

# Christopher Newport University

## Policy: Sexual Misconduct

### Policy Number: 1100

Executive Oversight: Deputy Chief of Staff/Vice President for People and Strategy  
Contact Office: Office of Institutional Compliance/Title IX  
Frequency of Review: Annually

#### A. PURPOSE

This policy details how Christopher Newport University (CNU) addresses allegations of sexual misconduct in a fair and impartial manner in compliance with federal and state law<sup>1</sup>.

#### B. POLICY

Christopher Newport University does not discriminate on the basis of sex in its education programs and activities and will promptly respond to known **(a)** reports of alleged **(b)** sexual misconduct. CNU provides a grievance process for the prompt and fair resolution of **(c)** formal complaints that recognizes the rights of both **(d)** complainants and **(e)** respondents, and complies with applicable federal and state laws. Reasonably available, non-punitive, **(f)** supportive measures designed to restore or preserve access to CNU's programs and activities are available to **(g)** parties with or without the filing of a formal complaint and are coordinated by the **(h)** Office of Institutional Compliance/Title IX. Reports, formal complaints, inquiries, and questions may be addressed to the CNU [Office of Institutional Compliance/Title IX](#), Christopher Newport Hall 105, Newport News, VA., 23606, 757-594-8245, [titleixic@cnu.edu](mailto:titleixic@cnu.edu). Individuals may also direct questions and inquiries to the [United States Department of Education Office for Civil Rights](#), which enforces Title IX. The policy on all forms of discrimination and harassment other than sexual misconduct is found in [Policy 1005: Discrimination and Harassment](#).

##### 1. Definitions of Policy Terms

- a. **Report:** Oral or written information submitted to the Office of Institutional Compliance/Title IX that describes an alleged instance of sexual misconduct, whether or not a complainant or respondent is identified by name. Anyone who has experienced, witnessed, or received a disclosure about an instance of sexual misconduct can submit a report to the Office of Institutional Compliance/Title IX at any time. A report is not a formal complaint.

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<sup>1</sup> Title IX of the Education Amendments of 1972 ("Title IX"), Title IX Regulations 34 CFR Part 106, Titles VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, Violence Against Women Reauthorization Act of 2013 ("VAWA"), Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), Virginia Human Rights Act, and other applicable state and federal regulations.

- b. **Sexual Misconduct:** The term used in this policy that encompasses sexual assault, sexual harassment, dating violence, domestic violence, stalking, sexual violence, and sexual exploitation. Sexual misconduct can involve persons of any sex, sexual orientation, gender, or gender identity.
- c. **Formal Complaint:** A document filed by a complainant or signed by the Title IX Coordinator or Deputy Title IX Coordinator alleging sexual misconduct against a respondent and requesting that the University investigate the allegation of sexual misconduct. A “document filed by a complainant” means a document or electronic submission that includes the complainant’s physical or digital signature, or otherwise indicates the complainant is the person filing the formal complaint and is requesting the investigation.
- d. **Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual misconduct.
- e. **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct.
- f. **Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant and respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment of the University, or deter sexual misconduct. Supportive measures may include counseling, extension of deadlines and/or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between parties, temporary changes to on-campus housing or work locations, and other similar measures. See [Resources](#) on the Office of Institutional Compliance/Title IX website for more information.
- g. **Parties:** The complainant and the respondent, collectively.
- h. **Office of Institutional Compliance/Title IX:** The office responsible for receiving and responding to reports of sexual misconduct and overseeing the investigation and adjudication of formal complaints in accordance with this policy. The office is responsible for identifying any patterns or systemic problems revealed by such reports and formal complaints. The office serves impartially, including by avoiding prejudgment of facts at issue, conflicts of interest, and bias. The office participates in coordinating the institution’s compliance with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) by tracking the University’s compliance efforts and consulting and providing support to the University’s various Title IX liaisons. Concerns about how the Office of Institutional Compliance/Title IX is carrying out responsibilities under this policy may be directed within CNU to the Office of

Institutional Compliance/Title IX or the Deputy Chief of Staff/CNU Vice President for People and Strategy.

**Title IX Coordinator:** The individual designated by CNU who is responsible for coordinating the university's compliance with Title IX, including overseeing the effective implementation of supportive measures and remedies. The Director of the Office of Institutional Compliance/Title IX serves as the CNU Title IX Coordinator, and the Assistant Director of the Office of Institutional Compliance/Title IX serves as the CNU Deputy Title IX Coordinator, who is also responsible for carrying out the duties in partnership with and/or in the absence of the Title IX Coordinator. The Title IX Coordinator and Deputy Title IX Coordinator serve impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias.

**Title IX Liaisons:** Designated CNU employees from Athletics, Student Affairs, and the Office of Human Resources who partner with the Office of Institutional Compliance/Title IX. Title IX liaisons may be involved in coordinating scheduling of educational sessions by the Office of Institutional Compliance/Title IX for their areas and consulting on the provision of resources to parties involved in reports and formal complaints. A list of current liaisons is available on the [Office of Institutional Compliance/Title IX website](#).

## 2. Applicability

This policy prohibits sexual misconduct within an **(a)** education program and/or activity of CNU. This policy also prohibits sexual misconduct occurring off campus, including outside the United States, involving complainants and respondents who are both actively accessing the program and activity of the University for employment and/or as participants in an education program of the University, if such incidents may have continuing effects that create a hostile environment on campus. This policy applies to **(b)** students, **(c)** employees, and **(d)** third parties.

## 3. Definitions of Applicability Terms

- a. **Education Program or Activity**<sup>2</sup>: Locations, events, or circumstances over which CNU exercises substantial control over both the respondent and the context in which an alleged incident of sexual misconduct occurs, and also includes any buildings owned or controlled by a student organization that is officially recognized by CNU.
- b. **Student**: Any individual who has gained admission to CNU and participates in a CNU class, program, or activity, any individual registered or enrolled in courses through CNU, or any individual not enrolled for a particular term but has not officially separated from CNU.

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<sup>2</sup> Education Program or Activity as defined in The Title IX regulation at 34 C.F.R. § 106.44(a)

- c. **Employee:** Any salaried or wage faculty or staff member, graduate student paid on assistantship, undergraduate student workers (including resident assistants [RA's]). Generally, incidents involving respondents who are student workers will be addressed using the procedures for incidents involving student respondents, since student is their primary role at the university.
- d. **Third Parties:** Any contractors, vendors, visitors, applicants for employment or admission, guests, or temporary employees.

#### 4. Sexual Misconduct Terminology

- a. **Sexual Assault**<sup>3</sup>: A sexual act committed against another person without consent, such as any of the following:

**Rape:** 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 complainant.

**Criminal Sexual Contact (Fondling):** The intentional touching of the clothed or unclothed body parts (of another) without consent (of the victim) for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the complainant of another's clothed or unclothed body parts, without consent of the complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

**Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the law of the Commonwealth of Virginia.<sup>4</sup>

**Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent in the Commonwealth of Virginia, which is 17.

- b. **Consent:** An outward demonstration through understandable words or actions that convey a knowing and voluntary agreement to engage in mutually agreed upon sexual activity. Consent is voluntary and may be withdrawn at any time by communicating the withdrawal through understandable words or actions.

Consent cannot be obtained by physical or verbal coercion that is expressed or implied, which includes the use of intimidation, threats, force, or duress. Consent cannot be obtained by ignoring or acting despite the objections of another, by previous consent, or by taking advantage of another person's incapacitation or physical helplessness where one knows or a reasonable person should have known of

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<sup>3</sup> The Title IX regulation at 34 C.F.R. § 106.30(a) defines Sexual Assault as the forcible and non-forcible sex offenses in the Clery Act at 20 U.S.C. 1092(f)(6)(A)(v)

<sup>4</sup> VA. Code §18.2-366

such incapacitation or helplessness. An individual who is incapacitated because of age, disability, voluntary activity, or through the acts of others cannot give consent.

- c. **Incapacitation**: Physical or mental inability to make informed, rational judgements. States of incapacitation include, without limitation, sleep, blackouts, unconsciousness, and the inability to make decisions due to the voluntary or involuntary use of alcohol or drugs. Incapacitation may occur due to age, disability, voluntary activity, or through the acts of others. Incapacitation means the person lacks the ability to make informed, reasonable judgments about whether or not to engage in sexual activity.

Incapacitation may result from the use of substances like alcohol, drugs, or medications; however, the use or consumption of substances alone is insufficient to establish incapacitation.

- d. **Sexual Harassment**: This policy covers Title IX Sexual Harassment and (Non-Title IX) Sexual Harassment, which are defined as:

**Title IX Sexual Harassment**<sup>5</sup>: Conduct on the basis of sex that satisfies one or more of the following and that occurs in the programs and activities of CNU in the United States:

- Quid pro quo: An employee conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct; or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity

**(Non-Title IX) Sexual Harassment**: Conduct consisting of unwelcome or objectively offensive sexual advances, requests for sexual favors, or other conduct of a sexual nature that can be verbal (e.g., specific demands for sexual favors, sexually suggestive comments, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails or other writings; objects or pictures; suggestive, obscene or insulting sounds or gestures); or physical (e.g., unwanted or coerced touching or other physical contact of a sexual nature), that does not meet the definition of Title IX Sexual Harassment and occurs:

- On campus, and/or off-campus in a program and activity of the institution, including but not limited to CNU-affiliated programs outside the United States, and/or
- Off-campus outside the programs and activities of the institution if such conduct may have continuing effects that create a hostile environment on campus

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<sup>5</sup> Title IX regulation at 34 C.F.R. § 106.30(a) definition of Sexual Harassment

The conduct must also impact at least one of the following:

**Term or Condition of Employment or Education (Quid Pro Quo).** This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades, or opportunities, living environment, or participation in a university activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual activity, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a university program or activity.

**Hostile Environment.** A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent, or pervasive, and objectively offensive in a manner that interferes with, limits, or denies the person the ability to participate in or benefit from the institution's education programs or activities, including employment access, benefits, or opportunities. Subjective offensiveness does not necessarily create a hostile environment. In determining whether conduct is severe, persistent, or pervasive, and objectively offensive, and thus creates a hostile environment, the following factors shall be considered: (1) the degree to which the conduct affected one or more individuals' education or employment; (2) the nature, scope, frequency, duration, and location of the incident; (3) the identity, number, and relationship of the persons involved; (4) the perspective of a reasonable person in the same situation as the person subjected to the conduct; and (5) the nature of higher education<sup>6</sup>.

**e. Dating Violence:**<sup>7</sup> A form of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with another person, where the existence of such a relationship shall be determined based on consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**f. Domestic Violence:**<sup>8</sup> Crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common

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<sup>6</sup> E.g. academic freedom or protected speech.

<sup>7</sup> The Title IX regulation at 34 C.F.R. § 106.30(a) defines Dating Violence as defined in 34 U.S.C. 12291(a)(11) and 34 U.S.C. 12291(a)(12).

<sup>8</sup> The Title IX regulation at 34 C.F.R. § 106.30(a) defines Domestic Violence as defined in 34 U.S.C. 12291(a)(11) and 34 U.S.C. 12291(a)(12).

- A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner
  - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the Commonwealth of Virginia, and
  - 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 Commonwealth of Virginia
- g. **Sexual Exploitation**: Taking sexual advantage of another person without that individual's consent. Examples include but are not limited to, prostituting another person; causing or attempting to cause the incapacitation of another person for a sexual purpose; recording, photographing, creating, or transmitting sexual utterances, sounds or images, whether real or fake<sup>9</sup>, of another person without that person's consent; allowing a third party to observe sexual activity without the consent of the participants; knowingly transmitting sexually transmitted infections or other diseases without the knowledge of the person's sexual partner; inducing another to expose their body for sexual purposes; intentionally altering, removing, or sabotaging contraceptive or prophylactic measures without the knowledge of the other party, including but not limited to condoms and/or other birth control measures; and viewing another person's sexual activity, intimate body parts, or nakedness without that person's consent and in a place where that person would have a reasonable expectation of privacy.
- h. **Sexual Violence**:<sup>10</sup> Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.
- i. **Stalking**:<sup>11</sup> Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others, or suffer substantial emotional distress.

## C. STATEMENTS OF POLICY

### 1. Confidentiality

CNU will respect and maintain confidentiality in carrying out procedures under this policy within the context of all applicable state and federal laws and university policies. This does not include required disclosures to law enforcement or information that must be disclosed in the formal complaint investigation process. CNU does not restrict the First Amendment rights of participants in procedures under this policy.

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<sup>9</sup> Includes but is not limited to use of digital methods such as Artificial Intelligence and other means for creation of fake images, recordings, drawings, and renderings

<sup>10</sup> Sexual Violence as defined in Va. Code §23.1-806. Reporting of Acts of Sexual Violence

<sup>11</sup> The Title IX regulation at 34 C.F.R. § 106.30(a) defines Stalking by reference to the definition in 34 U.S.C. 12291(a)(36)

## 2. Good Faith

CNU presumes individuals participating in procedures under this policy are acting in good faith. Good faith is defined as actions taken in the honest, sincere, and reasonable belief in the truth of the matters alleged and without any malice or desire to defraud or maliciously harm others. Failure to act in good faith in bringing allegations under this policy, failure to act in good faith in participating during the proceedings (i.e., intentionally providing false or misleading evidence), or in any other capacity concerning this policy constitutes a form of misconduct. Claims that a student (including student workers) has failed to act in good faith will be referred to the Center for Honor Enrichment and Community Standards (CHECS) using procedures laid out in the [Student Handbook](#) for addressing allegations of misconduct. Claims that an employee has failed to act in good faith will be handled under procedures laid out in respective handbooks including the [University Handbook](#) or [Virginia Department of Human Resources Policies](#) for addressing allegations of misconduct.

## 3. Academic Freedom and Freedom of Speech

This policy does not curtail academic freedom as described in the [University Handbook](#). This policy does not allow curtailment or censorship of constitutionally protected expression, such as freedom of speech.

## 4. Prohibition on Retaliation

CNU prohibits retaliation against a group or individual exercising rights under and/or participating in, or not participating in, any procedures under this policy. Retaliation is defined as adverse action(s) taken or threatened against a person for making a good faith report of sexual misconduct or participating in, or not participating in, any proceeding under this policy. Retaliation includes intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by this policy or law, or because the individual has made a report or formal complaint, testified, assisted, or participated, or did not participate in any manner in an investigation, proceeding, or hearing under this policy. Retaliation constitutes a form of misconduct and may result in sanctions separate from, and not dependent on, the outcome of any report or formal complaint filed under this policy. Claims of retaliation will be adjudicated under procedures that are fair and equitable.

Claims of alleged retaliation by students (including student employees) will be referred to the Center for Honor Enrichment and Community Standards (CHECS), utilizing procedures laid out in the [Student Handbook](#) for addressing allegations of misconduct.

Claims of alleged retaliation by employees will be handled under procedures laid out in respective handbooks including the [University Handbook](#) or [Virginia Department of Human Resource Management policies](#) for addressing allegations of misconduct.

## 5. Reporting

There are multiple options for reporting sexual misconduct:

### a. Reporting to CNU Office of Institutional Compliance/Title IX

Anyone who becomes aware of an incident of sexual misconduct may report it to the CNU Office of Institutional Compliance/Title IX as soon as possible. Though there is no time limit for reporting<sup>12</sup> an incident to the Office of Institutional Compliance/Title IX, the breadth of options and resources available to the complainant may be impacted by the amount of time that has elapsed between when the alleged incident occurred and when it is reported. Such time lapses may also limit the University's ability to assess risk. Reports can be made to the Office of Institutional Compliance/Title IX 24 hours a day, 7 days a week, via email [titleixic@cnu.edu](mailto:titleixic@cnu.edu) or via [online submission](#), by calling 757-594-8245, or mailing the report to Office of Institutional Compliance/Title IX, CNU, 1 Avenue of the Arts, Newport News, VA 23606. Reports may also be made in person at the Office of Institutional Compliance/Title IX, Christopher Newport Hall 105, during regular business hours and by appointment.

### b. Supportive Measures

The university offers appropriate reasonably available supportive measures to complainants and respondents with or without the filing of a formal complaint. The Office of Institutional Compliance/Title IX collaborates with appropriate university offices to implement supportive measures. The Office of Institutional Compliance/Title IX and appropriate university offices reassess implemented supportive measures on an ongoing basis. A list of supportive measures for students and employees is available on the [Supportive Measures and Resources](#) page of the Office of Institutional Compliance/Title IX website.

### c. Office Of Institutional Compliance/Title IX Report Intake

Upon receipt of a report, the Office of Institutional Compliance/Title IX shall review the report for the following purposes:

- the applicability of Policy 1100 and referral to the appropriate party for review if the report describes conduct that may be prohibited under another university policy;
- the need to respond to any immediate physical health and safety risks that arise from the report

The initial review is not a formal complaint investigation, nor is its purpose to determine whether a policy violation has occurred.

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<sup>12</sup> Responsible employees must promptly report incidents of sexual misconduct to the Office of Institutional Compliance/Title IX without delay.

The Office of Institutional Compliance/Title IX shall also contact the complainant to inform the complainant about:

- available resources and supportive measures;
- the right to contact law enforcement or to decline to do so;
- the right to seek medical treatment;
- the importance of preserving evidence;
- the right to bring an advisor of their choice to meetings;
- CNU's prohibition on retaliation;
- contact information for the Office of Institutional Compliance/Title IX;
- the option and procedures for filing a formal complaint and the process the University uses to adjudicate formal complaints; and
- If the complainant is a student, the notification will also include information about amnesty

In situations where the complainant's contact information is not provided or is inaccurate, the University will attempt to obtain accurate contact information to conduct outreach.

The complainant is not obligated to respond to the notification from the Office of Institutional Compliance/Title IX and the decision about what, if any, resources and options to utilize will rest with the complainant.

#### **d. Reporting to and Utilizing Confidential Resources**

Confidential resources are individuals and agencies that support the provision of counseling, advocacy, mental health, physical health, or sexual misconduct-related services. Confidential resources do not report incidents of sexual misconduct to the Office of Institutional Compliance/Title IX.

- On campus confidential resources for students who are involved in incidents of sexual misconduct or are supporting other CNU students involved in incidents of sexual misconduct are: The [CNU Office of Counseling Services](#), [University Health and Wellness Services](#), and [Accessibility and Care Team Support](#).
- Off-campus confidential resources available to employees and students include: [Riverside Regional Medical Center](#), [The Center for Sexual Assault Survivors](#), and [Transitions Family Violence Services](#). For more information, see [Resources](#) on the Office of Institutional Compliance/Title IX website.

#### **e. Anonymous Reporting**

Individuals may report an incident without sharing their own name or the name of the parties involved. (This does not apply to responsible employees who are required to share their own name as well as the names of the parties involved, if known, in any reports made.) Reports that lack sufficient detail may limit the University's ability to assess risk and respond.

## **f. Reporting to Law Enforcement**

Anyone who wishes to involve law enforcement should contact law enforcement directly and at any time, irrespective of ongoing investigations or other coordination with the Office of Institutional Compliance/Title IX, and no one should dissuade individuals from exercising their right to do so. Involving law enforcement does not preclude individuals from also reporting to the Office of Institutional Compliance/Title IX. While individuals have the right to notify or decline to notify law enforcement, to preserve options, the University encourages immediate reporting to law enforcement. To contact:

- [CNU Police](#) call 757-594-7777 (for on-campus emergencies and non-emergencies)
- [Newport News Police Department](#) call 911 (emergencies off-campus in Newport News) or 757-247-2500 (non-emergencies off-campus in Newport News)

If individuals are unsure which police department to contact, they are encouraged to contact the Christopher Newport University Police Department, which will assist in determining which law enforcement agency has jurisdiction to respond to the report.

In situations where a report has been made to CNU Office of Institutional Compliance/Title IX and to law enforcement, the existence of criminal proceedings will not unnecessarily delay or interrupt procedures outlined in this policy, unless the law enforcement agency or prosecution advises that the Office of Institutional Compliance/Title IX procedures be suspended, in which case the University will determine whether and for how long to suspend its procedures. Evidence and information gathered during the Office of Institutional Compliance/Title IX investigation of a formal complaint may be shared with law enforcement as permitted by law.

## **g. Responsible Employee Reporting Obligations**

Responsible employees are CNU employees who have a duty to disclose to the Office of Institutional Compliance/Title IX all reports of sexual misconduct they receive while acting in their capacity as employees of the University. Responsible employees must promptly contact the Office of Institutional Compliance/Title IX to carry out their duty to report. For the purpose of this policy all full-time and adjunct faculty, all full- and part-time staff (other than staff who are designated as confidential resources), all graduate student employees, and undergraduate student employees who are Resident Assistants (RA), Residence Hall Front Desk Assistants (FDA), Intramural Supervisors, Group Fitness Instructors, Personal Trainers, and Fitness Supervisor Leads, are designated as responsible employees.

The responsible employee is obligated to include in the report(s) all relevant information about the incident that was freely disclosed to the responsible employee,

such as the approximate date, time, and location of the incident, and the names of the complainant, respondent, and other individuals who could be potential witnesses.

**The responsible employee will not investigate allegations or pressure the complainant to provide information that is not freely given.** The transfer of information from the responsible employee to the Office of Institutional Compliance/Title IX will fulfill the responsible employee's reporting obligation.

All responsible employees must inform any individual who has disclosed information regarding an alleged incident of sexual misconduct that, as a responsible employee, they cannot keep the information confidential and are required to disclose the information to the Office of Institutional Compliance/Title IX. If the individual making the disclosure is requesting confidentiality or to remain anonymous, the responsible employee can share that request with the Office of Institutional Compliance/Title IX, but cannot withhold from the office the identity of the individual who disclosed.

Referring an individual to confidential resources or reporting the incident to University Police or other law enforcement does not relieve the responsible employee of the duty to report the information to the Office of Institutional Compliance/Title IX.

#### **h. Exceptions to Responsible Employee Reporting**

The responsible employee reporting obligation does not apply to information disclosed at public events designed to raise awareness about sexual misconduct, personal accounts included in class assignments, Institutional Review Board (IRB) approved academic research, or other similar instances where circumstances of the responsible employee's receipt of information would not be reasonably expected to require the employee's disclosure responsibility under this policy.

#### **i. Clery Reporting Obligations**

Campus Security Authorities (CSA's) have a responsibility to report Clery Act related crimes or offenses. For more information, refer to [Policy 1065 Clery Act Compliance](#).

### **6. Formal Complaint Process**

The University provides a fair and impartial grievance procedure for the investigation and adjudication of formal complaints. A complainant initiates the formal complaint process by filing a formal complaint. A formal complaint is not a report. A formal complaint is a written, signed document filed by the complainant that requests the initiation of the formal complaint investigation or the informal resolution process. The formal complaint submitted by the complainant should contain as much information as possible about the alleged incident, including the names of the complainant and respondent, if known, the approximate date, time, and location of the alleged incident, and a description of the alleged incident(s) that is/are the focus of the formal complaint. The formal complaint

must include the complainant's physical or digital signature, or otherwise indicate the complainant is the person filing the formal complaint.

Complainants may use the formal complaint form available online through the [Office of Institutional Compliance/Title IX](#) to file a complaint 24 hours a day, 7 days a week. Or a complainant may submit a formal complaint in a different written format that includes all information requested in the online form by emailing the formal complaint to [titleixic@cnu.edu](mailto:titleixic@cnu.edu); mailing the form to the Office of Institutional Compliance/Title IX, CNU, 1 Avenue of the Arts, Newport News, VA 23606; or hand delivering the formal complaint during regular business hours and by appointment to the Office of Institutional Compliance/Title IX located in Christopher Newport Hall 105. The decision to file a formal complaint generally rests with the complainant, and no one should discourage a complainant from filing one or pressure a complainant to file one.

The formal complaint process is available for allegations of sexual misconduct occurring while the complainant and respondent are both actively accessing the programs and activities of the University for employment and/or as participants in an education program or activity of the University. At the time of filing a formal complaint, the complainant must be actively employed or be accessing or attempting to access the programs and activities of the University. The presumption is that no policy violation has occurred unless proven otherwise by a preponderance of the evidence. Preponderance of the evidence is the standard of proof used to evaluate all alleged policy violations of sexual misconduct in both the student and employee processes. Preponderance of the evidence means the decision maker is more likely than not (50.1%) sure that the individual violated university policy. The Office of Institutional Compliance/Title IX is responsible for overseeing the formal complaint investigation and hearing process. Generally, the University utilizes external investigators, decision-makers, and appeal officers to conduct the formal complaint process.

**a. Formal Complaints Signed by Office of Institutional Compliance/Title IX**

In circumstances where it has been determined that there is an immediate health and safety risk that arises from a report of sexual misconduct for the complainant or others and the complainant has declined to file a formal complaint, the University may determine that to protect physical health and safety of the complainant and others, that the Title IX Coordinator or Deputy Title IX Coordinator sign the formal complaint to initiate the investigation and hearing process. In situations where the Title IX Coordinator or Deputy Title IX Coordinator signs the formal complaint, they do not serve in the role of the complainant. The Office of Institutional Compliance/Title IX will inform the complainant, if known, that the Title IX Coordinator or Deputy Title IX Coordinator has signed the formal complaint to initiate the formal complaint process and that the complainant retains the opportunity to participate in the investigation and any subsequent hearing proceedings. The Title IX Coordinator or Deputy Title IX Coordinator may sign a formal complaint even if the identity of a complainant is unknown. The Office of Institutional Compliance/Title IX is responsible for providing notice of allegation to the

complainant and respondent at the beginning of the formal complaint process, even if the Title IX Coordinator or Deputy Title IX Coordinator signs the complaint.

## **b. Dismissal of Formal Complaints**

If the conduct alleged in the formal complaint, even if true, would not constitute sexual misconduct under this policy, the formal complaint will be dismissed pursuant to Policy 1100. If the alleged conduct may fall under a different university policy or process, the report will be forwarded to the appropriate party for review.

A formal complaint may also be dismissed for any of the following reasons:

- The respondent is no longer enrolled or employed at the University
- The complainant is no longer enrolled or employed at the University
- At the time of the incident, the complainant was not accessing the University's programs and activities for employment and/or as a participant in a University education program
- At the time of the incident, the respondent was not accessing the University's programs and activities for employment and/or as a participant in a University education program
- A complainant notifies the Title IX Coordinator or Deputy Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein
- Specific circumstances prevent the University from gathering sufficient evidence to reach a determination regarding the formal complaint or the allegations therein

If a formal complaint, or a portion thereof, is dismissed pursuant to this section:

- The Title IX Coordinator or Deputy Title IX Coordinator will promptly send written notice of the dismissal, including the reason for the dismissal, to the parties
- Parties may appeal a dismissal under this policy

## **c. Investigation and Hearing**

Investigation, hearings, and appeals for formal complaints are conducted by investigators, decision-makers, and appeal officers who receive regular and ongoing training on how to conduct the process, including the gathering and evaluation of relevant evidence, in a fair and impartial manner with the presumption that no policy violation has occurred unless proven otherwise by a preponderance of the evidence at the conclusion of the adjudication process. Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence, and the fact is of consequence in determining the outcome of the case.

For formal complaints that involve a hearing, a live, closed hearing will be conducted by a decision-maker who is not the investigator to adjudicate the formal complaint and determine an outcome. Cross-examination will be conducted by each party's

advisor of choice. An advisor of choice is a person the complainant or respondent chooses to support them while they participate in procedures under this policy. An advisor of choice may accompany the person to any meetings and proceedings. An advisor of choice may be anyone the individual has selected, including but not limited to attorneys. An individual who is serving as a witness or has another official role in an investigation, hearing, or proceeding under this policy may not serve as an advisor of choice. If a party does not have an advisor of choice to conduct cross-examination, the University will appoint an advisor for the party to conduct cross-examination.

Upon reaching a determination, the decisionmaker will issue a written rationale for the results of each allegation, including a determination of responsibility, any sanctions the University imposes on the respondent, and any remedies. Remedies are measures that are designed to preserve or restore equal access to the University's education programs and activities or employment for the complainant. Remedies may be the same individualized services as supportive measures. The Office of Institutional Compliance/Title IX is responsible for overseeing and coordinating the provision of remedies.

#### **d. Sanctions**

Sanctions for being found responsible for a violation of this policy will be determined in a fair and impartial manner and will be commensurate with the severity and/or frequency of the offense.

Sanctions for Students are listed in the [Student Handbook](#) and may include, but are not limited to, disciplinary probation, deferred sanction, restrictions, loss of and/or delay of privileges, educational and reflective experiences, fees/fines and/or restitution, suspension, dismissal.

Sanctions for Instructional, Administrative Professional, and Adjunct Faculty are listed in the applicable section of the [University Handbook](#) and may include, but are not limited to admonition, written warning, suspension, and dismissal.

Sanctions for Classified and Wage staff are listed in [Virginia Department of Human Resource Management Policy 1.60, Standards of Conduct](#), and may include, but are not limited to, verbal warning, written warning, suspension, and dismissal.

### **7. Informal Resolution**

Informal resolution can be utilized in lieu of the formal complaint investigation and hearing process to address allegations of sexual misconduct under this policy. Informal resolution involves implementing individual and/or community remedies to address the allegations and prevent future occurrences. Pursuing informal resolution does not necessarily preclude the use of the formal complaint investigation process, unless a resolution is reached through the informal process. The University does not require

complainants and respondents to initiate or participate in the informal resolution process. Informal resolution is generally non-disciplinary in nature.

Informal resolution is not a prerequisite for the formal resolution process. Informal resolution is not available for incidents in which a student is the complainant and the respondent is an employee; if the University deems there is a risk to safety; if the requirements of the process cannot be met; and/or the needs of the participants, as identified, are outside the scope of informal resolution. The decision of the University to deny the use of informal resolution is not appealable. The University may engage external professionals to facilitate the informal resolution process. A formal complaint must be filed before informal resolution can be initiated for incidents involving student complainants and student respondents. For incidents involving employee complainants and respondents, the informal resolution process may be initiated without filing a formal complaint.

## **8. Other Provisions**

### **a. Assistance and Reasonable Accommodations**

Anyone who needs assistance accessing the programs and services of the Office of Institutional Compliance/Title IX, including assistance with reporting and filing a formal complaint, may contact the Office of Institutional Compliance/Title IX directly. Alternatively, students who need reasonable accommodations for a disability in order to access the programs and services of the Office of Institutional Compliance/Title IX, including assistance with reporting and filing a formal complaint, may contact [Accessibility and Care Team Support](#). Employees who need reasonable accommodations for a disability in order to access the programs and services of the Office of Institutional Compliance/Title IX, including assistance with reporting and formal complaint filing, may contact the [Office of Human Resources](#).

### **b. Amnesty for Alcohol or Drug Use<sup>13</sup>**

To encourage reporting and participation in investigations, the University will not pursue disciplinary action against students for personal use of alcohol or drugs when such conduct is disclosed in connection with a good faith report or cooperation in an investigation under this Policy.

Amnesty does not apply to:

- Distribution of drugs or alcohol, especially to facilitate misconduct;
- Behavior that endangers others or puts others at risk;
- Serious or repeated policy violations unrelated to the report.

The University may refer individuals for health or substance use support if needed.

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<sup>13</sup> In accordance with VA Code § 23.1-808(B) Sexual Violence; disciplinary immunity for certain individuals who make reports

**c. Reports of Alleged Sexual Violence<sup>14</sup>**

Upon receipt of a report of alleged sexual violence, the Title IX Coordinator or Deputy Title IX Coordinator will convene the Campus Review Committee-Sexual Violence (CRC-SV) pursuant to [Policy 1055 Campus Violence Prevention](#).

**d. Emergency Removal<sup>15</sup>**

The University may remove a respondent from its education programs and activities on an emergency basis when removal is justified by an individualized safety and risk analysis that determines that an immediate threat to the physical health or safety of any student or other individual arises from an allegation of sexual misconduct. The respondent will be provided notice of the removal before the removal and the opportunity to challenge the removal decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

**e. Administrative Leave for Employees**

An employee may be placed on paid or unpaid administrative leave pending the completion of a formal complaint process. Administrative leave does not constitute an emergency removal. The procedures for determining the necessity of, implementing, and managing administrative leave can be found in the [University Handbook](#) for Instructional and Administrative Professional faculty and [Virginia Department of Human Resource Management Policy 1.60, Standards of Conduct, Pre-Disciplinary Leave](#) for Classified employees.

**f. Transcript Notation<sup>16</sup>**

In cases where a student respondent is found responsible for sexual misconduct and suspended or dismissed, a notation will be placed on the student's transcript. If a student withdraws while under investigation for an allegation of sexual misconduct, a notation will be placed on the student's transcript. Such notations will read, as applicable:

- Dismissed for a violation of Policy 1100
- Suspended for a violation of Policy 1100
- Withdrew while under investigation for a violation of Policy 1100

Removal of transcript notations is governed by [Policy 9045 Transcript Notation Removal Policy](#).

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<sup>14</sup> Va. Code §23.1-806. Reporting of Acts of Sexual Violence

<sup>15</sup> Emergency Removal from The Title IX regulation at 34 C.F.R. § 106.44(c)

<sup>16</sup> VA Code § 23.1-900 Academic transcripts; suspension, permanent dismissal, or withdrawal from institution

**g. Application of Policy 1100 and 1005**

In situations where a formal complaint describes alleged incidents that fall under this policy and Policy 1005: Discrimination and Harassment, the procedures for investigating and adjudicating formal complaints filed under Policy 1100 will generally be used instead of the procedures for addressing allegations under Policy 1005. In some situations, the allegations may be handled separately in accordance with the applicable policy and procedure.

**h. Retention of Records**

Records are maintained by the University for the period specified by applicable federal and state laws. Records and information will only be disclosed as permitted by law. The University may use any information obtained in carrying out procedures under this policy to defend itself against any claims, complaints, or allegations brought against it.

**i. Training and Education**

The Office of Institutional Compliance/Title IX provides education, training, and outreach to CNU students and employees on this policy and applicable procedures, available resources and supportive measures, reporting options, formal complaint filing options, and responsible employee reporting obligations. Such training is provided to incoming students and new employees as part of their orientation and onboarding. Opportunities for continuing education and training are also available on an ongoing basis for students and employees.

**D. PROCEDURES**

**1. Formal Complaint Procedures**

See [Office of Institutional Compliance/Title IX Policy and Procedures](#) for formal complaint filing, investigation, hearing, decision-making, sanctioning, and appeal procedures for complaints filed under this policy.

**2. Informal Resolution Procedures**

See [Office of Institutional Compliance/Title IX Policy and Procedures](#) for informal resolution procedures for addressing allegations under this policy.

**E. APPROVAL AND REVISIONS**

**Approved By:** Policy Committee, July 1, 2026