.
 - f. advised of the right to appeal the decision.
5. The hearing will be closed to the public. The VPSA, or designee, will appoint the administrative staff member or faculty member as the hearing panel officer. The hearing officer will have the duty of maintaining order at the hearing and, therefore, will have the right to exclude any disruptive party or witnesses from the hearing. If the respondent fails to appear for the hearing, he/she waives the right for further appeal and the disciplinary action taken by the college cannot be appealed. The hearing panel may be taped or transcribed. In addition, the following will be observed:
 - a. Order of presentation
 - (1) opening statement of complainant
 - (2) opening statement of respondent
 - (3) presentation of evidence by the complainant
 - (4) presentation of evidence by the respondent
 - (5) calling of witnesses by complainant

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- (6) cross examination of witnesses by respondent
- (7) questions by panel members (if necessary)
- (8) calling of witnesses by respondent
- (9) cross examination of witnesses by complainant
- (10) questions by panel members (if necessary)
- (11) closing statement by respondent
- (12) closing statement by complainant
- (13) private deliberation by panel

- b. Only tangible evidence of which all parties have had an opportunity to review in advance will be permitted to be introduced at the hearing.
- c. Both sides have the right to question witnesses. If a called witness does not appear, the hearing panel may consider their written or taped statements; the statement will be weighted accordingly by the hearing panel as the respondent has no opportunity to cross examine the witness making the written or taped statement. Student questioning of witnesses may be modified for sexual misconduct cases to protect the safety of the complainant. Witnesses will be excluded from the hearing room and at the appropriate time brought in individually before the panel.
- d. The burden of proof will be a preponderance of evidence and the panel will decide if this standard is met by a simple majority vote.
- e. The panel will recommend to the VPSA, or designee, a sanction in accordance with section IV.D. Sanctions.
- f. The complainant and respondent will be notified of the panel's decision and reasons for the decision, in writing, within ten (10) business days and may be required to meet with the VPSA or designee.
- g. The complainant or respondent may appeal the finding of the hearing panel with the VPSA or the executive vice president (EVP). (Refer to section IV. E. Appeals.)

C. Legal proceedings

Any member of the college community who believes he or she may be a victim of sexual misconduct by a student or if a student believes he or she was falsely accused of sexual misconduct may seek private legal consultation and file criminal and/or civil charges in the Commonwealth of Virginia, as appropriate. The college strongly encourages this. In this option, the state accuses the alleged perpetrator, but the complainant may serve as a witness for the state. The Department of Police will assist the student with this process.

D. Sanctions

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In the instance that a student is found to be responsible for violating the college's Student Sexual Misconduct policy, sanctions will be imposed. In general, the goal of the sanction is to educate, rehabilitate, or deter inappropriate behavior, rather than simply punish students.

The severity of the sanction will be in relation to the severity of the violation. Sanctions will be applied consistently so that students violating the same standard or policy receive similar penalties.

The following sanctions may be imposed:

1. Admonition: an oral or written statement to a student indicating that the behavior resulting in the reprimand is unacceptable and a violation of JSRCC Policy No. 1-14, Student Sexual Misconduct. Continuation or repetition of this conduct could result in further disciplinary action.
2. Educational project or community-service project: a project or assignment on campus or in the community that will provide the student with the opportunity to observe and learn specific, valued human behaviors related to his/her conduct (e.g., participation in a prevention of sexual harassment workshop). Evidence of satisfactory completion will be required.
3. Probation: exclusion from the privilege of participation in college-related activities, including the holding of any student office for a specified period.
4. Suspension: exclusion from attending the college as a student for a definite period of time not to exceed one year.
5. Dismissal/expulsion: permanent separation from the college as a student.

Sanctions may be applied separately or in combination with another sanction. Previous behavior or conduct violations will be considered in determining a sanction.

In certain circumstances, a student may be referred for specialized help (e.g., psychological assistance, consultation with a counselor, and/or social service agencies) in lieu of or in combination with any of the aforementioned penalties. If this occurs, the student will be expected to periodically meet with the VPSA, or designee, who will review the student's progress.

Denial of readmission may be imposed upon a student who has violated JSRCC Policy No. 1-14, Student Sexual Misconduct, and has withdrawn from the college prior to or during disciplinary proceedings.

The college reserves the right to pursue any and all legal remedies, and such rights and remedies are specifically reserved.

E. Appeals

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Students may appeal the decisions made and/or sanctions given in the formal procedure to the VPSA if the VPSA was not involved in the informal or formal procedures, or to the EVP if the VPSA was involved in the informal or formal procedures. The basis for the appeal will be limited to these grounds:

1. excessively severe sanction
2. new or newly-discovered evidence that may substantially affect the outcome of the case
3. procedural error, which substantially affected the outcome of the case

The appeal must be submitted in writing to the VPSA or executive vice president's office within ten (10) business days following the hearing panel's decision.

Failure to file a written appeal within the time period presumes the student's acceptance of the hearing panel's decision, and he/she waives his/her right to further appeal.

An appeal is not a re-hearing. It represents a procedural safeguard for the student and should not be used for anything other than that right and privilege. In the appeal process, the burden of proof rests on the student requesting the appeal. The student must show that it is more likely than not that one or more of the above grounds for appeal have merit. If there is adequate reason to believe that one or more of the grounds of appeal have merit, an appeal meeting will be scheduled by the VPSA or EVP.

1. Once the student files an appeal, the VPSA or EVP will be furnished a copy of the hearing file and records from the Office of Student Affairs.
2. Within ten (10) business days of receipt of the student's appeal, the VPSA or EVP will notify the student of the date, time, and place of a meeting for the appeal.
3. During the appeal meeting, the VPSA or EVP will review all information presented during the informal and formal procedures and give the student an opportunity to present information to support his/her appeal.
4. Within ten (10) business days of the appeal meeting, the student will be notified by either the VPSA or the EVP of the decision.
5. If the student is dissatisfied with the decision of the appeal made by the VPSA, the student can appeal to the EVP of the college. If the student is dissatisfied with the decision of the EVP, the student can appeal via Level III of [JSRCC Policy No. 1-12](#), Student Appeal of Academic and/or Administrative Decisions. The president and EVP must follow the same timeline prescribed for appeals to the VPSA. The decision of the president is final.

F. Determination letter and memorandum opinion

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1. The determination letter will contain only the following information: the name of the respondent, whether the respondent has been found responsible or not responsible for the charges of sexual misconduct, and the sanction imposed, if any. As guaranteed by federal law, both the respondent and the complainant have a right to this information. College policy neither encourages nor discourages further disclosure of the determination letter by either party. The college encourages a student who wishes to re-disclose the determination letter to consult with legal counsel before doing so.
2. The memorandum opinion will contain the finding of facts. The memorandum opinion is both an education record and confidential record of the hearing and may not be disclosed except as authorized by law (see [JSRCC Policy No.1-26](#), Student Privacy and Release of Student Information).

G. Confidentiality

All complaints, responses, and other papers created pursuant to these guidelines will be kept confidential. All written materials related to a complaint will be maintained under seal in a separate folder and not within the respondent's student file. However, upon a final decision that sexual misconduct has occurred, disciplinary action may include filing a copy of the decision in the student's file.

All complaints, responses, and other papers created pursuant to these guidelines are not to be released to any individual or administrative authority at the college other than the complainant, the respondent, the formal hearing panel, the VPSA or designee, the EEO officer, EVP, and the college president. In the event that formal litigation or external complaint procedures require disclosure, it may be necessary for the college to comply with formal requests for such records under subpoena. These records may be considered in the event that other formal complaints are filed against the same individual. Records will be maintained by the Office of Student Affairs for a period of five (5) years from the date of graduation of the respondent.

H. Consensual relationships

Consenting romantic and sexual relationships between student and employee, while not expressly forbidden by J. Sargeant Reynolds Community College, are generally discouraged and deemed unwise.

I. Education and prevention

The college is committed to helping all students achieve a realistic understanding of the effects of sexual misconduct for themselves, victims, and society. Above and beyond potential disciplinary action resulting from sexual misconduct, the college recognizes the need and responsibility to provide information regarding sexual misconduct. The following activities and services will be offered at J. Sargeant Reynolds Community College in an effort to prevent sexual misconduct:

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1. publication of information on sexual misconduct and the prevention of sexual misconduct in:
 - a. the college's Student Success Skills Course (SDV 100)
 - b. student handbooks
 - c. employee handbooks
2. web-based training opportunities – The Office of Human Resources will provide 7-day-a-week, 24-hour access to web-based training opportunities on the topics of sexual misconduct and the prevention of sexual misconduct. The web-based links for the online training opportunities will be published on the Professional Development and Renewal website located on the college's intranet site on InsideJSR.
3. classroom/face-to-face training – The Office of Human Resources will provide classroom instruction on the topic of sexual misconduct and the prevention of sexual misconduct for full-time and part-time faculty and staff every semester. Dates and times of the classroom training opportunities will be published on the Professional Development and Renewal website located on the college's intranet site on InsideJSR.
4. The Office of Student Affairs and the Office of Human Resources will ensure that appropriate announcements regarding college publications, courses, and training opportunities are routinely announced and disseminated throughout the college community.
5. The J. Sargeant Reynolds Community College Department of Police and the Office of Student Affairs will maintain a list of referral services that specialize in sexual assault. Students requesting assistance will be referred to the appropriate public agencies, while making every effort to protect the individual's confidentiality.
6. To assist college faculty and staff, the Office of Human Resources will maintain a list of employee referral services that specialize in sexual assault to include the use of the Commonwealth Employee Assistance Program. Employees requesting assistance will be referred to the appropriate agencies, while making every effort to protect the individual's confidentiality.

V. Other Information:

[JSRCC Policy No. 3-7](#), Employee Sexual Misconduct

[Virginia Sexual and Domestic Violence Action Alliance](#), 1-800-838-8238

[April 4, 2011 Office of Civil Rights Dear Colleague Letter on Sexual Violence](#)

[2001 Guidance \(Title IX\)](#)

[Sexual Assault Victim's Bill of Rights](#)