



Vice President for Policy and Governance

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November 19, 2021

The Honorable Ralph Northam
Governor of Virginia
Post Office Box 1475
Richmond, Virginia 23218

The Honorable L. Louise Lucas
Senate of Virginia
PO Box 700
Portsmouth, VA 23705-0700

The Honorable Roslyn C. Tyler
Virginia House of Delegates
25359 Blue Star Highway
Jarratt, VA 23867

Dear Governor Northam, Chairman Lucas and Chairman Tyler:

In accordance with § 23.1-401.1(D) of the Code of Virginia, Virginia Tech provides this report regarding our compliance with § 23.1-401., entitled “Constitutionally protected speech; policies, materials, and reports; report,” as detailed herein.

In particular, Virginia Tech has developed and published materials and policies detailing constitutionally protected speech under the First Amendment on our new Speech on Campus website (<https://policies.vt.edu/speechoncampus.html>). This webpage also provides a reporting mechanism for any individual to report incidents of disruption of constitutionally protected speech on campus.

Virginia Tech students, faculty and staff, including those responsible for student discipline or education, are notified of these policy resources on an ongoing basis through various communication streams such as our Hokies on Track student orientation mobile app, distribution of a “Speech on Campus” brochure, University-wide news communication, and the above mentioned Speech on Campus webpage housed on the university policies website.

A copy of this report may also be found via the Speech on Campus website.

Sincerely,

Kim O’Rourke, Vice President for Policy and Governance

cc: Timothy D. Sands, President
Elizabeth G. Hooper, Associate Vice President of Government and Community Relations

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Schedule A

Virginia Polytechnic Institute and State University

Policy on Harassment, Discrimination, and Sexual Assault

No. 1025

Policy Effective Date:
3/4/1991

Last Revision Date:
8/31/2021

Policy Owner:
President Sands

Policy Author: (*Contact Person*)
Kelly Oaks
Kim O'Rourke

Affected Parties:
Undergraduate
Graduate
Faculty
Staff

1.0 Purpose

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1.0 Purpose

The university is subject to Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended, the Age Discrimination in Employment Act, the Equal Pay Act, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, Federal Executive Order 11246, Genetic Information Nondiscrimination Act of 2008 (GINA), Virginia Executive Order(s), and all other federal and state rules and regulations that are applicable.

2.0 Policy

2.1 University Statement on Non-Discrimination

Virginia Tech does not discriminate against employees, students, or applicants on the basis of age, color, disability, sex (including pregnancy), gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, or military status, or otherwise discriminate against employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants, or on any other basis protected by law.

2.2 Applicability of Non-Discrimination Statement

The prohibition against discrimination and harassment applies to all levels and areas of university operations and programs, to undergraduate and graduate students, administrators, faculty, staff, volunteers, vendors and contractors. Such behavior is inconsistent with the university's commitment to excellence and to a community in which mutual respect is a core value as articulated in the Virginia Tech Principles of Community.

2.3 Reference to Policy on Title IX Sexual Harassment

Effective August 14, 2020, sexual misconduct that falls under Title IX Sexual Harassment, as defined by federal law, shall be governed by the university's Policy on Title IX Sexual Harassment and Responsible Employee Reporting (Policy No. 1026). If both this policy and Policy No.1026 apply, the procedures as outlined in Policy No. 1026 shall be utilized. For clarification on what sexual misconduct falls under Title IX Sexual Harassment, please see Policy No. 1026.

3.0 Scope

The university's jurisdiction includes on-campus incidents and off-campus incidents that cause continuing effects on campus and includes complaints filed by students or employees, or others on their behalf, alleging discrimination or discriminatory harassment



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(including sexual harassment and sexual violence) carried out by faculty, staff, other students, or third parties.

Virginia Tech is also committed to the free and vigorous discussion of ideas and issues. This policy does not allow curtailment or censorship of constitutionally protected expression, nor does it attempt to address behaviors that do not constitute discrimination or harassment. Offensive behavior that does not violate this policy should be addressed by the appropriate supervisor or administrator.

3.1 Contact Information

Questions and complaints of discrimination or discriminatory harassment involving faculty, staff, or students should be filed with:

The Assistant Vice President for Equity and Accessibility
Office for Equity and Accessibility
Virginia Tech
North End Center
300 Turner St.
Blacksburg, VA 24061
Phone: (540) 231-2010
equityandaccess@vt.edu

4.0 Procedures

The procedures referenced below provide for prompt and equitable response to reports of prohibited conduct. The procedures also provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a policy violation has occurred. The university applies the preponderance of the evidence standard when determining whether this policy has been violated. "Preponderance of the evidence" means that it is more likely than not that a policy violation occurred.

The appropriate university avenue for resolving a complaint covered under this policy is determined by the status of the person accused.

All **undergraduate, graduate, and professional students** at the university are subject to the university's student code of conduct as outlined in the Student Code of Conduct, accessible at <https://www.hokiehandbook.vt.edu/>.

Faculty members at the university are subject to the rules included in the Faculty Handbook, accessible at https://www.provost.vt.edu/faculty_affairs/faculty_handbook.html. Staff members are subject to the rules included in university policies (<https://www.hr.vt.edu/resources/current-employees/policies-handbooks.html>) and the Virginia Department of Human Resource Management Policies (<http://www.dhrm.virginia.gov/hrpolicy/policy.html#probper>), with minor exceptions for University Staff. Procedures for addressing staff and faculty violations of this policy are available from Human Resources.

4.1 Responsibilities of Administrators and Supervisors

University administrators, supervisors, and those performing instructional or academic advising duties have a responsibility to create and maintain a work and learning environment free of discrimination/harassment.

If an administrator, supervisor or individual with instructional responsibility becomes aware of an incident that might reasonably be construed as constituting discrimination/harassment, he or she must promptly contact the Office for Equity and Accessibility and coordinate with that office to take immediate steps to address the matter.



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Administrators, supervisors and those with instructional responsibility should contact the Office for Equity and Accessibility whenever they learn—either directly or indirectly—about discrimination/ harassment. This obligation exists even if the complainant requests that no action be taken.

Administrators, supervisors and those with instructional responsibility (for their respective teaching obligation) have the legal responsibility to protect a complainant from continued discrimination, harassment or retaliation, including implementing interim measures necessary to protect the complainant. They must also protect persons accused of discrimination/ harassment from potential damage by false allegations. Administrators and supervisors will be held accountable for dealing with and taking necessary steps to prevent discrimination/harassment. It is not the responsibility of the complainant to correct the situation.

Employees are responsible for informing employees and students under their supervision of this policy and the name and contact information of the person responsible for addressing discrimination complaints covered under this policy.

4.2 Supplemental/Alternative Avenues for Formal Complaints

In addition to, or in lieu of, the procedures set forth above, individuals may pursue those remedies that are available to them, as appropriate, through the following agencies:

Students and applicants for admission may file formal complaints with the Office for Civil Rights of the U.S. Department of Education.

Faculty members or applicants for employment may file a charge with the federal Equal Employment Opportunity Commission and/or the Virginia Council on Human Rights within 300 days of the incident.

The following options are available to **staff members or applicants for employment**:

- a) Non-probationary staff may file a grievance within 30 calendar days of the offense as outlined in the Grievance Procedure for State Employees, or
- b) Salaried and wage staff may file a complaint using the Discrimination Complaint Procedure administered by the Office of Equal Employment Services in the state's Department of Human Resource Management.
- c) Salaried and wage staff may file a complaint with the federal Equal Employment Opportunity Commission or the Virginia Council on Human Rights within 300 days of the alleged discrimination/harassment.

Additional information regarding this policy may be obtained from the Department of Human Resources.

Additional assistance and support may be obtained from the Women's Center, the Office of the Provost (faculty), the Department of Human Resources (staff and AP faculty), the Graduate School (graduate students), the Dean of Students Office, Cook Counseling Center, or Student Conduct (students).

We encourage victims of sexual violence, including rape, sexual assault, stalking, and dating and domestic violence, to exercise their right to file a complaint with the Virginia Tech Police Department if the crime occurs on Virginia Tech's property, regardless of the status of the victim. For crimes occurring away from Virginia Tech's property, victims may contact the local law enforcement in the appropriate jurisdiction.

5.0 Definitions

Consent means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. The existence of consent is based on the totality of circumstances, including the context in which the alleged consent occurred. Silence does not necessarily constitute consent and coercion, force, or threat of either party invalidates consent.

- Consent cannot be given where a person is incapacitated due to drugs or alcohol; or where a person has a disability; or is not of legal age to consent as defined by law.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Consent can be withdrawn at anytime.
- Previous relationships or prior consent cannot imply consent to future sexual acts.

Discrimination and/or Harassment means conduct that conditions any element of a person's employment, enrollment as a student, receipt of student financial aid, or participation in university activities on that person's age, color, disability, sex (including pregnancy), gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, or military status, unless otherwise permitted or required by applicable law. Virginia Tech does not otherwise discriminate against employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants nor on any other basis protected by law. Discrimination on the basis of sex in education programs and activities receiving federal financial funding as set forth in Title IX of the Education Amendments of 1972, as amended, is included in this definition of prohibited discrimination;

Conduct of any type (oral, written, graphic, electronic or physical) that is based upon a person's age, color, disability, sex (including pregnancy), gender, gender identity, gender expression, national origin, political affiliation, race, religion, sexual orientation, or military status and unreasonably interferes with the person's work or academic performance or participation in university activities, or creates a working or learning environment that a reasonable person would find hostile, threatening or intimidating; **and/or**

Conduct consisting of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or education, or submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual.

Retaliation means any adverse action taken against a person for making a good faith report of conduct prohibited under this policy or participating in any proceeding under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. The definition of retaliation does not preclude an individual from engaging in good faith actions, lawfully pursued, in response to a report of conduct prohibited under this policy.

Sexual Harassment means conduct any type (oral, written, graphic, electronic or physical) that is based upon a person's sex (including pregnancy), and unreasonably interferes with the person's work or academic performance or limits participation in university activities, or creates a working or learning environment that a reasonable person would find hostile, threatening or intimidating.

Sexual Harassment includes conduct of a sexual nature, including conduct consisting of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or education, or submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual. This policy includes sexual violence, gender-based harassment, domestic violence, dating violence and stalking as forms of sexual harassment.

Sexual Exploitation means an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any



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other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Sexual Violence means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol, or is unable to give consent due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

- **Rape** means penetration, no matter how slight, of the vagina or anus of a person with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling** means 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 age or temporary or mental incapacity.
- **Incest** means sexual intercourse between persons who are related to each other within degrees wherein marriage is prohibited by law.
- **Statutory Rape** means sexual intercourse with a person who is under the statutory age of consent.
- **Sexual Assault** means actual or attempted sexual contact with another person without that person's consent.
- **Sexual Coercion** means using physical or verbal aggression or pressure to force or attempt to force a person to touch another person's intimate parts without that person's consent.

Dating violence means violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Domestic Violence means felony or misdemeanor crimes of violence committed by: (a) a current or former spouse or intimate partner of the victim; (b) a person with whom the victim shares a child in common; (c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of Virginia; or 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 Virginia.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for the person's individual safety or the safety of others; or (b) suffer substantial emotional distress.

6.0 References

Presidential Policy Memorandum No. 112, University Non-Discrimination Statement
<https://policies.vt.edu/assets/112-non-discrimination-statement.pdf>

University Policy 1026, Policy on Title IX Sexual Harassment and Responsible Employee Reporting
<http://www.policies.vt.edu/1026.pdf>

University Policy 4075, Policy for University Accommodation of Persons with Disabilities
<http://www.policies.vt.edu/4075.pdf>



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Virginia Department of Human Resources Management, Policy 1.60 Standards of Conduct

http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol1_60.pdf?sfvrsn=2

Virginia Department of Human Resource Management, Policy 2.05, Equal Employment Opportunity

http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol2_05eeo.pdf?sfvrsn=2

Virginia Department of Human Resource Management, Policy 2.30 Workplace Harassment

http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol2_30wkplaceharrass.pdf?sfvrsn=2

Virginia Department of Human Resource Management - Employment Dispute Resolution - Grievance Procedure Manual

<http://www.dhrm.virginia.gov/employmentdisputeresolution>, <http://www.dhrm.virginia.gov/docs/default-source/edrdocuments/GPM-2017.pdf?sfvrsn=8>

Virginia Tech, Classified and University Staff Policies and Handbook

<https://www.hr.vt.edu/resources/current-employees/policies-handbooks.html>

Virginia Tech, Expectations for Graduate Education

https://graduateschool.vt.edu/content/dam/graduateschool_vt_edu/expectations-pdfs/expectations-for-graduate-education-may-2017.pdf

Virginia Tech, Faculty Handbook

https://www.provost.vt.edu/faculty_affairs/faculty_handbook.html

Virginia Tech, Student Code of Conduct

<http://www.hokiehandbook.vt.edu/>

Virginia Tech, Principles of Community

<http://inclusive.vt.edu/Initiatives/vtpoc0.html>

7.0 Approval and Revisions

- Revision 1
Revised by Commission on Faculty Affairs, December 17, 1990, the Faculty Senate, January 8, 1991, and the EO/AA Committee on January 8, 1991, with further revisions, February 12, 1991.
Approved March 4, 1991 by University Council.
- Revision 2
Revised by the EO/AA Committee, March 29, 1994; approved by Commission on Faculty Affairs, May 13, 1994.
Approved October 3, 1994 by University Council.
- Revision 3
Revised by the Commission on Equal Opportunity and Diversity, March 28, 2005. Approved by University Council, May 2, 2005.
Approved by the Board of Visitors, August 29, 2005.



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- Revision 4
Revised by the Commission on Equal Opportunity and Diversity, March 29, 2010.
Approved by University Council, April 19, 2010.
Approved by the Board of Visitors, June 7, 2010.
- Revision 5
Section 4 – “faculty member” replaced with “individual with instructional responsibility.”
Approved March 16, 2011 by Charles W. Steger, University President.
- Revision 6
April 24, 2013: Technical updates to:
 - reflect regulations, particularly those that add genetic information to the list of protected statuses;
 - clarify oversight responsibilities for sexual harassment complaints involving any student who is not acting in the capacity of an employee, volunteer, or contractor;
 - clarify that non-probationary employees have 30 “calendar” days to file a grievance; and
 - update references and hyperlinks.Approved June 3, 2013, by Charles W. Steger, University President, and the Board of Visitors.
- Revision 7
Revised to include the addition of terms “gender identity” and “gender expression” in sections 1. Purpose, first paragraph, and 2.1 Prohibited Acts, first and second paragraphs.
Approved September 15, 2014 by University President, Timothy D. Sands, and the Board of Visitors.
- Revision 8
Revised to include definitions approved by the Board of Visitors on June 1, 2015, and add contact information for the Title IX Coordinator, and language encouraging victims to file a complaint with the appropriate law enforcement agency.
Approved June 1, 2015 by University President, Timothy D. Sands, and the Board of Visitors.
- Revision 9
Revised section 2.1 to include the sentence, “Virginia Tech does not otherwise discriminate against employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants nor on any other basis protected by law.” This is added to comply with Federal Executive Order 13665, issued by President Obama.
Approved November 9, 2015 by University President, Timothy D. Sands, and the Board of Visitors.
- Revision 10
Significant reorganization of information and to update Procedures section to reflect status of the individual(s) involved in the complaint/potential complaint. Policy name was also changed.
Approved June 30, 2016 by University President, Timothy D. Sands.
- Revision 11
 - Revised section 2.1 to add “sex” to the non-discrimination statement, in accordance with Governor Northam’s Executive Order Number One.
 - Revised section 3.1 to have all questions and complaints filed with The Assistant Vice President for Equity and Accessibility, who can further redirect the filing, if appropriate.Approved February 12, 2018 by University President, Timothy D. Sands.



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- Revision 12
Revised section 4.2 to include the University Ombuds Office (new office) and Graduate School Office of the Ombudsperson as confidential resources.
Approved October 8, 2019 by University President, Timothy D. Sands.
- Revision 13
Revisions throughout document to reflect new Title IX regulations promulgated by the United States Department of Education, effective August 14, 2020, which also resulted in the creation of a new University Policy on Title IX Sexual Harassment and Responsible Employee Reporting (No. 1026). Revision effective August 14, 2020.
Approved August 13, 2020, by the Executive Committee of the Board of Visitors.
- Revision 14
Revisions throughout document to reflect expansion of “veteran” status to “military” status as defined in Code of Virginia §2.2-2901.1.
Approved August 31, 2021, by the Virginia Tech Board of Visitors



Schedule B

Virginia Polytechnic Institute and State University

University Facilities Usage and Events

No. 5000

Policy Effective Date:
7/26/1990

Last Revision Date:
1/31/2017

Policy Owner:
Chris Kiwus

Policy Author: (*Contact Person*)
Jon Clark Teglas

Affected Parties:
Undergraduate
Graduate
Faculty
Staff
Other

- 1.0 Purpose
- 2.0 Policy
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1.0 Purpose

This policy was developed to ensure the effective utilization of all Virginia Polytechnic Institute and State University facilities. Both the rules and regulations for the approval and use of university facilities and the rules and regulations that govern activities sponsored by officially listed student organizations, university departments, university-affiliated organizations and non-university groups or organizations are included (see University Policy 8010, Classification of Student Organizations (<http://www.policies.vt.edu/8010.pdf>)), for more information).

1.1 Policy Review

In April 1994, all administrative policies relating to the use of university facilities were reviewed. The policies were reformatted into one overall policy to streamline the management of policies related to facility use and event approval and to facilitate ease of use for individuals seeking access to university facilities. In 2012-14, the policy was collaboratively reviewed with a large cross-section of university leadership and significant revisions were completed for clarification. Additional reviews in 2014-15 implemented a registration requirement for many events to provide a central database of campus activities for safety and security purposes.

2.0 Policy

This Policy applies to the Blacksburg, Virginia campus. Other Virginia Tech locations must develop site-specific policies consistent with the spirit and intent of this Policy that are tailored to the unique safety, security and health considerations of their facilities. These location-specific facility-use policies must be reviewed by the University Safety and Security Policy Committee at initial implementation and when significant changes are proposed.

University facilities are to be used in a manner consistent with their intended purpose. Priority of use must be given to those activities related to the mission of the university. The facilities must be used in a safe, professional manner so as not to endanger the university community or the general public. The university may restrict access to land and buildings to protect individuals, property and equipment.

The facilities of the university are intended for the use of its students, faculty, staff, and invited guests participating in university-approved programs or activities, sponsored by or under the direction of the university or one of its related agencies or approved organizations. Use of university facilities by the public is restricted to those activities in which the public interest is readily and safely accommodated and that do not conflict with university program needs and schedules.



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The university makes its classroom, housing, athletic fields, dining and other facilities available, particularly during the summer months, to internal and external groups interested in holding camps, conferences, and workshops on the Virginia Tech campus. Camps, conferences and workshops held at Virginia Tech, *other than the Inn at Virginia Tech*, should be for education, training, or other purposes consistent with the mission of the university.

In accordance with University Policy 6362, Policy on Continuing and Professional Education (<http://www.policies.vt.edu/6362.pdf>), academic colleges, centers, and administrative units designing and delivering continuing and professional education activities, both on and off campus, under the auspices of the Virginia Tech brand must work through Continuing and Professional Education.

A residential camp, conference or workshop is defined as an event where attendees will stay overnight in university or university-affiliated facilities, *other than the Inn at Virginia Tech*. These events are governed by the provisions of University Policy 5010, Residential Camps, Conferences and Workshops (<http://www.policies.vt.edu/5010.pdf>).

Any person utilizing a university facility who engages in unlawful or disruptive conduct or violates university policy may be asked by a university official to leave the property. Failure to comply with such requests constitutes trespassing under Virginia state law and may lead to disciplinary action and/or arrest. The university is not obligated to tolerate events that interfere with any lawful mission, process, or function of the institution. Request for approval of events may be denied if they pose a clear and present danger to university students, employees and facility users.

It is the policy of Virginia Tech to make its programs and services accessible to every qualified person without discrimination on the basis of disability. For more information on accessibility, refer to the University ADA Services Office and website: <http://www.hr.vt.edu/oea/ada/>.

The Vice President for Administration has the responsibility to implement appropriate procedures for events on campus and to approve exceptions to this policy and associated procedures.

2.1 Event Sponsorship

All events must have a university sponsor. The sponsor must be an officially listed student organization (as defined by University Policy 8010, Classification of Student Organizations (<http://www.policies.vt.edu/8010.pdf>)), a university department, a university governance entity (as defined by the University Council By-laws, (<http://www.governance.vt.edu/>)), a state employee association, or a university-affiliated organization. Non-university groups or organizations must have a university sponsor to hold an event. A contractual agreement for hosting an event (between a university entity and an external individual, group or organization) is considered a form of sponsorship for the purpose of this Policy.

The university sponsor must reserve space to hold the event (see Section 2.2).

2.1.1 Student Organizations as Sponsors

The Vice President for Student Affairs is charged with implementing procedures to verify the eligibility of individuals to sponsor events on behalf of student organizations on campus. The responsibility for management of this process has been delegated to the Director of Student Engagement and Campus Life. The staff of the Student Engagement and Campus Life Event Planning Office will provide verification of student organization eligibility (and confirm the contacts authorized to do business with the university on behalf of each student organization) to those offices that have been delegated responsibility for scheduling specific facilities.



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Approval of student events must be obtained from the Student Engagement and Campus Life Event Planning Office when the event is considered major entertainment (as defined by University Policy 8215, Major Entertainment Sponsorship (<http://www.policies.vt.edu/8215.pdf>)). If additional information or approvals are needed, the scheduling office may refer the sponsoring student organization to the Student Engagement and Campus Life Event Planning Office for assistance.

2.1.2 Employee Associations as Sponsors

State employee associations and university faculty and staff associations may use university meeting rooms, where the time, place and manner do not interfere with university business, do not violate any laws, leases, or other contracts, and are compatible with the safety and security of the particular facility and mission of the university. The use of university-owned or leased meeting rooms must be related to the university and state employee association's role in providing programs and services of general benefit to employees within the context of their employment. All applicable fees for use will apply.

2.1.3 Responsibilities of the University Sponsor

The university sponsor will:

- a. serve as liaison with all university agencies supporting the event;
- b. coordinate arrangements for use of university facilities in accordance with the provisions of this Policy;
- c. assist with registration/arrival/check-in and/or departure/check-out of attendees;
- d. maintain responsibility for all record keeping associated with the event, in compliance with the state records retention schedules; and
- e. have a representative onsite or immediately available via telephone/internet conferencing throughout the event.

In accordance with University Policy 4815, Minors on Campus or Participating in University-Related Programs (<http://www.policies.vt.edu/4815.pdf>), the university sponsor for all events that involve minors must also:

- a. make university students, faculty, staff, and volunteers aware of the need to complete appropriate training;
- b. ensure criminal conviction checks are conducted on certain individuals who will be working with minors; and
- c. maintain a certification of compliance with the conviction check rules for non-university organizations and entities that operate programs or activities on campus.

2.2 Request to Use and Responsibility for Facility Usage

Use of a facility must be sponsored and scheduled (see Section 2.2, *Sponsorship and Request for Event Approval*) prior to the event.

The Vice President for Administration has delegated the general responsibility for scheduling of university facilities to specific departments ("university scheduling office"), and the Vice President's Office maintains a list of some of the more commonly requested event spaces (venues) (<http://www.vpas.vt.edu/programs/events-on-main-campus.html>). Contact the appropriate university scheduling office for any specific information concerning usage of that facility. University scheduling offices may establish and enforce a minimum number of days that a request for space/approval must be submitted prior to the requested event. If the space is not listed in the linked document, contact the Student Engagement and Campus Life Event Planning Office or the department/unit assigned to the desired area.



2.2.1 Responsibilities of University Scheduling Office

The university scheduling office will:

- a. register (<http://www.vpas.vt.edu/programs/events-on-main-campus.html>) any qualifying event that will occur in space(s) under their delegated authority (see Section 2.4, *Event Registration*); and
- b. execute a contract with or provide an event confirmation to the entity and university sponsor (if not the same) conducting the event.

2.3 Shared Responsibilities

The university sponsor and the university scheduling office will share responsibility for:

- a. briefing the event director/organizer regarding university policies, emergency procedures, and facilities layout; and
- b. ensuring accessibility in emergency situations.

The university sponsor and the university scheduling office, if different, should communicate with one another the actions taken to fulfill the above responsibilities.

2.4 Event Registration

The Registrar's Office, in collaboration with Student Engagement and Campus Life, will maintain a central event database (<http://www.vpas.vt.edu/programs/events-on-main-campus.html>) for the registration of all camps, sports camps, day camps, conferences, and workshops that are occurring on the main Virginia Tech campus in Blacksburg. The database will include the dates, times, locations, schedule and emergency contact numbers for all such events. The Registrar's Office is responsible for providing the Virginia Tech Police Department, the Office of Emergency Management, the Office of Insurance and Risk Management, Environmental Health and Safety, and other offices as required with access to the database.

All university scheduling offices are required to register in the database any qualifying events scheduled to occur in spaces for which they have delegated scheduling authority. Events commonly referred to as camps, conferences and workshops are considered qualifying events and include but are not limited to: special programs or series of programs or activities on a particular subject, area of interest, or project, typically involving larger numbers of attendees, and/or external (non-Virginia Tech students or faculty/staff) participants. Examples of events which do **not** typically require registration include: departmental meetings, cross-departmental workgroup meetings, regularly-scheduled university classes, one-on-one or small group liaison meetings with external stakeholders, or Board of Visitors and Foundation/Alumni Board meetings. *Note: If an event would not typically meet the registration requirement but may have security, safety, or other special concerns, please contact the Student Engagement and Campus Life Event Planning Office for guidance.*

Failure to comply with the registration requirement or reporting of false information related to the registration requirements may result in loss of event scheduling privileges for space(s) by the scheduling office and/or loss of future facilities use privileges by the external group or university sponsor.



2.5 Major Venues and Major Entertainment Events

2.5.1 Major Venues

Major Venues include:

- Burruss Hall Auditorium
- Cassell Coliseum
- GLC Auditorium and Multi-Purpose Room
- Johnston Student Center
- Lane Stadium
- Outdoor Public Spaces
- Rector Field House
- Squires Student Center
- War Memorial Gym

2.5.2 Major Entertainment Events

Major Entertainment sponsored by officially listed student groups and/or held in a Major Venue is regulated by University Policy 8215, Major Entertainment Sponsorship (<http://www.policies.vt.edu/8215.pdf>). Major Entertainment is defined as any event for which there are contracted performers AND which takes place in a Major Venue. University Policy 8215 does not apply to any event sponsored by a university department at locations other than Major Venues, or to any events held at the Moss Arts Center or the Inn at Virginia Tech.

2.6 Charges for Use of University Facilities

Actual rate schedules are developed by the Controller's Office and reviewed by the Office of Budget and Financial Planning in consultation with the unit responsible for the facility used. Please contact the scheduling office for each facility to obtain the most current rate information.

For camps, conferences, and workshops sponsored by Conference and Guest Services or the Student Engagement and Campus Life Event Planning Office, an appropriate per-person administrative fee may be charged.

2.7 General Rules for Events and Use of University Facilities

The following are rules for the use of university facilities and any event held on campus. The university reserves the right to deny the activity or event if the requirements of this section are not met within the specified timeframe(s).

2.7.1 Safety, Security and Health

1. Virginia Tech sponsors or hosts numerous programs, events, and activities, and allows its facilities to be used for programs, events, and activities. In accordance with University Policy 5615, University Safety and Security (<http://www.policies.vt.edu/5615.pdf>), the event planners (university scheduling office and university sponsor) are responsible for coordinating with the appropriate university offices (e.g., Virginia Tech Police Department, Office of Emergency Management, Office of Insurance and Risk Management) to ensure that appropriate arrangements are made for event security, emergency planning, and liability. The university departments listed below may establish and enforce deadlines by which the event planners must inform their offices and/or comply with certain requirements in order for the event(s) to be approved.



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- a. The Virginia Tech Police Department (VTPD) is responsible for determining the appropriate security for events.
 - i. The department maintains a website (<http://police.vt.edu/vtpd-services/event-security.html>) that describes the types of events/activities that may require security and lists appropriate timelines for planning security services. University sponsors are expected to be sensitive to the need for security in unusual circumstances and should consult with the VTPD about security needs if the nature of the event suggests a possible need for security.
 - ii. Should it be determined that security is required for the event, the VTPD will provide or arrange for appropriate security. Utilization of security agencies outside of the VTPD is prohibited without the written authorization of the Chief of Police and Director of Security or designee. The VTPD reserves the right to establish and manage competitively awarded contract(s) for security services, and to require that event sponsors use an approved, contracted company for security services.
 - iii. Any additional costs for security must be paid by the organization sponsoring the event and must be paid prior to the event.
 - iv. Any exceptions to these standards must be approved by the Chief of Police and Director of Security or designee.
 - b. The university scheduling office is responsible for notifying the Office of Emergency Management (OEM) of events occurring in their facility/space. Should it be determined that additional emergency management preparedness is required, OEM will notify the university sponsor. OEM will assist the event sponsor in developing event preparedness plans as necessary. Event sponsors shall not proceed with an event prior to complying fully with all OEM requirements.
 - c. Trained Crowd Managers must be provided for any facility or event where more than 1,000 persons congregate. Additional information is available through Environmental Health and Safety (EHS) (<http://www.ehss.vt.edu/>).
 - d. The Office of Insurance and Risk Management provides guidance related to university insurance requirements, planning, and documentation, as well as assistance with certificates of insurance for events. All university sponsors are required to provide a Certificate of Insurance verifying appropriate coverage for their program. Additional information may be obtained at <http://risk.controller.vt.edu/vi/campus.html>.
2. Special permitting requirements:
- a. Temporary Facilities, Tents and Stages must be constructed and managed in accordance with University Policy 5406, Requirements for Temporary Facilities/Tents/Stages (<http://www.policies.vt.edu/5406.pdf>). An application (<http://facilities.vt.edu/permits-inspections/building-code-compliance/forms.html>) must be submitted to the University Building Official.
 - b. Amusement devices, generators, and outdoor lighting equipment may require special permitting and/or inspection from the University Building Official.
 - c. An open burn permit is required for outdoor fires on Virginia Tech property, including campfires, bonfires, fire bowls, other recreational type fires, and Prescribed Burns. An application must be submitted to Environmental Health and Safety (EHS) (<http://www.ehss.vt.edu>).



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- d. A permit is required for Flame Effects (e.g., Fireworks) inside state-owned buildings and outdoors on state-owned property before a proximate audience. An application must be submitted to the State Fire Marshal's Office and a copy must be provided to EHS. See http://www.vafire.com/state_fire_marshal/fireworks.htm.
 - e. A Special Effects Permit must be filed in advance of any event where smoke, haze or fog machines will be used or gunpowder is to be used (as with stage firearms). See <http://www.ehss.vt.edu>. If a fire watch is required by EHS or if portions of the building fire alarm system must be impaired, the associated costs are the responsibility of the event sponsor.
3. Any department listed above may deny approval of an event or of a specific activity during an event if the university sponsor cannot meet the requirements set forth in the department's procedures (for example, if adequate security personnel cannot be present, the VTPD may deny approval for an event; likewise, if documentation of an open burn permit from the Fire Marshal is not provided, EHS may deny approval for an outdoor fire at an event).
 - a. Appeals of any department's decision will be reviewed by the department head (or the department head's supervisor if the department head made the decision).
 - b. If necessary, the Vice President responsible for the department will serve as the final arbiter.
 4. Users of the facilities must comply with all applicable health and safety regulations.
 5. Special policies apply to any event on campus involving non-student participants under the age of 18 ("minors"). See University Policy 4815, Minors on Campus or Participating in University-Related Programs (<http://www.policies.vt.edu/4815>), for further information.
 6. The possession and use of alcoholic beverages is regulated by University Policy 1015, Alcohol Policy (<http://www.policies.vt.edu/1015>).
 7. Smoking at events is governed by University Policy 1010, Policy on Smoking (<http://www.policies.vt.edu/1010.pdf>).
 8. In accordance with University Policy 4305, Policy on Authorized Closings (<http://www.policies.vt.edu/4305.pdf>), it is not the university's practice to make a centralized decision about cancellation of events *on weekends or holidays when there are no classes and administrative offices are closed*. If inclement weather, a natural disaster, or safety/security concerns occur on weekends or holidays, each event sponsor has the responsibility for canceling or delaying the event and communicating same to the respective constituency. Additionally, under these circumstances, university scheduling offices reserve the right to cancel or delay events in venues/facilities under their management.

2.7.2 Amplification

1. Amplification is not allowed in and around academic buildings and campus public spaces between 8 a.m. and 5 p.m. Monday through Friday. Amplification in and around academic buildings and in campus public spaces may only be used between 5 p.m. and 10:00 p.m. Monday through Friday, between 10 a.m. and 10 p.m. Saturday, and between noon and 10:00 p.m. Sunday.
2. Amplification in or around residence halls is not permitted during the week days or Sunday. Events utilizing amplification in and around residence halls shall normally be restricted to 11 a.m. to 10 p.m. on Saturdays and from 5 p.m. to 10 p.m. on Fridays.
3. Additional permissions or restrictions for amplification may be determined by the approving office for specified locations based on other activities occurring at the same time in or near the event for which amplification has been requested.



2.7.3 Sales, Solicitation, Fund-Raising and Advertising Activities

1. All sales (i.e., food, T-shirts, posters, etc.) must be sponsored by a university organization and are regulated by University Policy 5215, Sales, Solicitation and Advertising on Campus (<http://www.policies.vt.edu/5215.pdf>).
2. Notice of university events may be posted in accordance with University Policy 5215, Sales, Solicitation, and Advertising on Campus (<http://www.policies.vt.edu/5215.pdf>).

2.7.4 Vehicles and Aviation

1. Vehicles must remain on roadways and park only where legally permitted. Emergency vehicles and some service vehicles are exempt from this provision as necessary for the performance of the driver's job/volunteer duties.
2. Special activities involving vehicles (such as vehicular shows/displays) on plazas, sidewalks, and walkways must be situated such as not to impede or block the normal flow of traffic.
3. Refer to the annually revised *Parking and Traffic Regulations* (www.parking.vt.edu), as well as University Policies 5005, Bicycle and Personal Transportation Devices (www.policies.vt.edu/5005.pdf) and 5501, Electric/Gas Utility-type Vehicles (www.policies.vt.edu/5501.pdf), for additional requirements related to transportation equipment.
4. All aircraft, including helicopters and hot air balloons, must use the Virginia Tech Montgomery Executive Airport for landing and take-off; **no** campus sites are approved for this purpose. In the event of an emergency, VTPD, Virginia State Police, and other first response/rescue aircraft are exempt from this provision.

2.7.5 Animals

1. Animals are not permitted in university buildings except for:
 - a. teaching;
 - b. research;
 - c. medical evaluation/treatment at the Veterinary Teaching Hospital;
 - d. service animals in public locations and previously approved non-public areas;
 - e. assistance/support animals in previously approved instances;
 - f. Corps of Cadets live animal mascot program ("Growley"), subject to appropriate approvals from the Commandant and Housing and Residence Life; and
 - g. animals residing with Residential Learning Coordinators and/or Faculty Principals in their private residences in campus residence halls, subject to appropriate approvals and guidelines published by Housing and Residence Life.
2. Service and assistance/support animals must be attended by and under the control of the owner in public areas.
3. The Services for Students with Disabilities Office can assist **students** with a determination on the presence of service animals in non-public areas and the presence of assistance/support animals in on-campus housing (see Virginia Tech Guidelines on Service Animals and Assistance/Support Animals (http://ssd.vt.edu/content/dam/ssd_vt_edu/assets/docs/VirginiaTechGuidelinesonServiceAnimalsandAssistanceSupportAnimals.pdf)).
4. University ADA Services can assist **university employees** with disabilities with a determination on the presence of service animals and assistance/support animals on campus in non-public areas.
5. Any exceptions to the restrictions on non-service and non-assistance/support animals in campus buildings must be approved by the Dean(s) or Vice President(s) responsible for the department(s) housed in the proposed event location.



2.7.6 General Provisions

1. Scheduling offices may enact specific procedures and timeframes for arranging support services necessary to accommodate specific activities. University sponsors should check with the scheduling offices as far in advance as possible to ensure they follow appropriate procedures and allow enough time to complete necessary requirements.
2. Events in public spaces may not be continuous or repetitive in nature. Any activity is limited to 3 consecutive days to allow other organizations to have at least 2 consecutive days in the same week. This does not apply to banner displays or A-Frame displays.
3. All trash and equipment utilized during the activity must be removed. Sponsoring organizations will be charged actual costs of repair and restoration caused by events or activities.
4. In accordance with the Code of Virginia, the release of more than 50 balloons within a one-hour period is prohibited. The provisions do not apply to balloons released for scientific or meteorological purposes.
5. Overnight utilization of university facilities (other than residence halls) by groups or individuals will not be permitted without prior authorization from the scheduling office and the VTPD.
6. Use of specific site locations, such as the Drillfield, dining halls, residence halls, academic buildings, Library Plaza, War Memorial Chapel, Moss Arts Center, Recreational Sports facilities, and Athletic Department facilities, will be in accordance with guidelines for those areas. The Office of the Vice President for Administration maintains a list of additional guidelines (<http://www.vpas.vt.edu/programs/events-on-main-campus.html>) for the use of the most commonly scheduled facilities. University sponsors are expected to check with each university scheduling office for any additional specific guidelines that may be in place for the reserved facility/facilities.

2.8 Specific Rules for Use of University Facilities by Faculty and Staff

Faculty and staff are not allowed to use university resources for private gain. However, under the following conditions, the compensated use of specialized facilities or equipment will be allowed in support of approved consulting activities. Please refer to the Faculty Handbook (http://provost.vt.edu/faculty_affairs/faculty_handbook.html) and University Policies 5420, Policy on Facility Use Agreements (<http://www.policies.vt.edu/5420.pdf>), and 13010, Individual Conflicts of Interest and Commitment (<http://www.policies.vt.edu/13010.pdf>), for further clarification.

1. The facility or equipment must have a charge rate, established by the Controller's Office, which reflects all direct and indirect costs associated with the use of the facility or equipment and applies to use by parties outside the university. The charge rate will be applied to the actual use.
2. A Request to Engage in External Activity and Disclosure of Conflict of Interest/Commitment Form (13010, <http://www.research.vt.edu/conflict-of-interest/forms>) must be filed, specifying the facility or equipment to be used and estimating, in time or charges, the extent of the proposed use.
3. The director or head or chair of the department responsible for the facility or equipment will verify, on the 13010 form, that the proposed use will not interfere with, or have priority over, anticipated university use of the facility or equipment.
4. The faculty or staff member's department head or chair and dean or vice president (and the Provost, when appropriate) in the approval of the 13010 form, will determine that the consultation is of substantial professional merit and presents no conflict of interest in the use of the facilities or equipment. Particular care



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will be given to the relationship of the consultation with current or potential grants or contracts and to the possibility of unfair competition with local firms and businesses.

5. If an employee uses equipment of a specialized service center, the employee will be charged the "commercial" or "consulting" rate for the center as determined by the Controller's Office. The charges will be billed to the employee at the rate established for the service based on actual use. The deposit for the charges will be credited to the service center account that has been established by the Controller's Office.

If the employee uses facilities such as those of the Virginia Tech Athletic Department, Moss Arts Center, or Student Engagement and Campus Life venues (including Squires Student Center, G. Burke Johnston Student Center, Burruss Hall Auditorium, the Graduate Life Center, and War Memorial Chapel), the employee will be charged at the rate established by the Controller's Office for such use. The deposit will be made to the appropriate department's account based on actual use charges.

For facilities other than specialized service centers or other facilities for which a charge rate has been determined, the use of the facilities must be authorized and reimbursed at a rate determined by the joint collaboration of the employee's department head and Controller's Office.

6. The use of library facilities in connection with consulting is exempt from the above regulations, since those facilities are available to the public.

3.0 Procedures

3.1 Residential Camps, Conferences and Workshops

Please reference the procedures in University Policy 5010, Residential Camps, Conferences and Workshops (<http://www.policies.vt.edu/5010.pdf>).

3.2 Non-Residential Events

Non-university affiliated groups desiring to host a day-only event at any university or university-affiliated facility, *other than the Inn at Virginia Tech*, must be sponsored by an officially listed student organization, university department, or university-affiliated organization. The event sponsor is responsible for assisting the group with the responsibilities outlined in section 2.2. Housing and Residence Life Conference and Guest Services and the Student Engagement and Campus Life Event Planning Office sponsor certain external groups through contractual arrangements. There is no obligation for a university department or student organization to provide sponsorship of any event.

3.3 Events at the Inn at Virginia Tech

Groups or departments desiring to host an event at the Inn at Virginia Tech should contact the reservation desk or the Groups and Meetings staff at the Inn directly. More information is available on the hotel and conference center's website: <http://www.innatvirginiatech.com/>.

4.0 Definitions

Advertising/Advertisement: includes posting of signs or banners, the distribution of literature, or any other form of public notice designed to sell goods or services, or publicize an event.



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Assistance/Support Animal: Any animal necessary to afford a person with a disability an equal opportunity to use and enjoy university housing. The animal may provide physical assistance, emotional support, calming, stability and other kinds of assistance, but does not perform work or tasks that would qualify them as **Service Animals** under the Americans with Disabilities Act (“ADA”) regulations.

Camp/Conference/Workshop: includes, but not limited to, special programs or series of programs or activities on a particular subject, area of interest, or project, involving larger numbers of attendees, and/or external (non-Virginia Tech students or faculty/staff) participants. Does **not** typically include: Departmental meetings, cross-departmental workgroup meetings, regularly-scheduled university classes, one-on-one or small group liaison meetings with external stakeholders, or Board of Visitors and Foundation/Alumni Board meetings. *Note: If an event sponsored by a department or university organization may have security, safety, or other special concerns, but does not meet the criteria described above, please contact the Student Engagement and Campus Life Event Planning Office for guidance.*

Faculty and Staff Associations: any university organization whose membership is limited to the employees of the university (such as faculty associations, staff associations, senates, etc.) with voluntary membership that provides programs and services of general benefit to employees within the context of their employment.

Major Entertainment: any event for which there are contracted performers AND which takes place in a Major Venue (listed in Section 2.6.1).

Members of the University Community: currently enrolled students and university departments’ faculty and staff members.

Minor: a child under the age of eighteen (18) who is not enrolled or accepted for enrollment at the university.

Public Space Location or Public Area: all lobbies, foyers, and atriums in student centers and university-owned or leased academic facilities; the Drillfield; and all other university-owned or leased outdoor campus space, except those specifically managed by Athletics, Recreational Sports, the Graduate Life Center, and the Moss Arts Center.

Officially listed student organizations (as defined by University Policy 8010) include: University Student Life Programs (USLP), University Chartered Student Organizations (UCSO), Registered Student Organizations (RSO), and Extended Campus Student Organizations (ECSO).

Residential Camp/Conference/Workshop: a camp, conference or workshop where attendees will stay overnight in university or university-affiliated facilities, *other than The Inn at Virginia Tech.*

Sale: the activity of offering or exchanging products or services in return for monies, goods, or other services. This includes raffles or auctions.

Service Animal: Any dog (or under particular circumstances a miniature horse) that meets the definition of “Service Animal” under the Americans with Disabilities Act (“ADA”) regulations, and that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed must be directly related to the individual’s disability.



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Solicitation: the act of requesting money or funds for any reason, seeking agreement to pay, taking subscriptions, selling merchandise or services, seeking contributions of goods or services, offering materials or privileges to others via promotion or advertisement, or soliciting signatures for petitions.

State Employee Association: any non-profit organization with voluntary membership that provides programs and services of general benefit to state employees within the context of their employment. An association that is statewide and open to all employees who elect to voluntarily participate shall be limited to those associations on the State Comptroller's State Employees' association list.

Student: any individual currently enrolled and registered to attend Virginia Tech

Trained Crowd Managers: persons who have been trained in crowd management procedures and other duties appropriate to the event (including pre-event safety inspections and use of portable fire extinguishers as appropriate); may include contracted event security staff and/or VTPD officers. Training and more information can be obtained through Environmental Health and Safety.

University-Affiliated Organizations: are comprised of faculty and/or staff and are administered through a department to complement the departmental mission.

University Facilities: any location, either permanent or temporary, owned or leased by Virginia Tech, and includes satellite campuses and offices. This includes, but is not limited to, the buildings, grounds, and the surrounding perimeters, including the parking lots, field locations, classrooms, alternate work or class locations.

University Scheduling Office: a Virginia Tech office/department that has been delegated (by the Vice President for Administration) the general responsibility for scheduling specific university space(s).

University Sponsor: an officially listed student organization, a university department, or a university-affiliated organization who accepts responsibility for complying with the requirements of section 2.2.2 for a specific event.

5.0 References

Events on Main Campus (Blacksburg) Resource Website

<http://www.vpas.vt.edu/programs/events-on-main-campus.html>

University Policy 1005, Health & Safety Policy

<http://www.policies.vt.edu/1005.pdf>

University Policy 1010, Policy on Smoking

<http://www.policies.vt.edu/1010.pdf>

University Policy 1015, Alcohol Policy

<http://www.policies.vt.edu/1015.pdf>

University Policy 3006, Catering Policy

<http://www.policies.vt.edu/3006.pdf>



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University Policy 4305, Policy on Authorized Closings

<http://www.policies.vt.edu/4305.pdf>

University Policy 4815, Minors on Campus or Participating in University-Related Programs

<http://www.policies.vt.edu/4815.pdf>

University Policy 5005, Bicycle and Personal Transportation Devices

<http://www.policies.vt.edu/5005.pdf>

University Policy 5010, Residential Camps, Conferences and Workshops

<http://www.policies.vt.edu/5010.pdf>

University Policy 5215, Sales, Solicitation, and Advertising on Campus

<http://www.policies.vt.edu/5215.pdf>

University Policy 5420, Policy on Facility Use Agreements

<http://www.policies.vt.edu/5420.pdf>

University Policy 5501, Electric/Gas Utility-type Vehicles

<http://www.policies.vt.edu/5501.pdf>

University Policy 5615, University Safety and Security

<http://www.policies.vt.edu/5615.pdf>

University Policy 5616, Campus and Workplace Violence Prevention

<http://www.policies.vt.edu/5616.pdf>

University Policy 8010, Classification of Student Organizations

<http://www.policies.vt.edu/8010.pdf>

[Official list of student organizations: <https://gobblerconnect.vt.edu/organizations>]

University Policy 8215, Major Entertainment Sponsorship

<http://www.policies.vt.edu/8215.pdf>

University Policy 13010, Individual Conflicts of Interest and Commitment

<http://www.policies.vt.edu/13010.pdf>

Faculty Handbook

<http://www.provost.vt.edu/facultyhandbooks.php>

Hokie Handbook: Student Code of Conduct and University Policies for Student Life

www.hokiehandbook.vt.edu

Parking and Traffic Regulations, Virginia Tech Parking Services

www.parking.vt.edu



State Records Retention Schedule

<https://www.lib.vt.edu/urig/retention.html>

Virginia Tech Guidelines on Service Animals and Assistance/Support Animals

http://ssd.vt.edu/content/dam/ssd_vt_edu/assets/docs/VirginiaTechGuidelinesonServiceAnimalsandAssistanceSupportAnimals.pdf

6.0 Approval and Revisions

Update February 2, 2006 to title in Sections 2.4 and 2.9.11 from “Donaldson Brown” to “The Inn at Virginia Tech and Skelton Conference Center.”

- Revision 8
Section 2.5.1: Added entire section to address responsibility for event security.
Approved February 28, 2007 by Executive Vice President and Chief Operating Officer, James A. Hyatt.
- Revision 9
May 12, 2008: Updates to position titles and/or responsibilities due to university reorganization.
- Revision 10
Revised Section 2.9.12 for consistency with the new Policy 5005, Bicycle and Personal Transportation Devices.
Approved June 5, 2009 by Vice President for Administration, Sherwood G. Wilson.
- Revision 11
 - Significant revision to combine multiple sections, update to match other existing Policies, update scheduling authorities, add appropriate references and definitions, and streamline information.
 - Renamed “Student Centers and Activities” to “Student Engagement and Campus Life” throughout document.
 - Updates to Section 2.6.1 - Safety, Security and Health consolidated security information from Policy 8220 - *Security Requirements for Events Sponsored by Student Organizations*, and with concurrence from the Vice President for Student Affairs, eliminated Policy 8220.Approved July 30, 2015 by Vice President for Administration, Sherwood G. Wilson.
- Revision 12
 - Revised Sections 2.2, 2.3 and 2.4 to clearly define the responsibilities of university sponsors and scheduling offices.
 - Added Section 2.5, *Event Registration*, to define responsibilities associated with, and require use of, the central event registration system.
 - Added Section 3, *Procedures*, to provide basic instructions for non-university entities.
 - Replaced sections/language with reference documents/links for lists of:
 - university scheduling offices and timelines for commonly used venues;
 - venue specific guidelines for commonly used spaces; and
 - procedures, guidelines, and timelines for safety and security approvals.
 - Technical corrections to form names and website links.

Approved January 31, 2017 by Vice President for Administration, Sherwood G. Wilson.



Schedule C

Virginia Polytechnic Institute and State University

Sales, Solicitation and Advertising on Campus

No. 5215

Policy Effective Date:
7/3/2012

Last Revision Date:
8/25/2020

Policy Owner:
Chris Kiwus
Charlie Phlegar

Policy Author:
(Contact Person)
Jon Clark Teglas
Tracy Vosburgh

Affected Parties:
Undergraduate
Graduate
Faculty
Staff
Other

1.0 Purpose
2.0 Policy
3.0 Procedures
4.0 Definitions
5.0 References
6.0 Approval and Revisions

1.0 Purpose

This policy outlines the guidelines relating to sales, solicitation, and advertising on the Virginia Tech campus and in university facilities.

In accordance with University Policy 5000, University Facilities Usage and Event Approval, (<http://www.policies.vt.edu/5000.pdf>), university facilities are intended for the use of its students, faculty, staff, and invited guests participating in university-approved programs or activities. In the interest of providing a productive living, learning, and working environment for students and employees and protecting the institution's authorized business activities and interests, the university has established policies and procedures for the approval of commercial, fund-raising, informational, and advertising activities. Decisions regarding requests will take into account overall campus safety and security, any special circumstances relating to university activities, and the impact such activity may have on the university.

This policy applies to all university departments, university-affiliated organizations (student or non-student), commercial vendors, charitable organizations, faculty, staff, students, and third parties.

1.1 Policy Review

In spring 2012, University Policies 5205, Sales and Solicitation on Campus, and 5210, Advertising on Campus, were reviewed. The policies were reformatted into one policy to more concisely state the guidelines relating to sales, solicitation, and advertising on the Virginia Tech campus and in university facilities.

2.0 Policy

2.1 Sales and Solicitation

The sale or solicitation of any products, goods, food, beverages, or services on the campus requires prior written authorization and must be conducted in accordance with university policy and the regulations established by the authorizing office. See University Policy 5000, University Facilities Usage and Event Approval, (<http://www.policies.vt.edu/5000.pdf>), for authorizing officials. Informational activities and solicitations of any type (e.g., donations, petition for signatures) also require prior written authorization. In most cases, per University Policy 5000, confirmation to reserve the location will also serve as event approval; if further event approval is required, the reserving authority shall communicate further requirements to the event sponsor in writing.



All commercial, fund-raising, and informational activities require sponsorship by a university-affiliated organization. Activities should be occasional, non-continuous and specific in purpose and may be approved only for designated areas on campus. All proceeds from fund-raising activities are to be returned to the organization's treasury for use for organization projects or activities or for the organization's charitable activities.

It is the responsibility of the sponsoring organization to obtain the appropriate approvals outlined in this policy. It is the responsibility of the designated authorizing offices to ensure that appropriate university policies are followed before approving requests.

Salespersons may not engage in misrepresentation or fraudulent trade practices nor other activities that are illegal or in violation of state or federal laws or university policies. Salespersons and any company involved will be held responsible if university policies are violated. Such violations may result in the sponsoring organization and/or the individual or company losing the privilege of conducting future sales on campus.

For purposes of regulation, distinctions are made among "commercial," "fund-raising," "individual," and "informational" sales and solicitation activities.

2.1.1 Commercial Activity

Commercial activity is defined as any sale, solicitation, or promotion/marketing that results in securing a **profit or benefit for a non-university group, organization, or business**. This includes activities of university-affiliated organizations that:

- use vendors for the actual selling;
- are paid or receive any kind of sales commission (including percentage of sales, flat fee, or per unit sold fee);
- sell for the benefit of an external group, organization, or business (unless it is solely for the benefit of a nonprofit organization);
- provide product promotion or marketing for an external group, organization, or business even if no products are sold; **and/or**
- conduct employee recruitment activities for external employers, unless there is a university-approved collaboration agreement (except Career and Professional Development).

Commercial activities will generally be prohibited unless:

- the university or a university-affiliated organization does not offer the service or goods, **and**
- it is determined that the activity is either necessary to the purpose of the university, **or**
- it provides a direct benefit to the university or the sponsoring university-affiliated organization.

The benefit to the sponsoring university-affiliated organization must be included in the request for approval. Provisions for proceeds from any sales must also be included in the request for approval. However, such activities may not be approved or may be approved with restrictions by the authorizing office if they are determined to compete with or have a significantly adverse effect on the ongoing operations of the business activities of the university or university-related corporations.

Uninvited commercial activities, which include commercial presentations, door-to-door, and other commercial solicitations, and the making of sales agreements, are prohibited on Virginia Tech property, including but not limited to students' private rooms and the common areas of all residence and dining halls.



Sales to members of campus organizations are commercial activities but may be permitted during meetings of the organization without prior approval provided the salesperson is invited to the meeting for that purpose in advance by a member of the organization. No announcement concerning the sale may be posted or advertised beyond the membership of the organization.

Applicable fees for facility use will be charged for commercial activities in accordance with Policy 5000, University Facilities Usage and Event Approval, (<http://www.policies.vt.edu/5000.pdf>).

2.1.2 Fund-Raising Activities

Fund-raising is defined as any activity which involves the solicitation or collection of monies that is specific in purpose, not for individual gain, non-recurring, **and for the sole benefit of a specific, sponsored nonprofit group or cause or the self-generated fund-raising efforts of an officially listed student organization.** Types of fund-raising activities may include: the selling of goods or services; the selling of tickets and/or charging of admission to public activities or events; and the solicitation of monetary contributions, goods, or services.

Fund-raising activities conducted by university affiliated organizations may be approved on a limited basis with regard to time, place, safety, and the scope of the activity. Fund-raising activities **may** be determined to be commercial activities if they are regular and recurring.

Private fund-raising conducted on behalf of the university and/or groups affiliated with Virginia Tech is coordinated through University Advancement (see Policy 12100), with the exception of normal student fund-raising activities. However, any fund-raising activities by students involving direct mail solicitation of alumni and friends of Virginia Tech and/or requests for gifts of \$1,000 or greater must be approved by University Advancement in accordance with University Policy 12100, Policy on Coordination of Private Fundraising, (<http://www.policies.vt.edu/12100.pdf>).

Other permitted activities which are not considered “fund-raising” include: (a) the collection of dues or membership fees from the members of an officially listed student organization; and (b) collection of voluntary contributions from individuals for departmental social activities or gifts.

Officially listed student organizations are encouraged to work with Virginia Tech Services, Inc. to procure goods for fundraisers. This university-related corporation has extensive on-campus and community-wide sales experience and can provide advice and guidance on how to achieve a successful event within the campus environment.

2.1.3 Informational Activity

Informational activity is defined as the distribution of literature and/or petitioning for signatures where no fee is involved nor donations or contributions sought.

Informational activities may be permitted if they are sponsored by a university-affiliated organization. Such activities require prior approval by the designated university scheduling office and are subject to university policies and the reasonable guidelines of the authorizing official.

2.1.4 Individual Activity

Individuals, including employees, are prohibited from engaging in commercial activities on university property, including the following: (a) the solicitation or sale of products, services or personal property; (b) the solicitation of orders for such products or services; or (c) the distribution of catalogs and literature promoting products or services by individuals, including university employees.



University email, departmental mailboxes and bulletin boards are not to be used to distribute commercial sales information or catalogs.

2.2 Advertising

Students and student organizations; university-affiliated individuals, organizations, and departments; and university-related corporations may distribute literature, post signs, publicize, and advertise on campus. Advertising for commercial purposes by businesses, organizations, entities, or individuals not associated with the university is prohibited.

Failure to comply with these policies may subject the responsible organization and/or individuals to fines for property damage and/or clean-up costs.

Signs erected by contractors at construction sites on campus are not considered advertisements and are permissible.

2.2.1 Specific Provisions

- Advertisements, brochures, and portable signs for commercial activities may not be posted or displayed on university property.
- When the name of a product or non-university-affiliated entity appears on posted literature, the primary purpose of the poster must be a sponsorship to recognize support of the activity, event, or student organization, and not the commercial advancement of the non-university entity or the product.
- The promotion for sale or consumption of alcoholic beverages on campus or advertising of alcoholic beverages in university student publications may be prohibited or regulated by state or federal laws and/or the specific regulations developed by the Alcoholic Beverage Control Board.
- The university mail service, including on-campus mail, is for official university correspondence only. It should not be used for personal correspondence, advertising, or mass mailing.
- The university's computers, internal networks, and national networks are not to be used to distribute personal advertisements or information that will result in personal gain. Such use violates university policy and the laws of the Commonwealth of Virginia. Violations will be dealt with through University Policy 7000, Acceptable Use and Administration of Computer and Communication Systems, (<http://www.policies.vt.edu/7000.pdf>); Acceptable Use Guidelines; state Standards of Conduct; or University Policies for Student Life.
- Student organization activities involving the sale of products with the name, insignia, or trademark(s) of Virginia Tech must be approved by Licensing & Trademarks prior to the date of the activity. Such items may also require the license authorization of Virginia Tech and the payment of the specified royalty fee. University Relations is responsible for overseeing and administering policies on university trademarks, logos and insignias. Additional information and related procedures can be found at: https://brand.vt.edu/content/brand_vt_edu/en/licensing.html

3.0 Procedures

The total number of people or organizations conducting sales, solicitation, and/or advertising activities in one place on campus will be limited. Preference for assignment of space will take into account the number of previous approvals for the group or activity, status as a major campus-wide activity, and time constraints of events that may be advertised. Priority will be given to activities conducted by students over those conducted by students with vendors.



These activities will also be limited in regards to time, place and manner of the proposed activity. Violation of any of these pre-approved agreements may result in permission for the activity being revoked.

3.1 Sales and Solicitation

The location and time of any commercial, fund-raising, or informational activity occurring on or in university facilities must receive prior approval. The request must be submitted to the office charged with approving and scheduling events in that facility or area.

- See University Policy 5000, University Facilities Usage and Event Approval, (<http://www.policies.vt.edu/5000.pdf>), for authorizing officials. All authorizing officials should collaborate with Virginia Tech Services, Inc. to provide students, student organizations, and university affiliated individuals, organizations, and departments with advice and guidance on sales and solicitation activities on campus.
- Requests must be submitted no later than 10 calendar days prior to the planned date of the solicitation. Note that some university offices may require an earlier request date to schedule the use of certain locations.
- Full details must be submitted, including the times, dates and locations requested; an explanation of the products or services that will be made available; benefit to the sponsoring university-affiliated organization; provisions for proceeds from sales or fund-raising activities; whether or not on-campus delivery is anticipated; and any other information that may be needed by the authorizing official.

Commercial suppliers who have an established relationship with the university for the sale of products and services will coordinate campus visits, communications and activities with either the Procurement Department or the Information Technologies Procurement and Licensing Solutions (ITPALS), as appropriate. Commercial suppliers who do not have established relationships with the university must either be invited to campus by a sponsoring university-affiliated organization, a university-related corporation, or by the Procurement or ITPALS offices.

It is university policy that the university electronic mail systems and mail services are for official university business only. They should not be used for commercial correspondence, advertising, soliciting, or mass mailing. University departments and campus organizations may submit event postings or other information to Virginia Tech News (www.vtnews.vt.edu). Departmental mailboxes and bulletin boards are not to be used to distribute commercial sales information or catalogs.

3.1.1 Deliveries and Invited Guests on Campus

Food may be delivered to residence halls, academic/administrative offices, and outdoor locations by vendors. Such deliveries are permitted only in response to prepaid orders, or to specific orders by resident students and employees. Housing and Residence Life designates for residence halls the hours during which deliveries may occur, the doors to be used, and the areas within residence halls where deliveries must take place.

Personal deliveries to employees such as dry cleaning and personal parcel deliveries are discouraged. Such activity could be disruptive to the workplace, and there is no liability coverage for stolen or damaged merchandise. The decision on whether to allow occasional, non-disruptive deliveries will be left to the discretion of the manager of the respective units. In making those determinations, managers should consider where items will be received and the space required for holding, the safety of those parcels, and confusion about a delivered item that may be opened by mistake.



3.2 Advertising

- The appropriate administrative official must approve the event, sale, or product prior to advertisement. Distribution of materials may only occur in the approved location(s).
 - University departments, faculty and staff should review the university brand website (<https://brand.vt.edu/>) for guidance and contact vtbrand@vt.edu for any questions related to digital advertising for university-sponsored programs or events.
 - Permission must be obtained in writing from the Athletics Department when advertising is to occur in athletic facilities.
 - Permission must be obtained in writing from the Department of Recreational Sports when advertising is to occur in recreational facilities.
 - Permission must be obtained in writing from Student Engagement and Campus Life when advertising is to occur in or around student center facilities and public space locations on campus (see additional details regarding reservations for these locations in University Policy 5000, University Facilities Usage and Event Approval, (<http://www.policies.vt.edu/5000.pdf>)).
 - Permission must be obtained in writing from Housing and Residence Life when advertising is to occur inside the residence halls.
 - Permission must be obtained in writing from Dining Services when advertising is to occur inside the dining halls.
 - Permission must be obtained in writing from Virginia Tech Services, Inc. when advertising is to occur in or around campus bookstores or convenience stores.
 - Advertising, including distribution of advertising materials, is generally not allowed in classrooms or facilities comprised predominantly of classrooms. Permission must be obtained in writing from the Registrar's Office when advertising is to occur in classrooms and other locations not specified above.
- The collection and distribution of literature, when necessary, will be limited to designated central locations.
- Slipping literature under doors and/or on door knobs inside residence halls is not permitted.
- The advertisement, publicity, sign, banner, flier, or literature must be appropriate for its intended purpose and comply with the law and university policies.
- The name of the sponsoring organization, meeting or event date, time, and location must be printed in English on the poster or notice. Any other writing on the poster that is not in English must be translated into English on the front of the poster, or a translation must be on file with the scheduling office(s) for the space(s) where it will be posted.

3.2.1 Distribution of Flyers

- Flyers may not be placed on windshields of vehicles parked on university-owned or leased property or parked in any university parking lot.
- Distribution of advertisements or literature must be accomplished in such a manner as to avoid litter or disruption.



3.2.2 Posted Materials

- Posted advertisements may be placed on general-purpose bulletin boards, A-frame boards, or wire signs designated for that purpose. Student Engagement and Campus Life Event Services must approve A-frame board or wire sign placement.
- Advertisements are not to be placed on interior and exterior doors, interior and exterior walls, windows, fences, directional and informational signs, lamp posts, light poles, barricades, trees, hydrants, and any other location that is not designated as permissible in this policy.
- Markings on walkways, roadways, or other permanent structures on campus with chalk, paint, or any other material is prohibited.
- Any posted advertisements which have not received prior approval for display, or which must be removed in the event of an emergency, shall be removed and disposed of by Virginia Tech. Virginia Tech shall not be responsible for any costs associated with removed advertisements.
- Posted advertisements approved for display shall not be installed more than seven days prior to the designated event.
- Posted advertisements must be removed no later than 24 hours after the event or Virginia Tech shall remove and dispose of the advertisements.
- No posting of any type is permitted in classrooms.

3.2.2.1 Bulletin Boards

- Student organizations may post advertising on bulletin boards marked "General Purpose Bulletin Boards," which are identified throughout the campus and labeled as such for use by students and student organizations to advertise such activities and events.
 - Responsibility for allocation and policy compliance of these boards is placed in the Division of Student Affairs.
 - All general purpose bulletin boards will be cleared at the end of every semester.
 - No more than one poster or notice for the same advertised event may be placed on a bulletin board.
 - When posting announcements on general purpose bulletin boards, use the following guidelines:
 - Avoid placing posters on top of other posters.
 - Avoid posters larger than 11 inches by 17 inches.
 - Avoid having posters extend beyond the border of the bulletin board.
 - When posting personal notices, such as items for sale or ride needed, include the date the notice was posted. Personal notices must be removed within two weeks of their having been posted.
- Each department and college will continue to maintain its own bulletin boards for academic and professional purposes.
- Advertisements may not be placed on academic, resident advisors', or Residence Hall Federation bulletin boards unless prior permission is granted by the appropriate source of approval.



3.2.3 Banners

- Permission to Hang Banners
 - Permission to hang banners on certain academic buildings and student centers must be granted by the Student Engagement and Campus Life Event Services Office; these buildings include:
 - Squires Student Center
 - G. Burke Johnston Student Center
 - War Memorial Hall
 - Litton-Reaves Hall
 - Derring Hall
 - Pamplin Hall
 - Burruss Hall
 - Banners and signs are not permitted in any athletics facility, including Lane Stadium and Cassell Coliseum.
 - Banners are generally not permitted on Burruss Hall, with the exception of the official University Banner. Requests for any exceptions should be directed to University Relations.
 - The Assistant Vice President for Planning and University Architect must approve the siting of all other banners.
- The content and design, display dates, and locations of all banners on university buildings must be approved by University Relations. Additional information and procedures can be found at: <https://brand.vt.edu/>
- All banners containing university trademarks must be produced by licensed vendors.
- Banners must be removed from buildings within one business day following the event they advertised.

3.2.3.1 Light Post Banners

- Light post banners on campus are to be used to support university branding and to promote educational and cultural programs that align with the university mission.
- Banner content should have university-wide appeal.
- Banners may not be used for commercial advertising; advertising or promoting any political candidate, parties or issues; or identifying, advertising or promoting any religion. Banners must follow university brand guidelines (<https://brand.vt.edu/>).
- The Office of University Planning must approve the siting of all light post banner installations. Information on pre-approved banner locations can be found on the university brand center (<https://brand.vt.edu/>).
- University Relations must approve all light post banner designs and the reservation/location for specific designs prior to production and installation. Departments that want to request light post banners should email specific request information (i.e. location, dates, purpose) and draft designs to vtbrand@vt.edu.
- Facilities will manage light post banner installations and removals. Departments are responsible for requesting and funding installation and removal once they have obtained University Relations' approval of the design and location reservation. Departments that want to request installation and removal should email specific information (location, dates, department name, funding details) and a copy of University Relations' approval to vtrepair@vt.edu.



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- The requesting department will bear all costs associated with light post banner design, production, installation, and removal.
- All banners containing university trademarks must be produced by licensed vendors.
- Light post banners that become tattered, faded, or torn may be removed without notice to the requesting department. Banners may also be removed without notice from any posts that show stress from the banner installation.

3.2.5 Web Pages and Social Media

- University web sites should remain an information source free of commercial intervention; therefore, advertising on university web pages (those maintained on any university file server or use any domain or subdomain on vt.edu) is prohibited. The Senior Associate Vice President for University Relations may grant exceptions to this policy to auxiliary organizations provided that the following procedures are followed:
 - Advertisements must adhere to other aspects of this policy.
 - Alcohol, beer, and cigarette advertisements are prohibited.
 - Advertisements should not comprise more than 130 x 130 pixels of a screen area on a standard desktop monitor. On mobile devices, logos cannot exceed 320 x 50 pixels.
 - The name, logo, or logotype of a company or organization may be posted to indicate sponsorship/partnership with that company or organization.
 - If a logo from a sponsor/partner of the university is intended to be clickable, it can link only to a page that lists other sponsors and must remain on the vt.edu domain. A text link to a sponsor's website is acceptable and not prohibited from any web page. Links to a sponsor's external website should open in a new window.
 - An advertisement on a university web site should consist of text or graphics that have been paid for by a non-university organization or are in exchange for goods and services.
- The following examples do not constitute a web advertisement:
 - General interest links to commercial web sites that may be of interest to web viewers and that are available free of charge (e.g., search services, Town of Blacksburg home page, area weather links, etc.);
 - Subscription services or site licenses that the university pays for to gain access to a commercial service (e.g., CollegeNET, etc.);
 - Icons that link to social media networks (e.g., Facebook, Twitter, YouTube, etc.);
 - Information that relates to or supports the teaching, research, or service mission of the university, such as academic departmental conferences; or,
 - Listings of sponsors for a special event.
- The Virginia Tech news website (<http://www.vtnews.vt.edu/>), and its corresponding products (a daily employee and subscription e-mail and a weekly student e-mail) can be used by campus departments and organizations to share information or promote non-commercial events. Information submitted must be relevant to the university community and/or occurring on university property.
- The university's online event calendar (<http://www.calendar.vt.edu/>) lists campus activities and events that are sponsored by Virginia Tech students, faculty, or staff organizations or held on the Virginia Tech campus and are open to the university or to the public. Virginia Tech News reserves the right to edit content.



- Refer to [University Policy 1030, Social Media Policy](#), for guidance on social media use.

3.3 Newspaper/Magazine/Brochure Racks and Boxes

3.3.1 Newspapers/Magazines/Brochures for Interior Locations

- Newspapers/magazines/brochures for interior distribution shall be placed only in racks or boxes within building interior spaces, to include lobbies and related public spaces. Racks will not be placed at exterior locations.
- A limited number of racks/boxes are available on a first-come, first-served basis by emailing University Relations (unirel@vt.edu) and in accordance with the advertising regulations in this policy.
- After approval from University Relations is received, the Building Manager or Department Representative shall determine locations for newspaper/magazine/brochure racks or boxes within the subject building.
- It is the responsibility of the newspaper/magazine/brochure provider to keep the materials in the racks or boxes orderly. Overflowing, scattered or unsightly materials may be removed and discarded by university custodial staff.

3.3.2 Newspapers/Magazines/Brochures for Exterior Locations

3.3.2.1 Locations

- Newspapers/magazines/brochures for exterior locations shall be placed only at the following locations:
 - East side of Kent Street in front of the northwest entry to Newman Library on the existing concrete pad;
 - West side of War Memorial Hall on the existing concrete pad; and
 - Northwest side of McBryde Hall on the existing concrete sidewalk.
- These sites will be limited to six boxes placed in single file, one row.
- University Relations shall determine which entities may use the boxes placed at these locations.
- It is the responsibility of the newspaper/magazine/brochure provider to maintain the appearance of the boxes.
- Bins shall be fully contained and self-closing to minimize litter.

3.3.2.2 Size

- The maximum dimensions for a single box are 50 inches high, 24 inches wide, and 24 inches deep.
- The owner of each box must post his or her name, address, telephone number and email address on the box in a readily visible location. Boxes may not be used for any other advertising or promotional purposes.

3.3.2.3 Placement

Should additional exterior locations be identified, boxes may not be placed:

- Within fifteen (15) feet of any fire hydrant;
- In any curb cut designed to facilitate street access by disabled persons or within two (2) feet of any such curb cut;
- Within any bus stop;



- Within a crosswalk area;
- Within a corner area or within five (5) feet of any corner area;
- On any surface where such installation or maintenance will cause damage to or interference with the use of any pipes, vault areas, telephone or electrical cables or other similar locations;
- On, in or over any part of the roadway of any public street;
- Unless eight (8) feet of sidewalk width is preserved for unobstructed pedestrian passage;
- On any area of lawn, flowers, shrubs, trees or other landscaping or in such a manner that use of the box would cause damage to such landscaping;
- Where such placement, installation or maintenance endangers the safety of persons or property.

3.3.2.4 Enforcement

- If, after inspecting a box, Virginia Tech finds that it is not in compliance with this policy, Virginia Tech shall first notify the owner to correct the problem by sending a Notice of Correction. If the condition is not corrected, Virginia Tech will remove the box from the location.
- Additionally, Virginia Tech can remove a box from its location in the following circumstances:
 - Abandoned boxes: Virginia Tech can remove a box if the name, address or other identifying material of the box owner is not affixed to the box and the owner has not received written permission from Virginia Tech.
 - Emergency Circumstances: Virginia Tech can remove a box if it poses an imminent threat to public health or safety.
 - Construction: If a box is at a location to be used for public utility work, public transportation purposes, public safety purposes, or in connection with construction or a capital project, Virginia Tech must notify the owner to remove it. If the owner fails to remove the box within seven (7) days after notification, Virginia Tech may remove the box.
- Virginia Tech shall not be responsible for damage to any non-compliant box incurred during removal and/or storage.
- Virginia Tech will store removed boxes for thirty (30) days, during which time the owner may retrieve them. Unclaimed boxes will be disposed of in accordance with abandoned property rules administered by Surplus Property.

4.0 Definitions

Advertising/Advertisement - includes posting of signs or banners, the distribution of literature, electronic media, or any other form of public notice designed to sell goods or services or publicize an event.

Auxiliary organization/unit – self-supporting enterprises that provide goods and services to the university (or faculty, staff, and/or students) and that do not rely on state appropriations for operating support.

Commercial activity - any sale, solicitation, or promotion/marketing for the purpose of securing a profit or benefit for a non-university group, organization, or business.



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Fund-raising activity - any activity which involves the solicitation or collection of monies that is specific in purpose, not for individual gain, non-recurring, and for the sole benefit of a specific nonprofit group or cause or the self-generated fund-raising efforts of an officially listed student organization.

Individual activity – (a) the solicitation or sale of products, services or personal property; (b) the solicitation of orders for such products or services; or (c) the distribution of catalogs and literature promoting products or services by individuals, including university employees.

Informational activity - the distribution of literature and/or petitioning for signatures where no fee is involved nor donations or contributions are sought.

Nonprofit organization - public, governmental, and charitable organizations that can provide proof of their nonprofit status.

Campus Common Spaces - all lobbies, foyers, and atriums in student centers and university-owned or leased academic facilities; the Drillfield; and all other university-owned or leased outdoor campus space, except those managed by Athletics, Recreational Sports, the Graduate Life Center, and the Moss Arts Center (see additional details in Policy 5000).

Officially listed student organizations – are defined by university policy 8010, and include: University Student Life Programs (USLP), University Chartered Student Organizations (UCSO), Registered Student Organizations (RSO), and Extended Campus Student Organizations (ECSO).

Sale - the activity of offering or exchanging products or services in return for monies, goods, or other services. This includes raffles or auctions.

Solicitation - the act of requesting money or funds for any reason, seeking agreement to pay, taking subscriptions, selling merchandise or services, seeking contributions of goods or services, offering materials or privileges to others via promotion or advertisement, or soliciting signatures for petitions.

Student – any individual currently enrolled and registered to attend Virginia Tech.

University facilities - any location, either permanent or temporary, owned or leased by Virginia Tech, and includes satellite campuses and offices. This includes, but is not limited to, the buildings, grounds, and the surrounding perimeters, including the parking lots, field locations, classrooms, alternate work or class locations, and university owned or leased vehicles.

University-affiliated individual – any individual who is a faculty or staff member, currently on the Virginia Tech payroll.

University-affiliated organization - (a) officially listed student organizations; (b) university-related Corporations; (c) university departments; and (d) those organizations comprised of faculty and staff and are administered through a college, administrative division, or department to complement the departmental mission.

University-related Corporations - Corporations authorized by the Board of Visitors to provide support for the university; i.e. the Virginia Tech Foundation, Inc., Virginia Tech Services, Inc., etc.



5.0 References

University Policy 1030, Social Media Policy

<https://policies.vt.edu/social-media-policy2.pdf>

University Policy 3005, University-Related Business Activities

<http://www.policies.vt.edu/3005.pdf>

University Policy 3006, Catering Policy

<http://www.policies.vt.edu/3006.pdf>

University Policy 3600, Funds Handling and Deposit of State and Local Funds

<http://www.policies.vt.edu/3600.pdf>

University Policy 3610, Accepting and Handling Payment Card Transactions

<http://www.policies.vt.edu/3610.pdf>

University Policy 5000, University Facilities Usage and Event Approval

<http://www.policies.vt.edu/5000.pdf>

University Policy 5810, Mobile Food Vendors

<https://policies.vt.edu/5810.pdf>

University Policy 7000, Acceptable Use and Administration of Computer and Communication Systems

<http://www.policies.vt.edu/7000.pdf>

University Policy 8010, Classification of Student Organizations

<https://policies.vt.edu/8010.pdf>

University Policy 12100, Policy on Coordination of Private Fund-Raising

<http://www.policies.vt.edu/12100.pdf>

Student Code of Conduct

www.hokiehandbook.vt.edu

University Brand Guidance

<https://brand.vt.edu/>

6.0 Approval and Revisions

Approved July 3, 2012 by Vice President for Administrative Services, Sherwood G. Wilson.

- Revision 1
Technical updates to department and position titles and definitions.

Approved February 16, 2016 by Vice President for Administration, Sherwood G. Wilson.



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- Revision 2
 - Addition of Section 4 related to Newspaper/Magazine/Brochure Boxes and Racks.
 - Additional parameters included in Section 3.2.2 regarding timeline for posting and removal of posted advertisements.

Approved February 17, 2017 by Vice President for Administration, Sherwood G. Wilson.

- Revision 3
 - Incorporated section regarding bulletin boards into section regarding posted advertisements.
 - Added Section 3.2.3.1 Light Post Banners.
 - Technical updates to department and position titles, terminology, and definitions.
 - Added references to student code of conduct, university brand guidance, and university policies regarding student organizations, mobile food vendors and social media.

Approved August 25, 2020 by Senior Vice President and Chief Business Officer, Dwayne Pinkney.

Schedule D



STUDENT CODE OF CONDUCT



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I. Introduction

The Virginia Tech community is guided by the [university's motto](#), Ut Prosim (That I May Serve), and is based on the fundamental values expressed in the [Principles of Community](#): to nurture learning and growth for all community members, to encourage open expression, and to respect our differences and common humanity.

When a student accepts admission to Virginia Tech as an undergraduate, graduate, or professional student, they also accept membership in the university community and responsibility for upholding its shared values and expectations. The Student Code of Conduct outlines policies established by the university that set standards for students' behavior, along with procedures for adjudicating and sanctioning violations of these standards. The code applies to all students and student organizations at Virginia Tech, as defined in this document. The university reserves the right to make changes to the code at any time.

Authority to approve policies and procedures for student discipline, as outlined in the Student Code of Conduct, lies with Virginia Tech's governing body, the Board of Visitors, as authorized under the [Code of Virginia](#). The Vice President for Student Affairs has responsibility for the university conduct system, with direct supervisory oversight of disciplinary matters assumed by the Office of Student Conduct, under the direction of the Director of Student Conduct. The director serves as the Chief Student Conduct Officer for the university.

The Student Code of Conduct does not apply to matters of academic integrity. For information on policies and procedures related to student academic integrity, please refer to the following:

- [Undergraduate Academic Integrity](#)
- [Graduate Honor System](#)
- [Doctor of Veterinary Medicine Honor Code \(Virginia-Maryland School of Veterinary Medicine\)](#)
- [Doctor of Medicine Honor Code \(Virginia Tech Carilion School of Medicine\)](#)

The Office of Student Conduct and the University Conduct System

The Student Code of Conduct is overseen by the [Office of Student Conduct](#). The university's conduct system supports the educational mission of the university by educating students about appropriate behavior and fostering a community in which students can flourish academically and personally.

The system assumes that students and student organizations have the capacity to assume responsibility for their own behavior and that the university has the authority to establish an internal structure for the enforcement of its policies and procedures, which students have agreed to accept by enrolling in the university. As part of its authority, Student Conduct may suspend or dismiss students from the university.

Conduct matters are addressed by Student Affairs professionals who have been appointed as hearing officers by the Director of Student Conduct. These individuals each have significant education and training on student development, student discipline, and university policies and procedures.

Additional Community-Specific Regulations

As part of their education and life at Virginia Tech, students may also be involved in organizations, programs, or other entities for which additional and separate standards and policies, including potential sanctions for violations, have been established. Students should be aware of additional policies that may apply to their involvement in certain programs, organizations, or communities, including but not limited to students in the [Corps of Cadets](#), [student athletes](#), members of [certain Greek-letter organizations under the Office of Fraternity and Sorority Life](#), and students in certain colleges or programs, such as the [Virginia Tech Carilion School of Medicine](#) or the [Virginia-Maryland College of Veterinary Medicine](#).

These policies and processes do not supersede a student's responsibilities under the *Student Code of Conduct*. In situations involving potential violations of policies in the *Student Code of Conduct* and community-specific policies, the student is accountable first to the university's *Code*. Additional sanctions may be issued by programs/organizations that address a student's participation or membership in those communities, specifically. Student Conduct is responsible for coordinating adjudication processes with these various entities, when appropriate.

II. Student Rights and Responsibilities

As individuals, Virginia Tech students enjoy basic rights. As members of the university community, they also accept certain responsibilities.

Rights

1. Students at Virginia Tech will be treated fairly and with dignity regardless of age, color, disability, sex (including pregnancy), gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, or military status as described in [university policy 1025](#).
2. Students at Virginia Tech enjoy those rights guaranteed by the Constitutions of the United States and the Commonwealth of Virginia. This includes activities protected under the First Amendment. In accordance with the Code of Virginia, incidents of disruption of constitutionally protected speech may be reported via the [Speech on Campus webpage](#).
3. The Student Code of Conduct and the policies and procedures it outlines, under the administration of the Office of Student Conduct, provides an administrative process for resolving allegations of misconduct. This process includes certain procedural guarantees to ensure that students receive a fair and equitable resolution.

Schedule E



Faculty Handbook 2021 - 2022

Office of the Executive Vice President and Provost
Office of Vice President for Policy and Governance
Approved by the Virginia Tech Board of Visitors
August 31, 2021

This document is subject to change. Please refer to the provost's website for the most recent *Faculty Handbook* information.

[University policies](#) are available online, as are many important procedures maintained by the Procurement Department, Human Resources, and the Controller's Office websites are updated as policies and procedures change. Please refer to them for issues not addressed in the *Faculty Handbook*.

Virginia Tech does not discriminate against employees, students, or applicants on the basis of age, color, disability, sex (including pregnancy), gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, or veteran status; or otherwise discriminate against employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants; or any other basis protected by law.

Faculty have the responsibility to be fully acquainted with and to comply with this handbook and the relevant policies of Virginia Tech.

Members of the college faculty who relinquish full-time responsibilities in a college department to assume responsibilities elsewhere at the university may choose to continue to have their professional development evaluated by that department and college. The same is true for someone who accepts a position in the University Libraries faculty, Extension faculty, or in the administrative and professional faculty. The evaluation for promotion in rank or the awarding of tenure is done according to the criteria and procedures of promotion and tenure for college faculty. Tenure already granted need not be relinquished. Annual evaluation for merit salary adjustment is based on the responsibilities of the current position.

2.2.1 Tenured and Tenure-Track (T&R) Faculty

Ranks: assistant, associate, professor

Tenured and tenure-track faculty typically require a terminal degree and are labeled Teaching and Research (T&R) and are appointed to regular positions. Employment policies and procedures for tenured and tenure-track faculty are in chapter three of this handbook. Research and Extension faculty are also T&R faculty, although their duties may have a relatively small instructional component.

2.2.2 Instructional Faculty not on the Tenure Track

College faculty may also be instructional faculty not on the tenure track appointed to regular or restricted positions. Employment policies and procedures for faculty not on the tenure track are described in chapter five of this handbook.

Track	Ranks
Instructor	instructor, advanced instructor, senior instructor
Visiting or Adjunct Professor	assistant, associate, professor
Professor of Practice	assistant, associate, professor
Clinical Faculty	clinical instructor, clinical assistant, clinical associate, clinical professor
Collegiate Professor	collegiate assistant professor, collegiate associate professor, collegiate professor
Lecturer	administrative and professional faculty

2.3 University Libraries Faculty including Continued Appointment-Track

Ranks: assistant, associate, professor

Employment policies and procedures for University Libraries faculty with continued appointment or on the continued appointment-track are in chapter four of this handbook. University Libraries faculty may or may not hold appointment in a college. They perform a unique and indispensable function in the educational process and share many of the professional concerns of their college colleagues. The university recognizes the need to protect the academic freedom of librarians in their responsibility to ensure the availability of information and ideas, no matter how controversial, so that teachers may freely teach and students may freely learn.

The rank held by a University Libraries faculty member does not imply a particular rank in any college department. University Libraries faculty may hold concurrent adjunct status in a college department to formally recognize their contributions to the undergraduate or graduate program. Guidelines for [University Libraries faculty](#) can be found on the libraries website.

2.4 Extension faculty including those on the Continued Appointment-Track

Track	Ranks
Continued Appointment	assistant, associate, professor
Extension Agent	associate extension agent, extension agent, senior extension agent
Extension Specialist	associate extension specialist, extension specialist, senior extension specialist
4-H Center Program Director	associate 4-H Center program director, program director, or senior program director

Employment policies and procedures for Extension faculty with Continued Appointment or on the Continued Appointment-Track are in chapter fourteen of this handbook. Extension faculty not on the Continued Appointment Track are Administrative and Professional (A/P) faculty and covered by polices in chapter seven.

Extension faculty may or may not hold appointment in an academic college. They are, nonetheless, subject to high professional standards in the dissemination of knowledge through the Virginia Cooperative Extension programs and in the planning and delivery of educational programs and programs of assistance to industries and local governmental agencies. In these functions, Extension faculty share many of the professional concerns of their college colleagues, including the need for the protection of academic freedom in these responsibilities.

The rank held by a faculty member in Extension does not imply a particular rank in any college department. Extension faculty may hold concurrent adjunct status in a college department to formally recognize their contributions to the undergraduate or graduate program.

2.5 Administrative and Professional Faculty

Ranks: Lecturer, Instructor

Administrative and professional (A/P) faculty employment policies and procedures are described in chapter seven of this handbook. A/P faculty may or may not hold appointment in an academic college. Policies regarding the assignment of a faculty rank in a college department for an administrative or professional faculty member are in chapter seven.

2.5.1 Administrative faculty

Administrative faculty, also referred to as senior administrators, typically serve in executive-level leadership roles such as vice president, dean, assistant or associate vice president or dean, or director of a major unit. They perform work directly related to management of the institution, college, or an administrative department. Administrative faculty usually have a rank other than lecturer, may hold an academic rank in a college department, and may be tenured or have a continued appointment.

2.22.1 Reduction in Force Under Conditions of Financial Exigency

Reductions in force (RIF) may occur when financial conditions disallow the usual operation of programs. While the university has a right to initiate reductions in force, including those affecting tenured faculty, it is the policy of the university (to the extent consistent with the degree of financial exigency) to ensure that the rights of tenure or continued appointment are preserved; to ensure that the integrity of the university and its programs is preserved; to protect the contractual expectations of untenured faculty; to provide that the burden of corrective action is shared by the various categories of personnel of the university, including all members of the general faculty; and to ensure that any reductions that do occur follow an orderly and predictable process.

A financial exigency is an imminent financial crisis that threatens the survival of the university and that cannot be alleviated by ordinary budgeting practices. Reductions in force in response to conditions of financial exigency are determined and implemented as follows:

Declaration of a state of financial exigency: Should the president determine that so extraordinary a circumstance has arisen or is anticipated that it might be necessary to terminate or interrupt the appointments of faculty members, the president may declare a state of exigency. Upon such declaration, the president forms an ad hoc committee to review the budgetary situation and the president's plan for addressing it.

Committee review: The ad hoc committee is comprised of no fewer than nine members, a majority of whom are faculty members nominated by the Faculty Senate. This includes at least one representative from each college. Where a RIF may affect the University Libraries or Extension faculty, at least one representative from that faculty should also be selected to serve on the committee. Any person who resigns from or otherwise discontinues service on the committee is replaced by a new member chosen in the same manner as was the individual being replaced, and such replacement members are so selected that each college and, where appropriate, the University Libraries or Extension faculty retain at least one representative. Within the constraints of time and circumstance, the committee reviews the proposal submitted by the president and any alternative remedies that are available, and recommends to the president a plan of action that may incorporate reductions in force of the administrative and support staff as well as the general faculty. The committee is charged with protecting both academic freedom and, insofar as circumstances permit, the presumption of continuous employment that tenure or continued appointment bestows, and considers as well the curricular needs and goals of the university and the effects of any anticipated actions on the future financial well-being of the institution.

Determination of policy: After receiving the recommendations of the ad hoc committee, the president determines the response of the university to the declared state of exigency. If the president's decision is substantially at variance with the recommendations of the committee with specific regard to the implementation of RIFs, the committee may, by majority vote, appeal the president's actions to the Board of Visitors. In all other matters, and in cases where the president's decision to carry out a reduction in force accords with the recommendations of the ad hoc committee, no such appeal is available. The ad hoc committee consults with the president and receives periodic reports until the state of exigency ends and the committee determines that the obligations of the university to furloughed or terminated faculty are met.

Implementation: Reductions in force are implemented either within specified programs or across the institution. Whenever a RIF is undertaken, it is guided by the following considerations. Insofar as circumstances permit, all temporary or part-time faculty members and those not holding tenured or tenure-track appointments or their functional equivalent are retained through the then-existing term of appointment. Insofar as circumstances permit, untenured faculty holding tenure-track appointments and University Libraries and other faculty holding probationary appointments are retained through the then-existing term of appointment. No tenure-track or functionally equivalent appointment is terminated or interrupted unless

placement in another position is not possible, the university provides appropriate and reasonable career transition assistance such as clerical support, communications, office space, and outplacement services.

Reappointment: In all cases of termination of appointment because of program reduction or discontinuance, the position of a faculty member with tenure or continued appointment cannot be filled by a replacement within a period of three years following separation unless the released faculty member was first offered reinstatement and a reasonable time in which to accept or decline.

Appeals: A faculty member whose appointment is terminated or altered due to program reduction or discontinuance may file a grievance as outlined in the relevant section of the Faculty Handbook. Grounds for appeal may be substantial failure to follow the procedures and standards set forth in this section. Because faculty members, through the steering committee, are involved in the review and development of recommendations guiding the restructuring or discontinuance, the determination of which programs or departments are affected cannot be a basis for appeal.

2.23 Severance Benefits

The university provides severance benefits for eligible faculty who are involuntarily separated due to budget reduction, agency reorganizations, or workforce downsizings for reasons unrelated to performance or conduct. Faculty hired on restricted appointments funded from sponsored contracts or grants, or term (fixed-period) appointments with a specified ending date, regardless of funding source, are not eligible to receive severance benefits. In cases where employees are non-reappointed or voluntarily resign, these actions are not deemed "involuntary separation" for purposes of the severance policy.

2.23.1 Alternative Severance Option

Under specific circumstances approved in advance by the provost and president, an Alternative Severance Option (ASO) may be available to eligible faculty. Severance of faculty members with tenure or continued appointment must be voluntary; no tenured faculty member can be required to participate. Tenure-track and continued appointment-track faculty members are not eligible, nor are restricted employees.

The premise for any severance payment rests on the rationale of business necessity to reduce personnel expenses. When such a situation occurs, deans and senior managers will be asked to define the business operations, academic programs, departments, or units where personnel reductions will occur. An approved business plan for each participating college or vice presidential area will describe the specific units and eligibility criteria for participation in the ASO or layoff substitution process. These plans will necessarily differ. Some college and senior management do not offer the ASO as a means to reach their budget reduction targets. Not all employees who are eligible will be selected to participate if more apply than are needed to address the reductions or if an individual employee serves a critical function. Eligible employees in units with approved business plans are notified if the option is available to them.

2.24 Professional Responsibilities and Conduct

2.24.1 Statement of Principles of Ethical Behavior

The faculty of Virginia Tech believe that academic freedom is essential to attain our missions as scholars and teachers. We also recognize and accept the responsibilities attendant to academic freedom as fundamental to a scholarly community. We believe we must exercise our rights with due regard to the rights of others and we must meet our obligations fully as faculty members. We hold ourselves accountable to ensure that the faculty of Virginia Tech is recognized for its commitment and leadership to pursue knowledge, to promote the free expression of ideas, to teach our students, and to serve the citizens of Virginia.

Scholarship: Guided by a deep conviction of the worth and dignity of the advancement of knowledge, we recognize our primary responsibility to our disciplines is to seek and to state the truth. To this end, we devote our energies to developing and improving our scholarly competence. We accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. We practice intellectual honesty and do not compromise our freedom of inquiry. At Virginia Tech, self-plagiarism is considered unethical behavior. Self-plagiarism occurs when authors reuse substantial parts of their own published work as new without providing appropriate references to the previous work if this reuse deviates materially from standard practice in the field.

Students: We encourage the free pursuit of learning in our students and exemplify the best scholarly and ethical standards of our disciplines. We value and promote differences among students and respect students as individuals and serve as their intellectual guides and counselors. We make every reasonable effort to foster honest academic conduct and to assure that our evaluations of students reflect each student's true merit. We respect the confidential nature of the relationship between professors and students. We avoid any exploitation, harassment, or discriminatory treatment of students and acknowledge significant academic or scholarly assistance from students. We do not engage in any romantic or sexual relationships with students whom we are in a position to evaluate by virtue of our teaching, research, or administrative responsibilities.

Instruction: We strive to be fair, compassionate, and effective teachers. We prepare classes adequately, present materials fairly, and make ourselves available to students for consultation and advice. We avoid bias and we respect diverse points of view.

Colleagues: We accept our obligations that derive from common membership in the faculty of Virginia Tech. We relate to colleagues and other university personnel in a responsible, professional, and civil manner, avoiding behaviors and actions that purposefully, consistently, and unnecessarily tend to disrupt, impede, harass, or abuse them in the performance of their assigned tasks and professional duties. We do not discriminate against colleagues, nor do we engage in romantic or sexual relationships with employees whom we are in a position to supervise or evaluate. We respect and defend free inquiry by all. In the exchange of criticisms and ideas, we show respect for the opinions of others, acknowledge significant academic or scholarly assistance, and strive to be open-minded and fair in our professional judgments. We accept our share of faculty responsibilities for the governance of Virginia Tech and take due care in the discharge of those responsibilities.

University: We seek above all to be effective in our assigned responsibilities. We give paramount importance to these responsibilities in determining the amount and character of work done outside of Virginia Tech. Although we observe the Faculty Handbook, we maintain our right to criticize and seek revision of university policy.

Community: As members of the larger community, we have the same rights and obligations as other citizens. We measure the importance of these rights and obligations in light of our responsibilities to our disciplines, to our professions, to our students, and to Virginia Tech. When we speak or act as private persons, we avoid creating the impression of speaking or acting for Virginia Tech. As citizens engaged in a profession that depends upon freedom for its welfare and integrity, we have a particular obligation to promote conditions of free inquiry and of further public understanding of academic freedom.

2.24.2 Allegations of Unprofessional or Unethical Conduct

The Committee on Faculty Ethics (CFE) receives, investigates, and considers allegations of unprofessional or unethical conduct for all types of faculty members, except administrative and professional faculty members. See chapter one, "Committee on Faculty Ethics," for further information on the committee charge, membership, and procedures. If the committee finds a serious breach of ethical conduct that leads to a recommendation for a severe sanction or dismissal for cause, the procedures in chapters three, four, and

Faculty members have traditionally been allowed wide latitude in defining their professional agendas and their degree of involvement in external activities when those activities advance the mission or prestige of the university. The university encourages active participation by faculty members in external activities that are integral to and/or enhance their professional skills and standing or that constitute substantive outreach and public service activities.

Such activities are usually expected of faculty members to promote academic development, and to enrich their contributions to the institution, their profession, the state, and the national and world societies. Additionally, Virginia Tech encourages entrepreneurial activities by faculty, recognizing that such activities are critical to promoting economic development and meeting society's needs, provided that participation in those activities is in compliance with federal and state laws and policies, the Virginia Tech conflict of interest policy, and these guidelines.

Faculty members should make the fulfillment of their responsibilities to the university the focal point of their professional effort. They are expected to arrange their external activities so that they do not impede or compromise their university duties and responsibilities. Responsibility for ensuring commitment to the university and for reporting activities that might be perceived as compromising that commitment rests with each faculty member in consultation with their unit administrator (typically the department head or chair, or supervisor) and dean.

The university recognizes that the balance of external activities varies among individuals, from discipline to discipline, and from one type of proposed activity to another. That balance is affected by unit goals and changing needs for teaching, research, creative/artistic activities, Extension, service, and outreach. Primary duties and responsibilities may vary from year to year for individual faculty members. Undergraduate and graduate enrollment demands, faculty-staffing levels, and changes in the nature and scope of outreach, teaching, and research within the unit may affect the primary duties and responsibilities of individual faculty. The primary judgment as to whether a faculty member is meeting his or her professional responsibilities to the unit rests with the department head, chair, or supervisor and dean (or relevant senior manager).

If a faculty member is committed to engaging in an external activity that compromises his or her ability to meet university responsibilities, a leave of absence or a reduction in percent employment may be appropriate or necessary. Approval of a leave request or change in appointment depends on the needs of the college and unit and protection of university interests.

If a unit administrator, or dean, observes that a faculty member appears not to be fulfilling his or her primary responsibilities to the university, the administrator shall immediately address these concerns with the faculty member to ensure that these responsibilities are adequately met. Failure to meet primary departmental and university obligations is handled through established university procedures appropriate to the situation (for example, formal reprimand, non-reappointment, post-tenure review, or dismissal for cause).

Nothing in this policy statement shall be interpreted as interfering with the academic freedom of faculty members, nor with their primary responsibility to direct their own research.

2.27 Conflicts of Interest

Please consult [Policy 13010, "Individual Conflicts of Interest and Commitment."](#) Virginia Tech recognizes that external activities congruent with the professional expertise of faculty and staff consistent with the mission of the affiliated department can enhance professional development of the employee and enrich the academic experiences of students. Activities such as licensing of technology, consulting, or business start-ups can be critical to promoting economic development and meeting society's needs. Given these potential benefits, Virginia Tech encourages innovation and entrepreneurial activity in support of the broad missions of the institution. However, the primary professional allegiance of the employee must be, both in fact and in perception, to the university, and the primary commitment of the employee's time and intellectual

3.4 Promotion and Tenure

NOTE: Please see [Promotion and Tenure page](#) on provost's website for information on promotion and tenure expectations that go into effect in August of 2022.

The university has a tradition of upholding academic freedom. It endorses the "1940 Statement of Principles on Academic Freedom and Tenure" of the American Association of University Professors and the Association of American Colleges (*AAUP Bulletin*, September 1970, pp. 323-326).

3.4.1 Tenure Eligibility

Tenure is an institution developed for the protection of the academic freedom of the teaching faculty in institutions of higher education. Eligibility for tenure consideration is limited to faculty members holding regular faculty appointments of 50 percent to 100 percent in academic departments. Tenure is not granted to faculty members with temporary appointments or to administrative and professional faculty. Individuals holding tenure in academic departments who are appointed to administrative positions, however, continue to hold tenure in those departments.

Full-time administrators who also hold appointments in academic departments and engage in teaching and research may be recommended for tenure in such departments.

3.4.2 Pre-Tenure Probationary Period and Progress Reviews

The term "probationary period" ("pre-tenure") is applied to the succession of term appointments that an individual undertakes on a full-or part-time regular faculty appointment during which continued evaluation for reappointment and for an eventual tenured appointment takes place. The beginning of the probationary period for faculty members on term appointments is taken as July 1 or August 10 of the calendar year in which their initial full-time appointment begins, depending on whether they are on a calendar year or academic year appointment, regardless of the month in which their services are initiated. (The probationary period for new faculty appointed for spring semester begins the following fall even though the spring contract period officially begins December 25.)

Under usual circumstances, departmental promotion and tenure committees review the professional progress and performance of pre-tenure faculty members twice during the probationary period, usually in their second and fourth, or third and fifth, years. The timing of the reviews depends upon the nature of the faculty member's discipline and must be clearly indicated in written departmental policies. The terms of offer identifies the initial appointment period. Pre-tenure reviews may be delayed if there is an approved extension as described below. Changes or variations in the standard review cycle must be documented in writing.

The initial review for a part-time faculty member should be no later than the third year of service (regardless of percent of employment) to give early feedback on their progress. At least two reviews should be conducted for part-time faculty members during their probationary period; more are recommended. The anticipated schedule for reappointment reviews and for the mandatory review for tenure should be documented in writing as part of the agreement for the part-time appointment. Any changes to the agreement should be agreed upon and documented by the faculty member and department.

Reviews are substantive and thorough. At a minimum, departmental promotion and tenure committees must review the faculty member's relevant annual activity reports, peer evaluations of teaching, and authored materials. It is strongly suggested that promotion and tenure committees and pre-tenure faculty

for inclusion in their personnel file, or they may seek redress through either the reconciliation or grievance procedures. Two successive annual ratings of unsatisfactory performance for a tenured faculty member results in a post-tenure review.

3.5.3 Departmental Minimal Standards

Each academic department shall develop, maintain, and publish a statement of minimal standards for satisfactory faculty performance using the following process. Standards should be written with the participation of faculty in the department and approved by a vote of the tenured and tenure-track faculty in the department. Standards developed and approved by departments and the head or chair are then reviewed by the college-level promotion and tenure committee and the dean, and reviewed and approved by the provost. Once approved, the department's standards are published and made available to all faculty in the department. Revisions of departmental standards also follow these procedures. The following guidance is provided for the development of departmental minimal standards:

Departments should carefully assess and state the overall standards of professional performance and contribution they consider minimally acceptable for tenured faculty. Each department's evaluation mechanism should allow a distinction between performance that is deficient in one or more areas requiring improvement, and performance that is so seriously deficient as to merit the formal designation "unsatisfactory."

Departmental standards should embrace the entire scope of faculty contributions. Expectations should recognize differences in faculty assignments within the same department. Departmental standards should typically address the individual's skill, effort, and effectiveness in contributing to all aspects of the instructional mission; the individual's activity in and contributions to the academic discipline; the individual's contributions to the collective life of the department, college, and university; and the individual's activity in and contributions to the university's outreach mission.

Departmental statements should affirm support for the basic principles of academic freedom and should express tolerance for minority opinions, dissent from professional orthodoxies, and honest and civil disagreement with administrative actions.

Departmental statements should include the expectation that tenured faculty will adhere to the standards of conduct and ethical behavior as stated in the *Faculty Handbook* and/or promulgated through other official channels.

3.5.4 Post-Tenure Review

Nothing in this section should be interpreted as abridging the university's right to proceed directly to dismissal for cause as defined in chapter three, "Dismissal for Cause," or the right of individual faculty members to pursue existing mechanisms of reconciliation and redress.

A post-tenure review is mandatory whenever a faculty member with tenure receives two consecutive annual evaluations of unsatisfactory performance. Annual reviews for years spent on leave without pay are disregarded for the purpose of this calculation. The departmental promotion and tenure committee conducts the review, unless the same committee was involved in the original unsatisfactory annual evaluations. In this case, the department elects a committee to carry out the review function.

Upon recommendation of the head or chair and with the approval of the dean, a post-tenure review may be waived or postponed if there are extenuating circumstances (such as health problems).

committee. Thus, in the case of a post-tenure review, this step is not repeated. If a severe sanction is imposed or ultimately rejected, then the post-tenure review cycle is considered complete. An unsatisfactory rating in any subsequent year is counted as the first in any future sequence.

Dismissal for cause: If dismissal for cause is recommended, the case shall be referred to the college-level promotion and tenure committee as described in chapter three, "College Evaluation," which reviews the case as presented to the departmental committee and determines whether the recommendation is consistent with the evidence. If the college-level committee upholds the recommendation for dismissal, then the procedures specified in chapter three, "Dismissal for Cause," begin immediately. The committee review satisfies the requirement in chapter three for an informal inquiry by a standing personnel committee.

3.5.5 Periodic Review of Academic Deans, Dean of University Libraries, Dean of the Honors College, Department Heads, Senior Administrators, and Academic Vice Presidents

In addition to an annual performance evaluation, and in accordance with Policy 6105, "Periodic Evaluation of Academic Deans and Vice Presidents," academic deans, the dean of University Libraries, the dean of the Honors College, and academic vice presidents are subject to reviews every five years. If the review of a dean cannot be conducted in the fifth year as would usually be the case, the provost informs the officers of the relevant college or University Libraries faculty association as to the reason for delay. A review may also be initiated at any time by the provost and/or at the request of at least one-third of the tenure-track faculty in the college, or in the case of University Libraries, one-third of the continued appointment faculty. If the review of a vice president who reports to the provost cannot be conducted in the fifth year, the provost notifies the deans and the chairs of the college and University Libraries faculty associations as to the reason for the delay. In the semester prior to a periodic review, the faculty association will be notified of the review and the association may schedule a meeting with the provost to discuss the upcoming review.

Policy 6100, "Department Head or Chair Appointments," outlines the review process for academic department heads or chairs. In addition, colleges should have adopted more detailed procedures in accordance with the broad guidelines below so that reviews may be conducted consistently and appropriately across the college for those serving in academic leadership roles.

The purpose of the periodic review is to support the success of the university's academic units by providing developmental feedback to promote fair and effective academic leadership. Reappointment of an individual to academic department head, chair, academic dean, or academic vice president must be preceded by a periodic review conducted in accordance with guidelines outlined in Policy 6105 or in Policy 6100.

3.6 Imposition of a Severe Sanction or Dismissal for Cause¹

3.6.1 Adequate Cause

Adequate cause for imposition of a severe sanction or dismissal is related, directly and substantially, to the fitness of faculty members in their professional capacity as teachers and scholars. Imposition of a severe sanction or dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.²

Adequate cause includes: violation of professional ethics (see chapter two, "Professional Responsibilities and Conduct"); incompetence as determined through post-tenure review; willful failure to carry out

¹ The procedures specified follow closely, but differ in occasional detail from, the "1976 Institutional Regulations on Academic Freedom and Tenure" approved by Committee A of the American Association of University Professors (AAUP).

² Ibid.

The hearing panel formulates written findings and recommendations regarding disposition of the grievance and forwards copies to the provost, the grievant, and the chair of the Faculty Review Committee.

Provost's action: The provost meets with the grievant within 10 weekdays after receiving the findings and recommendations of the hearing panel to discuss the case and advise the grievant about the prospects for disposition of the case. Within 10 weekdays of that meeting, the provost sends to the grievant the decision in writing concerning the disposition of the grievance. If the provost's decision is fully consonant with (or exceeds) the recommendations of the hearing panel, or if it is satisfactory to the grievant even if it differs from the recommendations of the hearing panel that ends the matter.

Step five: If the provost's decision is not acceptable to the grievant and not consonant with the recommendations of the hearing panel, the grievant may appeal in writing to the president within 20 calendar days. The president's decision is final.

3.7.3 Timeliness of Grievance and Procedural Compliance

A grievance must be brought forward in a timely manner. It is the responsibility of the grievant to initiate the grievance process within 30 calendar days of the time when the event or action should have been known and is the basis for the grievance. The university administration is not required to accept a grievance for processing if the grievant does not meet the 30-day deadline, except in cases of demonstrated good cause.

Scheduled commitments made prior to the time of filing or advancement of a grievance that preclude action by either of the parties to the grievance automatically extend time limits for their duration unless this would be demonstrably harmful to the fair processing of the grievance. In such cases, on written request by the grievant to the appropriate office for that step, the grievance is advanced to the next step in the grievance process.

If the grievant does not follow the time limits specified in the grievance procedure it is assumed that the last proposed resolution was accepted as satisfactory. If the grievant desires to advance the grievance after the appropriate specified time limits have lapsed, the administrator who receives the late submission notifies the chair of the Faculty Review Committee in writing, and the chair of the Faculty Review Committee determines if there was good cause for the delay. If so, the grievance proceeds. If not, the process ends with the most recently proposed resolution in force. The finding on the matter by the chair of the Faculty Review Committee is communicated to both parties in writing.

If either party to a grievance charges the other with procedural violations other than time limit issues, a special committee of the president of the Faculty Senate, the chair of the Faculty Senate Committee on Reconciliation, and the chair of the Faculty Review Committee (or the vice president of the senate if the president is also chair of the Faculty Review Committee) is convened to rule on the question, as in disputes about the validity of issues qualifying for the grievance procedure. The special committee has the following options. It can either find no significant procedural violation occurred, in which case the grievance process continues unaffected, or that a significant procedural violation did occur. If the administrator committed a significant procedural violation, the grievance automatically qualifies for advancement to the next step in the grievance process. If the grievant committed a significant procedural violation, the grievance process ends at that point with the last proposed resolution established as the final disposition of the case.

3.7.4 Valid Issues for Grievance

For this process, a grievance is defined as a complaint by a faculty member alleging a violation, misinterpretation, or incorrect application of a policy, procedure, or practice of the university that directly

affects the grievant. Some examples of valid issues for filing a grievance are: improperly or unfairly determined personnel decisions that result in an unsatisfactory annual performance evaluation, unreasonable merit adjustment or salary level, or excessive teaching load/work assignments; substantive violations of promotion and tenure procedures (see appeal process in chapter three, "Appeals of Decisions on Reappointment, Tenure, or Promotion"); reprisals; substantive error in the application of policy; and matters relating to academic freedom.

Issues not open to grievance: While most faculty disputes with the university administration may be dealt with by this grievance policy, the following issues may not be made the subject of a grievance: determination of policy appropriately promulgated by the university administration or the university governance system; those items falling within the jurisdiction of other university policies and procedures (for example, complaints of unlawful discrimination or harassment, or an appeal related to the merits of a promotion and/or tenure decision); the contents of personnel policies, procedures, rules, regulations, ordinances, and statutes; the routine assignment of university resources (e.g., space, operating funds, parking, etc.); usual actions taken, or recommendations made, by administrators or committee members acting in an official capacity in the grievance process; termination of appointment by removal for just cause, non-reappointment, or abolition of position; or allegations of misconduct in scholarly activities.

Adjudication of disputes on the validity of issues qualifying for consideration under the faculty grievance procedures: If a university administrator rules that an issue does not qualify for the grievance process, the grievant may write to the chair of the Faculty Review Committee within five weekdays of receiving such notification and request a ruling from a special committee consisting of the president of the Faculty Senate, the chair of the Faculty Senate Committee on Reconciliation, and the chair of the Faculty Review Committee. The special committee considers the matter (including consultations with both parties if deemed necessary) and rules by majority vote on the admissibility of the matter to the grievance process. This special committee is called together by the chair of the Faculty Review Committee, who also sends a written report of the results of the deliberations of the committee to all parties concerned.

3.7.5 Particular Concerns and Definitions

Time limits are subject to extension by written agreement of both parties. The grievant and the administrator involved at that particular step of the discussion make such an agreement. (An agreement form to extend the grievance response time is available on the provost's website.)

Grievances that advance to step four during or close to the summer and/or teaching breaks during the academic year may require some extension of the stipulated time limits. The principals and the chair of the Faculty Review Committee negotiate such an extension. Every effort is made, however, to stay within the stipulated time limits. In case of disagreement, the Faculty Senate president rules on time extension and procedure questions, which might include a hearing conducted by three rather than five panel members, or other recommendations designed to expedite the proceedings while providing peer review of the grievance.

If a faculty member is away from the assigned work location at the time the event or action is discovered and is the basis for a grievance, the 30-day period during which the grievant must meet with the immediate supervisor to initiate the grievance process begins when the faculty member returns to the assigned work location. If the date of return causes a delay of such length that the grievance, or its resolution, is not timely, the grievant may submit the grievance in writing to the immediate supervisor (step two), omitting personal meetings until such time as the faculty member returns to the assigned work location.

CHAPTER FOUR

4.0 Employment Policies and Procedures for University Libraries Faculty with Continued Appointment or on the Continued Appointment-Track

4.1 University Libraries Faculty with Continued Appointment or on the Continued Appointment Track

As the primary means through which students and faculty gain access to the storehouse of organized knowledge, the University Libraries perform a unique and indispensable function in the educational process. In this function, faculty members of the University Libraries share many of the professional concerns of their colleagues in all colleges. The university recognizes the need to protect the academic freedom of librarians in their responsibility to ensure the availability of information and ideas, no matter how controversial, so that teachers may freely teach and students may freely learn.

Continued appointment is the equivalent of tenure in the university's colleges. Faculty members in the University Libraries may hold continued appointment or may be on the continued appointment-track; just as college faculty may be tenured or on the tenure-track (see chapter three). Provisions for term (fixed period) appointments during a probationary period are parallel to those for members of the college faculty. Evaluation for continued appointment (in contrast to term appointment) is made no later than the sixth year of such a probationary period.

A University Libraries faculty member with continued appointment will have continued employment until retirement with termination of employment based only on unsatisfactory performance, proof of misconduct, discontinuance or reduction in a segment of the university's research or educational program, or University Libraries reorganization because of changing patterns of University Libraries service or technological advances.

If a position held by a University Libraries faculty member with continued appointment is eliminated or changes to such a degree that the incumbent can no longer fulfill the requirements, every effort will be made to reassign the faculty member to another position. If the position of a University Libraries faculty member with continued appointment is terminated, it will not be re-established and refilled within a period of two years unless the appointment has been offered to and declined by the faculty member who was originally displaced.

Tenure awarded to faculty of the University Libraries before July 1, 1983 continues to be recognized.

The Library Faculty Association and the dean of University Libraries have developed procedures for probationary appointment, continued appointment, and promotion for faculty of the University Libraries, including evaluative criteria, to instill the highest professional standards in the University Libraries faculty. These procedures are contained in *Procedures on Promotion and Continued Appointment: University Libraries*.

The University Promotion and Continued Appointment Committee reviews recommendations for continued appointment and for promotion in rank above the level of assistant professor and makes recommendations to the provost.

The University Promotion and Continued Appointment Committee is comprised of representatives from the libraries and colleges who serve in staggered terms. The schedule of these appointments can be found on the Provost's website.

encouraged to meet with representatives in the benefits office in Human Resources to gain a clear understanding of the consequences of the change to their benefits. Office and laboratory space may be adjusted for longer term or permanent part-time appointments.

4.4 Continued Appointment and Promotion

The university has a tradition of upholding academic freedom. It endorses the “1940 Statement of Principles on Academic Freedom and Tenure” of the American Association of University Professors and the Association of American Colleges (*AAUP Bulletin*, September 1970, pp.323-325).

Members of the University Libraries faculty not holding appointments in a college department may be considered for continued appointment or for promotion in faculty rank in recognition of appropriate professional accomplishments as noted in the sections above.

4.4.1 Continued Appointment Eligibility

Like tenure, continued appointment is for the protection of the academic freedom of University Libraries faculty who are engaged in creating new programs and scholarship. Eligibility for continued appointment consideration is limited to faculty members holding regular faculty appointments of 50 percent to 100 percent in the University Libraries. Continued appointment is not granted to faculty members with temporary appointments. Individuals holding continued appointment who are appointed to administrative positions however, retain the status and privileges of continued appointment.

4.4.2 Pre-Continued Appointment Probationary Period and Progress Reviews

The term “probationary period” (“pre-continued appointment”) is applied to the succession of term appointments, which an individual undertakes on a full-or part-time regular faculty appointment, and during which evaluation for reappointment and for an eventual continued appointment takes place. The beginning of the probationary period for faculty members on term appointments is taken as July 1 or August 10 of the calendar year in which their initial full-time appointment begins, depending on whether they are on a calendar year or academic year appointment, regardless of the month in which their services are initiated. (The probationary period for new faculty appointed for spring semester begins the following fall even though the spring contract period officially begins December 25.)

Under usual circumstances, library promotion and continued appointment committees review the professional progress and performance of pre-continued appointment faculty members twice during the probationary period, usually in their second and fourth or third and fifth years. The timing of the reviews depends upon the nature of the faculty member’s discipline and must be clearly indicated in written departmental policies. The terms of offer identifies the initial appointment period. Pre-continued appointment reviews may be delayed if there is an approved extension as described below. Changes or variations in the standard review cycle must be documented in writing.

The initial review for a part-time faculty member should be no later than the third year of service (regardless of percent of employment) to give early feedback on their progress. At least two reviews should be conducted for part-time faculty members during their probationary period; more are recommended. The anticipated schedule for such reviews for appointment and for the mandatory review for continued appointment should be documented in writing as part of the agreement for the part-time appointment. Changes should be agreed upon and documented by the faculty member and the department.

Reviews are substantive and thorough. At a minimum, library promotion and continued appointment committees must review the faculty member’s relevant annual faculty activity reports, peer evaluations, and authored materials.

The pre-continued appointment reviews should analyze the faculty member’s progress toward promotion and continued appointment and offer guidance regarding future activities and plans. Pre-continued

The following guidance is provided for the development of University Libraries minimal standards:

The University Libraries should carefully assess and state the overall standards of professional performance and contribution considered minimally acceptable for continued appointment faculty. The University Libraries' evaluation mechanism should allow a distinction between performance that is deficient in one or more areas requiring improvement, and performance that is so seriously deficient as to merit the formal designation "unsatisfactory."

University Libraries' standards should embrace the entire scope of faculty contributions. Expectations recognize differences in faculty assignments within the same department or unit. University Libraries' standards should typically address the individual's skill, effort, and effectiveness in contributing to all aspects of the instructional mission; the individual's activity in and contributions to the discipline; the individual's contributions to the collective life of the University Libraries and university; and the individual's activity in and contributions to the university's outreach mission.

The University Libraries' statements should affirm support for the basic principles of academic freedom and should express tolerance for minority opinions, dissent from professional orthodoxies, and honest and civil disagreement with administrative actions.

Departmental statements should include the expectation that faculty with continued appointment will adhere to the standards of conduct and ethical behavior as stated in the *Faculty Handbook* and/or promulgated through other official channels.

4.5.4 Post-Continued Appointment Review

Nothing in this section should be interpreted as abridging the university's right to proceed directly to dismissal for cause as defined in chapter four, "Dismissal for Cause," or the right of individual faculty members to pursue existing mechanisms of reconciliation and redress.

A post-continued appointment review is mandatory whenever a faculty member with continued appointment receives two consecutive annual evaluations of unsatisfactory performance. Annual reviews for years spent on leave without pay are disregarded for the purpose of this calculation. The library promotion and continued appointment committee (review committee) conducts the review, unless the same committee was involved in the original unsatisfactory annual evaluations. In this case, the University Libraries faculty elect a committee to carry out the review function.

Upon recommendation of the dean, a post-continued appointment review may be waived or postponed if there are extenuating circumstances (such as health problems). The purpose of a post-continued appointment review is to focus the perspective of faculty peers on the full scope of a faculty member's professional competence, performance, and contributions to the University Libraries and university missions and priorities.

The faculty member has both the right and the obligation to provide a dossier with all documents, materials, and statements as the faculty member believes are relevant and necessary for the review. Ordinarily, such a dossier includes at least the following: an updated curriculum vitae, the past two or more faculty activity reports, teaching or client assessments, if any, and a description of activities and accomplishments since the last faculty activity report. The faculty member is given a period of no less than four weeks to assemble the dossier for the committee. The dean supplies the review committee with the last two annual evaluations, all materials that were considered in those evaluations, any further materials deemed relevant, and other materials the committee requests. Copies of all materials supplied to the review committee are given to the faculty member. The faculty member has the right to provide a written rebuttal of evidence provided by the dean.

the Honors College, and academic vice presidents are subject to reviews every five years. If the review of a dean cannot be conducted in the fifth year as would usually be the case, the provost informs the officers of the relevant college or University Libraries faculty association as to the reason for delay. A review may also be initiated at any time by the provost and/or at the request of at least one-third of the tenure-track faculty in the college, or in the case of University Libraries, one-third of the continued appointment faculty. If the review of a vice president who reports to the provost cannot be conducted in the fifth year, the provost notifies the deans and the chairs of the college and University Libraries faculty associations as to the reason for the delay. In the semester prior to a periodic review, the faculty association will be notified of the review and the association may schedule a meeting with the provost to discuss the upcoming review.

[Policy 6100, "Department Head or Chair Appointments."](#) outlines the review process for academic department heads or chairs and includes the appropriate unit and/or division supervisors in the University Libraries. In addition, colleges should adopt detailed procedures in accordance with the broad guidelines below so that reviews may be conducted consistently and appropriately across the college for those serving in academic leadership roles.

The purpose of the periodic review is to support the success of the university's academic units by providing developmental feedback to promote fair and effective academic leadership. Reappointment of an individual to unit and/or division in the libraries, academic department head, chair, academic dean, or academic vice president must be preceded by a periodic review conducted in accordance with guidelines outlined in Policy 6105 or in Policy 6100.

4.6 Imposition of a Severe Sanction or Dismissal for Cause¹

4.6.1 Adequate Cause

Adequate cause for imposition of a severe sanction or dismissal is related, directly and substantially, to the fitness of faculty members in their professional capacity as teachers and scholars. Imposition of a severe sanction or dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.²

Adequate cause includes: violation of professional ethics (see chapter two, "Professional Responsibilities and Conduct"); incompetence as determined through post-continued appointment review; willful failure to carry out professional obligations or assigned responsibilities; willful violation of university and/or government policies; falsification of information relating to professional qualifications; inability to perform assigned duties satisfactorily because of incarceration; or personal deficiencies that prevent the satisfactory performance of responsibilities (e.g., dependence on drugs or alcohol).

Reason to consider the imposition of a severe sanction or dismissal for cause is usually determined by a thorough and careful investigation by an appropriately charged faculty committee (as in the case of allegations of ethical or scholarly misconduct, or through a post-continued appointment review) or by the relevant administrator (for example, the dean, compliance and conflict resolution officer, internal auditor, or Virginia Tech Police). Generally, these investigations result in a report of findings; some reports also include a recommendation for sanctions. The report is directed to the relevant administrator for action; it is also shared with the faculty member. Imposition of a severe sanction or initiation of dismissal for cause proceedings, if warranted, follows the procedures set forth below.

4.6.2 Imposition of a Severe Sanction

Definition and examples: A severe sanction generally involves a significant loss or penalty to a faculty member such as, but not limited to, a demotion in rank and/or a reduction in salary or suspension without

¹ The procedures specified follow closely, but differ in occasional detail from, the "1976 Institutional Regulations on Academic Freedom and Tenure" approved by Committee A of the AAUP.

² Ibid.

determines if there was good cause for the delay. If so, the grievance proceeds. If not, the process ends with the most recently proposed resolution in force. The finding on the matter by the chair of the Faculty Review Committee is communicated to both parties in writing.

If either party to a grievance charges the other with procedural violations other than time limit issues, a special committee of the president of the Faculty Senate, the chair of the Committee on Reconciliation, and the chair of the Faculty Review Committee (or the vice president of the senate if the president is also chair of the Faculty Review Committee) is convened to rule on the question, as in disputes about the validity of issues qualifying for the grievance procedure. The special committee has the following options. It can either find no significant procedural violation occurred, in which case the grievance process continues unaffected, or that a significant procedural violation did occur. If the administrator committed a significant procedural violation, the grievance automatically qualifies for advancement to the next step in the grievance process. If the grievant committed a significant procedural violation, the grievance process ends at that point with the last proposed resolution established as the final disposition of the case.

4.7.4 Valid Issues for Grievance

For this process, a grievance is defined as a complaint by a faculty member alleging a violation, misinterpretation, or incorrect application of a policy, procedure, or practice of the university that directly affects the grievant. Some examples of valid issues for filing a grievance are: improperly or unfairly determined personnel decisions that result in an unsatisfactory annual performance evaluation, unreasonable merit adjustment or salary level, or excessive teaching load/work assignments; substantive violations of promotion and continued appointment procedures (see appeal process in chapter four, "Appeals of Decisions on Reappointment, Continued Appointment, or Promotion"); reprisals; substantive error in the application of policy; and matters relating to academic freedom.

Issues not open to grievance: While most faculty disputes with the university administration may be dealt with by this grievance policy, the following issues may not be made the subject of a grievance: determination of policy appropriately promulgated by the university administration or the university governance system; those items falling within the jurisdiction of other university policies and procedures (for example, complaints of unlawful discrimination or harassment, or an appeal related to the merits of a promotion and/or continued appointment decision); the contents of personnel policies, procedures, rules, regulations, ordinances, and statutes; the routine assignment of university resources (e.g., space, operating funds, parking, etc.); usual actions taken, or recommendations made, by administrators or committee members acting in an official capacity in the grievance process; termination of appointment by removal for just cause, non-reappointment, or abolition of position; or allegations of misconduct in scholarly activities.

Adjudication of disputes on the validity of issues qualifying for consideration under the faculty grievance procedures: If a university administrator rules that an issue does not qualify for the grievance process, the grievant may write to the chair of the Faculty Review Committee within five weekdays of receiving such notification and request a ruling from a special committee consisting of the president of the Faculty Senate, the chair of the Committee on Reconciliation, and the chair of the Faculty Review Committee. The special committee considers the matter (including consultations with both parties if deemed necessary) and rules by majority vote on the admissibility of the matter to the grievance process. This special committee is called together by the chair of the Faculty Review Committee, who also sends a written report of the results of the deliberations of the committee to all parties concerned.

4.7.5 Particular Concerns and Definitions

Time limits are subject to extension by written agreement of both parties. The grievant and the administrator involved at that particular step of the discussion make such an agreement. (An agreement form to extend the grievance response time is available on the provost's website.)

6.12.3 Timeliness of Grievance and Procedural Compliance

A grievance must be brought forward in a timely manner. It is the responsibility of the grievant to initiate the grievance process within 30 calendar days of the time when the event or action should have been known that is the basis for the grievance. The university administration is not required to accept a grievance for processing if the grievant does not meet the 30-day deadline, except in cases of demonstrated good cause.

Scheduled commitments made prior to the time of filing or advancement of a grievance that preclude action by either of the parties to the grievance automatically extend time limits for their duration unless this would be demonstrably harmful to the fair processing of the grievance. In such cases, on written request by the grievant to the appropriate office for that step, the grievance is advanced to the next step in the grievance process.

If the grievant does not follow the time limits specified in the grievance procedure it is assumed that the last proposed resolution as satisfactory was accepted. If the grievant desires to advance the grievance after the appropriate specified time limits have lapsed, the administrator who receives the late submission notifies the chair of the Faculty Review Committee in writing, and the chair of the Faculty Review Committee determines if there was good cause for the delay. If so, the grievance proceeds. If not, the process ends with the most recently proposed resolution in force. The finding on the matter by the chair of the Faculty Review Committee is communicated to both parties in writing.

If either party to a grievance charges the other with procedural violations other than time limit issues, a special committee of two research faculty appointed by the vice president for research and innovation and the chair of the Faculty Review Committee is convened to rule on the question, as in disputes about the validity of issues qualifying for the grievance procedure. The special committee has the following options. It can either find no significant procedural violation occurred, in which case the grievance process continues unaffected, or that a significant procedural violation did occur. If the administrator committed a significant procedural violation, the grievance automatically qualifies for advancement to the next step in the grievance process. If the grievant committed a significant procedural violation, the grievance process ends at that point with the last proposed resolution established as the final disposition of the case.

The Faculty Review Committee does not normally consider the subject of a grievance while it is simultaneously under review by another committee or panel of the university.

6.12.4 Valid Issues for Grievance

For this process, a grievance is defined as a complaint by a faculty member alleging a violation, misinterpretation, or incorrect application of a policy, procedure, or practice of the university that directly affects the grievant. Some examples of valid issues for filing a grievance are: improperly or unfairly determined personnel decisions that result in an unsatisfactory annual performance evaluation, unreasonable merit adjustment or salary level, or excessive teaching load/work assignments; substantive violations of promotion procedures (see chapter six, "Research Professor Ranks"); reprisals; substantive error in the application of policy; and matters relating to academic freedom.

Issues not open to grievance: While most faculty disputes with the university administration may be dealt with by this grievance policy, the following issues may not be made the subject of a grievance: determination of policy appropriately promulgated by the university administration or the university governance system; those items falling within the jurisdiction of other university policies and procedures (for example, complaints of unlawful discrimination or harassment, or an appeal related to the merits of a promotion decision); the contents of personnel policies, procedures, rules, regulations, ordinances, and statutes; the routine assignment of university resources (e.g., space, operating funds, parking, etc.); usual actions taken, or recommendations made, by administrators or committee members acting in an official capacity in the

chapter three, "Appeals of Decisions on Reappointment or Promotion.") The assignment of, or change in, a standard faculty rank carries no aspect of tenure.

7.2 Policies Related to Administrative and Professional Faculty Appointments

7.2.1 Protection of Academic Freedom

The university recognizes the need to protect the academic freedom of administrative and professional faculty members when their responsibilities include instruction, direct support of the academic programs of the university, or an activity in which academic freedom is respected.

7.2.2 Initial Appointment and Reappointment

Search procedures for administrative and professional faculty positions are similar to those for instructional faculty positions. Faculty search resources are available on the Human Resources website. Please refer to that website for detailed information on the search process. Further guidance for searches involving senior administrative faculty positions (e.g., dean, vice president, or president) is included in other sections of this handbook.

Some administrative and professional faculty may be appointed on a "restricted" rather than "regular" appointment. The special conditions of temporary, restricted appointments are described in chapter two, "Restricted Appointments."

Appointments to administrative and professional faculty positions are term appointments. No aspects of tenure or continued appointment are involved. Initial appointments to an administrative or professional faculty position are usually for a minimum of one calendar year or academic year, as appropriate. If the annual evaluation is positive, the faculty member can typically expect to continue employment. Important determinants in any reappointment decision are a productive and effective job performance and the continued need of the university for the scope and level of services being provided.

As a means to address budget reductions, and with a six-month written notice to the employee, the university is authorized to convert administrative and professional faculty on calendar year appointments to the traditional academic year appointment period, or to an alternate 9-, 10-, or 11-month appointment.

Appointment to an administrative or professional faculty position does not carry any aspect of tenure. Senior administrators who achieve tenure or continued appointment in an academic department retain their tenure or continued appointment. On occasion, requests are made by outside candidates, particularly for senior administrative appointments or administrative appointments in academic areas, for an appointment with tenure and rank in an academic department comparable to that held at the previous institution. Appointment with tenure requires review and approval by a subcommittee of the university promotion and tenure committee (see section 3.3 Procedures for Faculty Appointments with Tenure). Review and approval by the department head or chair, the departmental promotion and tenure or continued appointment committee, the dean, the provost, and the president is required before a decision is made to extend a firm offer that includes the granting of tenure or continued appointment to a senior administrator or administrator in an academic area. Review and approval by the department promotion and tenure or continued appointment committee shall be sought before a decision is made to extend a firm offer of tenure or of a rank other than lecturer to an administrative or professional faculty.

7.7.3 Timeliness of Grievance and Procedural Compliance

A grievance must be brought forward in a timely manner. It is the responsibility of the grievant to initiate the grievance process within 30 calendar days of the date identified, or should have known, of the event or action that is the basis for the grievance. The university administration is not required to accept a grievance for processing if the grievant does not meet the 30-day deadline, except in cases of demonstrated good cause.

Scheduled commitments made prior to the time of filing or advancement of a grievance that preclude action by either of the parties to the grievance automatically extend time limits for their duration unless this would be demonstrably harmful to the fair processing of the grievance. In such cases, on written request by the grievant to the appropriate office for that step, the grievance is advanced to the next step in the grievance process.

If the grievant does not follow the time limits specified in the grievance procedure it is assumed that the last proposed resolution is accepted as satisfactory. If the grievant desires to advance the grievance after the appropriate specified time limits have lapsed, the administrator who receives the late submission notifies the chair of CAPFA in writing, who determines if there was good cause for the delay. If so, the grievance proceeds. If not, the process ends with the most recently proposed resolution in force. The finding on the matter by the chair of CAPFA is communicated to both parties in writing.

If either party to a grievance charges the other with procedural violations, other than time limit issues, the chair of CAPFA rules on the question, as in disputes about the validity of procedural issues qualifying for the grievance procedure. The CAPFA chair has the following options: The chair can either find no significant procedural violation occurred, in which case the grievance process continues unaffected, or that a significant procedural violation did occur. If the step one or step two administrator committed a significant procedural violation, the grievance automatically qualifies for advancement to the next step in the grievance process. If the grievant committed a significant procedural violation, the grievance process ends at that point for that grievance with the last proposed resolution established as the final disposition of the case.

7.7.4 Valid Issues for Grievance

For this process, a grievance is defined as a complaint by an A/P faculty member alleging a violation, misinterpretation, or incorrect application of a policy, procedure, or practice of the university that directly affects the grievant. Some examples of valid issues for filing a grievance are: termination for cause; improperly or unfairly determined personnel decisions that result in an unsatisfactory annual performance evaluation; unreasonable merit adjustment or salary level; excessive teaching load/work assignments; reprisals; substantive error in the application of policy; matters relating to academic freedom.

Issues not open to grievance: While A/P faculty disputes with the university administration may be dealt with using this grievance policy, the following issues *may not* be made the subject of a grievance: appropriate application of policy by the university administration or the university governance system; contents of university policies and procedures; the routine assignment of university resources (e.g., space, operating funds, parking, etc.); normal actions taken, or recommendations made, by administrators or committee members acting in an official capacity in the grievance process; those items falling within the jurisdiction of other university policies and procedures ([Policy 1025 "Policy on Non-Discrimination, Harassment Prevention, and Definition of Sexual Violence"](#) for complaints of unlawful discrimination or harassment; [Policy 1026 "Title IX Sexual Harassment and Responsible Employee Reporting"](#), *Faculty Handbook*, chapter two "Allegations of Unprofessional or Unethical Conduct" for complaints related to

CHAPTER FOURTEEN

14.0 Policies and Procedures for Extension Faculty with Continued Appointment or on the Continued Appointment-Track

Virginia Cooperative Extension Faculty are comprised of two types:

1. Faculty on the Continued Appointment track
 - Ranks: assistant professor, associate professor, professor
2. Administrative and Professional Faculty (A/P)
 - Extension Agent
 - Ranks: associate extension agent, extension agent, senior extension agent
 - Extension Specialist
 - Ranks: associate extension specialist, extension specialist, senior extension specialist
 - 4-H Center Program Director
 - Ranks: associate program director, program director, senior program director

Policies addressing A/P faculty, including A/P Extension faculty, are found in chapter seven of the Faculty Handbook.

14.1 Employment Policies and Procedures for Virginia Cooperative Extension Faculty with Continued Appointment or on the Continued Appointment-Track

Extension faculty, as defined in chapter two, "Virginia Cooperative Extension Faculty with Continued Appointment or on the Continued Appointment-Track," may or may not hold appointments in the college faculty. They are, nonetheless, subject to high professional standards in the dissemination of knowledge through the Virginia Cooperative Extension programs and in the planning and delivery of educational programs and programs of assistance to industries and local governmental agencies. In these functions, Extension faculty members share many of the professional concerns of their collegiate colleagues, including the need for the protection of academic freedom in these responsibilities.

Continued appointment is the extra-collegiate equivalent of tenure. Extra-collegiate faculty in Extension may hold continued appointment or may be on the continued appointment-track; just as college faculty may be tenured or on the tenure-track (see chapter three). Provisions for term appointments during a probationary period are parallel to those for members of the college faculty. Evaluation for continued appointment (in contrast to term appointment) is made no later than the sixth year of such a probationary period.

An Extension faculty member with continued appointment can expect continued employment until retirement with termination of employment based only on unsatisfactory performance, proof of misconduct, discontinuance or reduction in a segment of the university's Extension programs, or reorganization because of changing patterns of programming.

If a position held by an Extension faculty member with continued appointment is eliminated or changes to such a degree that the incumbent can no longer fulfill the requirements, every effort will be made to reassign the faculty member to another position. If the position of an Extension faculty member with continued appointment is terminated, it will not be re-established and refilled within a period of two years unless the appointment has been offered to and declined by the displaced faculty member.

Tenure awarded to any member of the Virginia Cooperative Extension faculty before July 1, 1983 continues to be recognized.

Faculty members on part-time appointments, whether term or permanent, retain all rights and responsibilities attendant to their appointment as a continued appointment and continued appointment-track faculty member.

Part-time appointments are made for any fraction 50 percent or greater of a full appointment; faculty members receive proportional salary. Faculty members considering such appointments are strongly encouraged to meet with representatives in the benefits office in Human Resources to gain a clear understanding of the consequences of the change to their benefits. Office and laboratory space may be adjusted for longer term or permanent part-time appointments.

14.4 Continued Appointment and Promotion

The university has a tradition of upholding academic freedom. It endorses the “1940 Statement of Principles on Academic Freedom and Tenure” of the American Association of University Professors and the Association of American Colleges (*AAUP Bulletin*, September 1970, pp.323-325).

Members of the Extension faculty not holding appointments in an academic department in a college may be considered for continued appointment or for promotion in faculty rank in recognition of appropriate professional accomplishments as noted in the sections above.

14.4.1 Continued Appointment Eligibility

Like tenure, continued appointment is for the protection of the academic freedom of University Libraries and Extension faculty who are engaged in creating new programs and scholarship. Eligibility for continued appointment consideration is limited to faculty members holding regular faculty appointments of 50 percent to 100 percent in the University Libraries or Virginia Cooperative Extension. Continued appointment is not granted to faculty members with temporary appointments. Individuals holding continued appointment who are appointed to administrative positions however, retain the status and privileges of continued appointment.

14.4.2 Pre-Continued Appointment Probationary Period and Progress Reviews

The term “probationary period” (“pre-continued appointment”) is applied to the succession of term appointments, which an individual undertakes on a full-or part-time regular faculty appointment, and during which evaluation for reappointment and for an eventual continued appointment takes place. The beginning of the probationary period for faculty members on term appointments is taken as July 1 or August 10 of the calendar year in which their initial full-time appointment begins, depending on whether they are on a calendar year or academic year appointment, regardless of the month in which their services are initiated. (The probationary period for new faculty appointed for spring semester begins the following fall even though the spring contract period officially begins December 25.)

Under usual circumstances, divisional promotion and continued appointment committees review the professional progress and performance of pre-continued appointment faculty members twice during the probationary period, usually in their second and fourth or third and fifth years. The timing of the reviews depends upon the nature of the faculty member’s discipline and must be clearly indicated in written departmental policies. The terms of offer identifies the initial appointment period. Pre-continued appointment reviews may be delayed if there is an approved extension as described below. Changes or variations in the standard review cycle must be documented in writing.

The initial review for a part-time faculty member should be no later than the third year of service (regardless of percent of employment) to give early feedback on their progress. At least two reviews should be conducted for part-time faculty members during their probationary period; more are recommended. The anticipated schedule for such reviews for appointment and for the mandatory review for continued

The following guidance is provided for the development of Extension divisional minimal standards:

Extension divisions should carefully assess and state the overall standards of professional performance and contribution they consider minimally acceptable for continued appointment faculty. Each division's evaluation mechanism should allow a distinction between performance that is deficient in one or more areas requiring improvement, and performance that is so seriously deficient as to merit the formal designation "unsatisfactory."

Extension divisional standards should embrace the entire scope of faculty contributions. Expectations recognize differences in faculty assignments within the same department or unit. Extension divisional standards should typically address the individual's skill, effort, and effectiveness in contributing to all aspects of the instructional mission; the individual's activity in and contributions to the discipline; the individual's contributions to the collective life of the division and university; and the individual's activity in and contributions to the university's outreach mission.

Extension divisional statements should affirm support for the basic principles of academic freedom and should express tolerance for minority opinions, dissent from professional orthodoxies, and honest and civil disagreement with administrative actions.

Departmental statements should include the expectation that faculty with continued appointment will adhere to the standards of conduct and ethical behavior as stated in the *Faculty Handbook* and/or promulgated through other official channels.

14.5.4 Post-Continued Appointment Review

Nothing in this section should be interpreted as abridging the university's right to proceed directly to dismissal for cause as defined in chapter four, "Dismissal for Cause," or the right of individual faculty members to pursue existing mechanisms of reconciliation and redress.

A post-continued appointment review is mandatory whenever a faculty member with continued appointment receives two consecutive annual evaluations of unsatisfactory performance. Annual reviews for years spent on leave without pay are disregarded for the purpose of this calculation. The Extension Divisional Promotion and Continued Appointment Committee conducts the review, unless the same committee was involved in the original unsatisfactory annual evaluations. In this case, the division elects a committee to carry out the review function.

Upon recommendation of the director, a post-continued appointment review may be waived or postponed if there are extenuating circumstances (such as health problems).

The purpose of a post-continued appointment review is to focus the perspective of faculty peers on the full scope of a faculty member's professional competence, performance, and contributions to the Extension division and university missions and priorities.

The faculty member has both the right and the obligation to provide a dossier with all documents, materials, and statements he or she believes are relevant and necessary for the review. Ordinarily, such a dossier includes at least the following: an updated curriculum vitae, the past two or more faculty activity reports, teaching or client assessments, if any, and a description of activities and accomplishments since the last faculty activity report. The faculty member is given a period of no less than four weeks to assemble the dossier for the committee. The director supplies the review committee with the last two annual evaluations, all materials that were considered in those evaluations, any further materials deemed relevant, and other materials the committee requests. Copies of all materials supplied to the review committee are given to the faculty member. The faculty member has the right to provide a written rebuttal of evidence provided by the director.

14.6 Imposition of a Severe Sanction or Dismissal for Cause¹

14.6.1 Adequate Cause

Adequate cause for imposition of a severe sanction or dismissal is related, directly and substantially, to the fitness of faculty members in their professional capacity as teachers and scholars. Imposition of a severe sanction or dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens.²

Adequate cause includes: violation of professional ethics (see chapter two, "Professional Responsibilities and Conduct"); incompetence as determined through post-continued appointment review; willful failure to carry out professional obligations or assigned responsibilities; willful violation of university and/or government policies; falsification of information relating to professional qualifications; inability to perform assigned duties satisfactorily because of incarceration; or personal deficiencies that prevent the satisfactory performance of responsibilities (e.g., dependence on drugs or alcohol).

Reason to consider the imposition of a severe sanction or dismissal for cause is usually determined by a thorough and careful investigation by an appropriately charged faculty committee (as in the case of allegations of ethical or scholarly misconduct, or through a post-continued appointment review) or by the relevant administrator (for example, the director, compliance and conflict resolution officer, internal auditor, or Virginia Tech Police). Generally, these investigations result in a report of findings; some reports also include a recommendation for sanctions. The report is directed to the relevant administrator for action; it is also shared with the faculty member. Imposition of a severe sanction or initiation of dismissal for cause proceedings, if warranted, follows the procedures set forth below.

14.6.2 Imposition of a Severe Sanction

Definition and examples: A severe sanction generally involves a significant loss or penalty to a faculty member such as, but not limited to, a demotion in rank and/or a reduction in salary or suspension without pay for a period not to exceed one year, imposed for unacceptable conduct and/or a serious breach of university policy.

Routine personnel actions such as a recommendation for a below average or no merit increase, conversion from a calendar year to an academic year appointment, reassignment, or removal of an administrative stipend do not constitute "sanctions" within the meaning of this policy. A personnel action such as these may be a valid issue for grievance under procedures defined in the *Faculty Handbook*.

Process for Imposing a Severe Sanction: The conduct of a faculty member, although not constituting adequate cause for dismissal, may be sufficiently grave to justify imposition of a severe sanction. Imposition of a severe sanction follows the same procedures as dismissal for cause beginning with step one. If the matter is not resolved at the first step, a standing or ad hoc faculty committee conducts an informal inquiry (step two). The requirement for such an informal inquiry is satisfied if the investigation was conducted by an appropriately charged faculty committee (as would be the case with an alleged violation of the ethics or scholarly misconduct policies) and, having determined that in its opinion there is adequate cause for imposing a severe sanction, refers the matter to the administration.

¹ The procedures specified follow closely, but differ in occasional detail from, the "1976 Institutional Regulations on Academic Freedom and Tenure" approved by Committee A of the AAUP.

² Ibid.

14.7.4 Valid Issues for Grievance

For this process, a grievance is defined as a complaint by a faculty member alleging a violation, misinterpretation, or incorrect application of a policy, procedure, or practice of the university that directly affects the grievant. Some examples of valid issues for filing a grievance are: improperly or unfairly determined personnel decisions that result in an unsatisfactory annual performance evaluation, unreasonable merit adjustment or salary level, or excessive teaching load/work assignments; substantive violations of promotion and continued appointment procedures (see appeal process in chapter fourteen, "Appeals of Decisions on Reappointment, Continued Appointment, or Promotion"); reprisals; substantive error in the application of policy; and matters relating to academic freedom.

Issues not open to grievance: While most faculty disputes with the university administration may be dealt with by this grievance policy, the following issues may not be made the subject of a grievance: determination of policy appropriately promulgated by the university administration or the university governance system; those items falling within the jurisdiction of other university policies and procedures (for example, complaints of unlawful discrimination or harassment, or an appeal related to the merits of a promotion and/or continued appointment decision); the contents of personnel policies, procedures, rules, regulations, ordinances, and statutes; the routine assignment of university resources (e.g., space, operating funds, parking, etc.); usual actions taken, or recommendations made, by administrators or committee members acting in an official capacity in the grievance process; termination of appointment by removal for just cause, non-reappointment, or abolition of position; or allegations of misconduct in scholarly activities.

Adjudication of disputes on the validity of issues qualifying for consideration under the faculty grievance procedures: If a university administrator rules that an issue does not qualify for the grievance process, the grievant may write to the chair of the Faculty Review Committee within five weekdays of receiving such notification and request a ruling from a special committee consisting of the president of the Faculty Senate, the chair of the Committee on Reconciliation, and the chair of the Faculty Review Committee. The special committee considers the matter (including consultations with both parties if deemed necessary) and rules by majority vote on the admissibility of the matter to the grievance process. This special committee is called together by the chair of the Faculty Review Committee, who also sends a written report of the results of the deliberations of the committee to all parties concerned.

14.7.5 Particular Concerns and Definitions

Time limits are subject to extension by written agreement of both parties. The grievant and the administrator involved at that particular step of the discussion make such an agreement. (An agreement form to extend the grievance response time is available on the provost's website.)

Grievances that advance to step four during or close to the summer and/or teaching breaks during the academic year may require some extension of the stipulated time limits. The principals and the chair of the Faculty Review Committee negotiate such an extension. Every effort is made, however, to stay within the stipulated time limits. In case of disagreement, the Faculty Senate president rules on time extension and procedure questions, which might include a hearing conducted by three rather than five panel members, or other recommendations designed to expedite the proceedings while providing peer review of the grievance.

If a faculty member is away from his or her assigned work location at the time he or she discovers the event or action that is the basis for a grievance, the 30-day period during which the grievant must meet with his or her immediate supervisor to initiate the grievance process begins when the faculty member returns to his or her assigned work location. If the date of return causes a delay of such length that the grievance, or its resolution, is not timely, the grievant may submit the grievance in writing to the immediate supervisor (step two), omitting personal meetings until such time as the faculty member returns to his or her assigned work location.



FIRST AMENDMENT






"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The First Amendment to the U.S. Constitution.

As an academic community, Virginia Tech values the rights guaranteed by the First Amendment of the United States Constitution and does not intend to restrict the exercise of these rights. However, all members of the university community are responsible for respecting conditions that preserve the freedom to learn. Protected activities do not violate university policy unless they interfere with university functions, violate the rights of others, or otherwise break the law.

If you would like to report an incident of disruption of constitutionally protected speech, you may fill out the form below.

> [SPEECH ON CAMPUS FLYER \(PDF\)](#)

RELATED POLICIES


-  **Policy No. 1025 -** Policy on Harassment, Discrimination, and Sexual Assault
-  **Policy No. 5000 -** University Facilities Usage and Event Approval
-  **Policy No. 5215 -** Sales, Solicitation and Advertising on Campus
-  **Faculty Handbook**
-  **Hokie Handbook** (Student Handbook)

REPORT AN INCIDENT

Name (First and Last):

Email:

Describe the Incident:

Image Verification:
 I'm not a robot 

SUBMIT

In accordance with [§23.1-401.1](#) *Restrictions on student speech; limitations* of the Code of Virginia, as amended, our annual compliance report can be found [here](#).



Speech on Campus

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” - *The First Amendment to the U.S. Constitution*

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RELATED POLICIES

No. 1025 - Policy on Harassment, Discrimination, and Sexual Assault

No. 5000 - University Facilities Usage and Event Approval

No. 5215 - Sales, Solicitation and Advertising on Campus

Hokie Handbook (Student Handbook)

Faculty Handbook

REPORT AN INCIDENT

If you would like to report an incident of disruption of constitutionally protected speech, you may fill out the “Report an Incident” form on the webpage below.

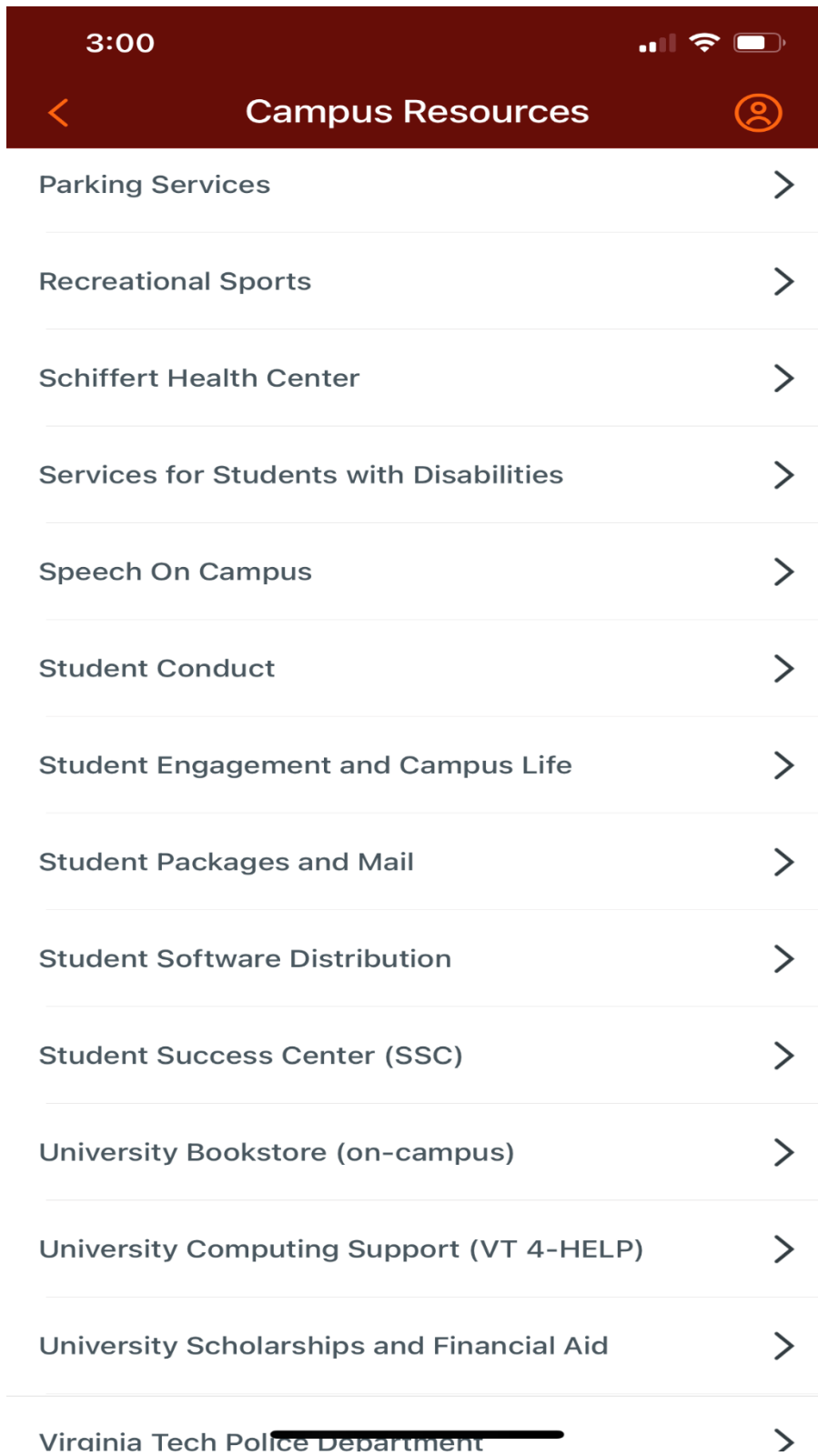
MORE INFORMATION

To learn more, please visit our Speech on Campus webpage:

policies.vt.edu/speechoncampus

Hokies On Track App:

Schedule G



3:00 ↗



Details



STUDENT AFFAIRS
COOK COUNSELING CENTER
VIRGINIA TECH.

Speech On Campus



240 McComas Hall

Rate this



See the attached pdf to learn more about Speech on Campus and get important information on the related policies, how to report an incident, and other resources available.

PDFS

Speech on Campus





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Hokie Handbook (Student Handbook)

Faculty Handbook

REPORT AN INCIDENT

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MORE INFORMATION

To learn more, please visit our Speech on Campus webpage:

policies.vt.edu/speechoncampus



**Certification of § 23.1-401.1. Constitutionally protected speech;
policies, materials, and reports; report**

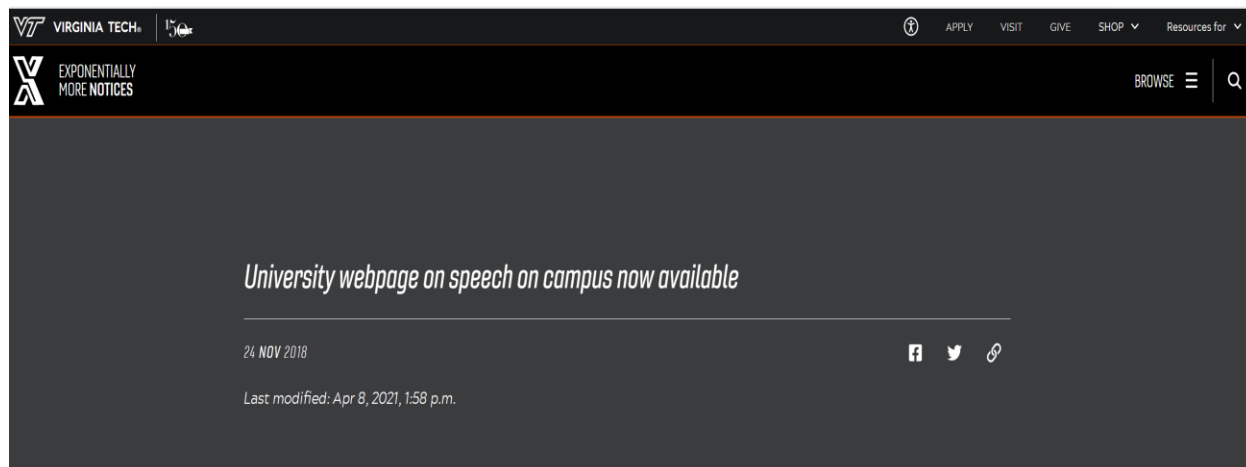
I hereby acknowledge that Virginia Tech is in compliance with Section C:

“Each public institution of higher education shall develop materials on the policies established pursuant to subsection B and notify any employee who is responsible for the discipline or education of enrolled students of such materials.”

Kim O'Rourke
Vice President for Policy and Governance

November 19, 2021

Schedule I



The screenshot shows a dark-themed webpage header with the Virginia Tech logo and navigation links. The main content area features a white headline, a date, and social media icons.

VIRGINIA TECH

EXponentially MORE NOTICES

APPLY VISIT GIVE SHOP Resources for

BROWSE

University webpage on speech on campus now available

24 NOV 2018

Last modified: Apr 8, 2021, 1:58 p.m.

Facebook Twitter Link

From: Office of the Vice President for Policy and Governance

As an academic community, Virginia Tech values the rights guaranteed by the First Amendment of the United States Constitution and does not intend to restrict the exercise of these rights. However, all members of the university community are responsible for respecting conditions that preserve the freedom to learn. Protected activities do not violate university policy unless they interfere with university functions, violate the rights of others, or otherwise break the law.

To learn more about speech on campus, including related campus policies, or how to report an incident of disruption of constitutionally protected speech on campus, or to find printable materials regarding speech on campus, visit the Virginia Tech [Speech on Campus](#) webpage.

Questions? Contact the Office of the Vice President for Policy and Governance at 540-231-6232 or vppg@vt.edu.

Posted: Nov. 24, 2018

Schedule J

Two complaints were filed in a court of law since December 1, 2020 to initiate a lawsuit against Virginia Polytechnic Institute and State University (Virginia Tech) or an employee of Virginia Tech in his or her official capacity for an alleged violation of the First Amendment to the United States Constitution. Copies of those complaints are attached.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

KIERSTEN HENING,

Plaintiff,

v.

CHARLES “CHUGGER” ADAIR, in his
individual and official capacity as head coach
of the women’s soccer team at Virginia
Polytechnic Institute and State University,
Defendant.

AMENDED COMPLAINT

No. 7:21-cv-131-GEC

Plaintiff, Kiersten Hening, brings this action under the First and Fourteenth Amendments to the U.S. Constitution, *see* 42 U.S.C. §1983, and alleges as follows:

INTRODUCTION

1. Hening refused to kneel. A three-year starter on Virginia Tech’s women’s soccer team, she remained standing while her teammates took a knee before a game last fall. Especially in 2020, kneeling before a sporting event is loaded with political, social, cultural, and symbolic meaning. *V.A. v. San Pasqual Valley Unified Sch. Dist.*, 2017 WL 6541447, at *5 (S.D. Cal. Dec. 21, 2017).

2. Hening’s stance was costly—too costly. Her coach dislikes Hening’s political views. Because she refused to kneel, he benched her, subjected her to repeated verbal abuse, and forced her off the team.

3. But Hening’s coach is a state actor, *Jennings v. Univ. of N.C.*, 482 F.3d 686, 701 (4th Cir. 2007) (en banc), and Hening’s refusal to kneel is protected by the First Amendment, *W.V. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 634 (1943). The

Constitution gives college students like Hening “the right to be free from [such] retaliation” for their protected expression. *Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474, 499 (4th Cir. 2005) (quoting *Suarez Corp. Indus. v. McGraw*, 202 F.3d 676, 685 (4th Cir. 2000)).

4. As a result of her coach’s actions, Hening can no longer play the game she loves, despite having two more years of NCAA eligibility. This Court should vindicate Hening’s constitutional rights and award her legal and equitable relief.

JURISDICTION AND VENUE

5. This action arises under the First and Fourteenth Amendments to the U.S. Constitution and is brought via 42 U.S.C. §§1983 and 1988.

6. This Court has subject-matter jurisdiction under 28 U.S.C. §§1331 and 1343.

7. Venue is proper under 28 U.S.C. §1391 because the events giving rise to the claims occurred in this district and because the sole defendant resides here.

PARTIES

8. Virginia Polytechnic Institute and State University (better known as Virginia Tech) is a public university organized and existing under the laws of Virginia. Virginia Tech’s main campus is in Blacksburg, Virginia.

9. Plaintiff, Kiersten Hening, is a junior at Virginia Tech who played for the women’s soccer team from 2018 to 2020. A talented defender, Hening was a starter for both her freshman and sophomore seasons. She played the seventh-most minutes on

the team as a freshman, and the third-most minutes as a sophomore. Heading into her junior season, Hening had played more minutes than any other player on the team. In recognition of Hening's experience and leadership, the coaching staff selected her to do a media interview before the 2020 season began. *See* Berman, *Virginia Tech Women's Soccer Excited to Finally Start Season*, Roanoke Times (Sept. 10, 2020), [bit.ly/2Z285co](https://www.wrt.com/story/news/sports/2020/09/10/vt-womens-soccer-season-2020/).

10. Defendant, Charles "Chugger" Adair, is the head coach of the women's soccer team at Virginia Tech—a position he has held since 2010. Coach Adair is sued in his individual and official capacity.

BACKGROUND

11. Over the last several years, this country has had a highly public, sometimes contentious conversation about social justice. The primary topic of debate has been the relationship between police officers and racial minorities.

12. A flashpoint in the current debate occurred in 2016, when the San Francisco 49ers played a football game against the then-San Diego Chargers. Prior to the game, quarterback Colin Kaepernick kneeled during the national anthem. Kaepernick explained that he kneeled in order to protest police brutality against racial minorities.

13. Kaepernick's protest was highly visible, sparked much controversy, and eventually spread across the country, as athletes of many different sports, ages, and skill levels started kneeling before games. By 2020, it was well understood that kneeling

before a game communicated support for Kaepernick's message and the organization that had become the face of that message: Black Lives Matter (or BLM).

14. The current debate reached an acme in the summer of 2020, after George Floyd died during an altercation with Minneapolis police. Floyd's death sparked massive protests across the nation. It also raised the profile of BLM.

15. What started as a social-media hashtag, BLM eventually became a more formal organization. As an organization, BLM became known for encouraging protests that often turned violent. It also adopted radical positions like defunding the police and eliminating "the Western-prescribed nuclear family."

16. As the nation discussed these issues, so did the women's soccer team at Virginia Tech.

17. On September 1, 2020, the Student-Athlete Advisory Committee at Virginia Tech discussed how the school's athletic teams should show support for the social-justice movement. The committee's advisor was Reyna Gilbert-Lowery, a senior associate athletic director at Virginia Tech (and Coach Adair's supervisor). Gilbert-Lowery is a vocal supporter of BLM. The committee thus discussed proposals to have Virginia Tech's student-athletes wear BLM masks, BLM wristbands, BLM armbands, and BLM shirts during pregame warmups and games.

18. When the women's soccer team discussed these proposals, most players supported them.

19. Coach Adair also supported them. Coach Adair even proposed his own idea: the women's soccer team would replace the word "Hokies" on the backs of their jerseys with the names of racial minorities who were the victims of alleged police misconduct. On several occasions, Coach Adair and others on his coaching staff expressed support for athletes who had knelt before games to express their support for the social-justice movement.

20. But Hening quietly dissented. While Hening supports social justice and believes that black lives matter, she does not support BLM the organization. She disagrees with its tactics and core tenets of its mission statement, including defunding the police and eliminating the nuclear family.

21. Hening expressed her disagreement with BLM—and the various social-justice measures the team was discussing—privately to other players.

22. Someone took a screenshot of some of these private messages between girls on the team and shared them with the coaching staff. Some of Hening's teammates also saw the messages and became outraged.

23. After learning the content of the messages, a contingency of players called Coach Adair on September 3, demanding that he address the fact that some of his players were "racist" and did not support BLM.

24. The next day, Coach Adair and other coaches were overheard discussing the players' political views. The coaches speculated, mockingly, that some of the players and their families probably thought "All Lives Matter."

25. Meanwhile, shortly before the team's season opener against Virginia on September 12, the team was informed that the Atlantic Coast Conference had drafted a "unity statement" that would be read before every ACC game. The team was not told, and Hening did not know in advance, what the unity statement would say.

26. The unity statement was read shortly before the Virginia game. All starters, including Hening, were standing on the field at the time. While other starters knelt during the unity statement to mirror Kaepernick's protest and to express support for BLM, Hening remained standing.

27. At the next opportunity—halftime of the Virginia game—Coach Adair berated Hening for her stance. He singled her out and verbally attacked her, pointing a finger directly in her face. He denounced Hening for "bitching and moaning," for being selfish and individualistic, and for "doing her own thing." Coach Adair's tirade was so extreme, so personally directed at Hening, and so disconnected from the game itself, that her teammates approached her afterward to comfort her and to express their shock.

28. Coach Adair's attack during halftime was not about the Virginia game or Hening's play. The score at halftime was 0-1, and the only goal that Virginia had scored did not involve Hening. It occurred on the opposite side of the field.

29. Other than Hening, only one other starter refused to kneel for the unity statement. Coach Adair berated Hening, instead of that player, because that player was on scholarship (Hening was a walk-on) and because that player's parents had called and

warned Coach Adair in advance not to retaliate against their daughter for opposing BLM (Hening's parents had not).

30. At practice the next week, during a film session about the Virginia game, Coach Adair again berated Hening. His verbal abuse was repeated, targeted at Hening, and had nothing to do with the actual game or her play. Hening understood that it was a continuation of the politically motivated retaliation that Coach Adair had started during halftime.

31. Hening was unexpectedly removed from the starting lineup for the next game against Clemson, on September 17. Coach Adair let her play only 29 minutes total, and he played her in a position she had never played before in college. Virginia Tech lost the Clemson game 0-3.

32. Coach Adair's conduct in the Clemson game was based on Hening's political views and her refusal to kneel, not soccer or her play. The player he started in Hening's place was new to the position and struggled the entire game. Other players (past and present), parents, and fans expressed confusion about why Hening did not start and why Coach Adair was letting someone struggle in her position instead.

33. During the film session for the Clemson game, Coach Adair once again berated Hening. His verbal abuse was again targeted, again repeated, and again disconnected from Hening's play or the Clemson game—a game where she barely played.

34. In the next game against the University of North Carolina, Coach Adair again refused to start Hening. Hening played only five minutes total. Virginia Tech lost the UNC game 0-1.

35. Coach Adair's conduct in the UNC game was based on Hening's political views and her refusal to kneel, not soccer or her play.

36. Coach Adair's campaign of abuse and retaliation made conditions for Hening so intolerable that she felt compelled to resign. Hening did not want to leave; but, given no real choice, she resigned on September 20.

37. When she left the team, players (past and present), parents, and staff sent messages of support to Hening. Players understood why she left, given Coach Adair's abusive behavior. Staff were disappointed to see her go because she was a hard worker, a skilled player, and—until Coach Adair sidelined her—an important contributor to the team on and off the field. One staff member lamented that Hening's departure was caused, not by soccer decisions, but by “‘outside’ forces that have been brought inside the program.” By “‘outside forces,’” he meant BLM and the controversy over Hening's opposition.

COUNT

Violation of the First & Fourteenth Amendments

38. Plaintiff repeats and realleges each of the prior allegations in this complaint.

39. The First Amendment, as incorporated against the States by the Fourteenth, protects the freedoms of speech and association. *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 214 (1986). Just as much as it protects the positive rights to speak and associate, the First Amendment safeguards the negative rights “to refrain from speaking” and “to eschew association for expressive purposes.” *Janus v. AFSCME*, 138 S. Ct. 2448, 2463 (2018).

40. These protections do not “apply with less force” to college students. *Healy v. James*, 408 U.S. 169, 180 (1972). To the contrary, “[t]he vigilant protection of constitutional freedoms is nowhere more vital.” *Id.* College students “must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.” *Sweezy v. N.H. ex rel. Wyman*, 354 U.S. 234, 250 (1957). Indeed, Virginia Tech promises that its students “enjoy those rights guaranteed by the Constitutions of the United States and the Commonwealth of Virginia.” *Virginia Tech Student Code of Conduct 2020*, at 4, bit.ly/2Z2LdK2.

41. Because state actors cannot “produce a result which [they] could not command directly,” *Perry v. Sindermann*, 408 U.S. 593, 597 (1972), the First Amendment also prohibits “retaliation” against students who exercise their rights. *Constantine*, 411 F.3d at 499; accord *Rutan v. Republican Party of Ill.*, 497 U.S. 62, 78 (1990). Put simply, “[o]fficial reprisal for protected speech offends the Constitution.” *Hartman v. Moore*, 547 U.S. 250, 256 (2006).

42. This ban on retaliation applies even if the person “has no ‘right’ to [the] governmental benefit” and even if the government can “deny him the benefit for any number of reasons.” *Perry*, 408 U.S. at 597. What the state actor did is irrelevant; “the government’s *reason* for [acting] is what counts.” *Heffernan v. City of Paterson*, 136 S. Ct. 1412, 1418 (2016) (emphasis added). The illegal retaliation can be something “as trivial as failing to hold a birthday party.” *Rutan*, 497 U.S. at 75 n.8.

43. It does not matter if the retaliation is unsuccessful at chilling the target’s speech. The constitutionality of the retaliatory action does not turn on “the plaintiff’s will to fight.” *Constantine*, 411 F.3d at 500.

44. The First Amendment is violated whenever speech, politics, or association motivated the retaliatory action “at least in part.” *Cruise-Gubyas v. Minard*, 918 F.3d 494, 497 (6th Cir. 2019).

45. Hening’s political beliefs and her refusal to kneel are protected by the First Amendment.

46. Coach Adair retaliated against Hening for exercising her First Amendment rights by benching her, launching a campaign of verbal abuse against her, and effectively forcing her off the team. These actions—both in isolation and in combination—would deter a person of ordinary firmness from exercising her First Amendment rights.

47. Coach Adair took these actions under color of state law. *See Jennings*, 482 F.3d at 701 (soccer coach “functioning in his capacity as a coach” is “a state actor” under §1983).

48. If Hening rejoined the team without a court order, Coach Adair's illegal retaliation would continue. His abuse toward Hening was prolonged and repeated, and it ended only when Hening left the team. Both the team and the ACC, moreover, will continue to take collective action in support of BLM. The ACC has announced that the unity statement, for example, will continue to be read before every game in 2021.

49. Coach Adair intentionally violated the Constitution and acted with reckless and callous disregard for Hening's rights.

PRAYER FOR RELIEF

Hening respectfully asks this Court to enter judgment in her favor and to provide the following relief:

- a. A declaratory judgment that Coach Adair violated Hening's First and Fourteenth Amendment rights;
- b. A permanent injunction ordering Coach Adair to undergo First Amendment training, to let Hening rejoin the team, and to take no adverse action against Hening based on any exercise of her First Amendment rights;
- c. Compensatory damages;
- d. Punitive damages;
- e. Nominal damages;
- f. Hening's reasonable costs and expenses of this action, including attorneys' fees, per 42 U.S.C. §1988 and all other applicable laws; and
- g. All other relief that Hening is entitled to.

JURY DEMAND

Plaintiff requests a jury trial.

Respectfully submitted,

Dated: March 3, 2021

/s/ Cameron T. Norris

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Counsel for Plaintiff Kiersten Hening

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

SPEECH FIRST, INC.,

Plaintiff,

v.

TIMOTHY SANDS, in his individual capacity and official capacity as President of Virginia Polytechnic Institute and State University; CYRIL CLARKE, in his individual capacity and official capacity as Executive Vice President and Provost; KELLY OAKS, in her individual capacity and official capacity as Assistant Vice President for Equity and Accessibility; BYRON HUGHES, in his individual capacity and official capacity as Dean of Students; ENNIS MCCREARY, in her individual capacity and official capacity as Director of the Office of Student Conduct; SCOTT MIDKIFF, in his individual capacity and official capacity as Chief Information Officer and Vice President for Information Technology; KIM O'ROURKE, in her individual capacity and official capacity as Vice President for Policy and Governance; HORACIO VALEIRAS, LETTIA LONG, EDWARD BAIN, SHELLEY BUTLER BARLOW, CARRIE CHENERY, GRETA HARRIS, CHARLES HILL, MELISSA BYRNE NELSON, CHRIS PETERSON, MEHUL SANGHANI, JEFF VEATCH, PRESTON WHITE, all in their individual capacities and official capacities as members of the Virginia Polytechnic Institute and State University Board of Visitors,

Defendants.

Case No. 7:21cv00203

VERIFIED COMPLAINT

Plaintiff, Speech First, Inc., brings this action under the First and Fourteenth Amendments to the United States Constitution, *see* 42 U.S.C. §1983, against Defendants and alleges as follows:

INTRODUCTION

1. “The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American [universities].” *Healy v. James*, 408 U.S. 169, 180 (1972). In theory, “[t]he college campus is peculiarly suited to serve as a marketplace of ideas and a forum for the robust exchange of different viewpoints.” *Solid Rock Found. v. Ohio State Univ.*, 478 F. Supp. 96, 102 (S.D. Ohio 1979).

2. Yet Virginia Tech and its officials have created a series of rules and regulations that restrain, deter, suppress, and punish speech about the political and social issues of the day. These restrictions disregard decades of precedent. Four are particularly egregious.

3. First, the University’s discriminatory-harassment policy disciplines students who engage in “inappropriate conduct that is based upon a person’s age, color, disability, gender (including pregnancy), gender identity, gender expression, national origin, political affiliation, race, religion, sexual orientation, or veteran status and unreasonably interferes with the person’s work or academic performance or participation in university activities, or creates a working or learning environment that a reasonable person would find hostile, threatening or intimidating.” According to the University, “discriminatory harassment” includes “telling unwelcome jokes about someone’s identity”

and “[u]rging religious beliefs on someone who finds it unwelcome.” This vague and overbroad restriction on protected speech violates the First and Fourteenth Amendments.

4. Second, the University’s computer policy forbids students from using its network for “partisan political purposes.” It also prohibits students from violating “the rights of others to be free of intimidation, harassment, and unwarranted annoyance.” Violations of the computer policy can lead to the loss of computer or network privileges and even formal discipline. The policy is a vague, overbroad restriction on protected speech that is incompatible with the First and Fourteenth Amendments.

5. Third, the University’s bias-related incidents policy martials the authority of University administrators to police speech that someone believes is motivated by “bias.” “Bias-related incidents” are formally defined as “expressions against a person or group because of the person’s or group’s age, color, disability, gender (including pregnancy), gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, veteran status, or any other basis protected by law.” Bias-related incidents can occur on or off campus, including on social media. Students accused of “bias-related incidents” can be referred for formal disciplinary proceedings or summoned for “educational interventions” with University officials. This policy poses a grave risk of chilling the open and unfettered discourse that should be central to higher education. Its bureaucratic processes—and the vague, overbroad

definition of “bias-related incident” that triggers them—violate the First and Fourteenth Amendments.

6. Finally, the University’s “informational activities” policy forbids students from “distribut[ing] literature and/or petitioning for signatures” on campus without prior written authorization from the University—authorization that is given only for events that are “sponsored by a university-affiliated organization.” This policy is a speaker-based prior restraint on protected activity that violates the First Amendment.

JURISDICTION AND VENUE

7. This action arises under the First and Fourteenth Amendments to the United States Constitution and is brought via 42 U.S.C. §§1983 and 1988.

8. The Court has subject-matter jurisdiction under 28 U.S.C. §§1331 and 1343.

9. Venue is proper under 28 U.S.C. §1391 because all Defendants reside here and a substantial part of the events or omissions giving rise to the claims occurred here.

PARTIES

10. Plaintiff, Speech First, Inc., is a nationwide membership organization of students, alumni, and other concerned citizens. Speech First is dedicated to preserving civil rights secured by law, including the freedom of speech guaranteed by the First Amendment. Speech First seeks to protect the rights of students and others at colleges and universities through litigation and other lawful means. Speech First has members who attend the University, including Students A, B, and C.

11. Virginia Polytechnic Institute and State University—better known as Virginia Tech—is a public university organized and existing under the laws of Virginia.

12. Defendant Timothy Sands is President of the University. Sands is responsible for the enactment and enforcement of University policies, including the policies challenged here. Sands is sued in his individual and official capacities.

13. Defendant Cyril Clarke is Executive Vice President and Provost of the University. Clarke is responsible for the enactment and enforcement of University policies, including the policies challenged here. Clarke is sued in his individual and official capacities.

14. Defendant Kelly Oaks is the University's Assistant Vice President for Equity and Accessibility. Oaks is responsible for enforcing the University's discrimination and harassment policies. Oaks is sued in her individual and official capacities.

15. Defendant Byron Hughes is the University's Dean of Students. Hughes is responsible for nearly every aspect of the University's interaction with students, including University-sponsored activities and students' compliance with University policies. Hughes is sued in his individual and official capacities.

16. Defendant Ennis McCreary is the Director of the University's Office of Student Conduct. McCreary is responsible for upholding and enforcing the University's behavioral standards, administering the University's conduct process, and overseeing sanctions. McCreary is sued in her individual and official capacities.

17. Defendant Scott Midkiff is the University's Chief Information Officer and Vice President for Information Technology. Midkiff is responsible for the implementation and enforcement of the University's information technology policies, including the computer policies challenged here. Midkiff is sued in his individual and official capacities.

18. Defendant Kim O'Rourke is the University's Vice President for Policy and Governance. O'Rourke is responsible for the creation and implementation of all University policies, including the policies challenged here. O'Rourke is sued in her individual and official capacities.

19. Defendants Horacio Valeiras (Rector); Letitia Long (Vice Rector); Edward Baine; Shelley Butler Barlow; Carrie Chenery; Greta Harris; Charles Hill; Anna James; Sharon Brickhouse Martin; Melissa Byrne Nelson; Chris Peterson; Mehul Sanghani; Jeff Veatch; and Preston White are members of the University Board of Visitors. The Board of Visitors is the "governing authority" of the University and is "responsible for ... the basic policies under which it is administered," including the policies challenged here. The Board Defendants are all sued in their individual and official capacities.

BACKGROUND

I. College Students and Their First Amendment Rights

20. "The First Amendment reflects 'a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.'" *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (quoting *N.Y. Times Co. v. Sullivan*, 376 U.S.

254, 270 (1964)). “The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it.” *Citizens United v. FEC*, 558 U.S. 310, 339 (2010).

21. The First Amendment’s importance is at its apex at our nation’s colleges and universities. “The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools [of higher education]. The college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’” *Healy*, 408 U.S. at 180 (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)). The core principles of the First Amendment “acquire a special significance in the university setting, where the free and unfettered interplay of competing views is essential to the institution’s educational mission.” *Doe v. Univ. of Mich.*, 721 F. Supp. 852, 863 (E.D. Mich. 1989) (citing *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)). “Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.” *Sweezy v. N.H. ex rel. Wyman*, 354 U.S. 234, 250 (1957).

22. The First Amendment’s protections, moreover, are “not confined to the supervised and ordained discussion which takes place in the classroom” but extend throughout a university’s campus. *Solid Rock Found.*, 478 F. Supp. at 102.

23. Put simply, “First Amendment protections [do not] apply with less force on college campuses than in the community at large.” *Healy*, 408 U.S. at 180. “The mere dissemination of ideas—no matter how offensive to good taste—on a state university

campus may not be shut off in the name alone of ‘conventions of decency.’” *Papish v. Bd. of Curators of Univ. of Mo.*, 410 U.S. 667, 670 (1973). Indeed, “the point of all speech protection is ... to shield just those choices of content that in someone’s eyes are misguided, or even hurtful.” *Hurley v. Irish-American Gay, Lesbian, and Bisexual Group of Boston, Inc.*, 515 U.S. 557, 574 (1995). These principles apply with more force “[i]n our current national condition,” not less. *Speech First, Inc. v. Fenves*, 979 F.3d 319, 339 (5th Cir. 2020).

II. Universities’ Use of Speech Codes and Bias Response Teams to Chill Speech

24. Instead of promoting the “robust exchange of ideas,” *Keyishian v. Bd. of Regents of Univ. of N.Y.*, 385 U.S. 589, 603 (1967), universities are now more interested in protecting students from ideas that make them uncomfortable. Universities do this by adopting policies and procedures that discourage speech by students who dare to disagree with the prevailing campus orthodoxy.

25. One tried-and-true method of accomplishing this feat is the campus speech code. Speech codes, according to the Foundation for Individual Rights in Education (FIRE), are “university regulations prohibiting expression that would be constitutionally protected in society at large.” *Spotlight on Speech Codes 2021* at 10, FIRE, bit.ly/2PxFzr.

26. Speech codes punish students for undesirable categories of speech such as “harassment,” “bullying,” “hate speech,” and “incivility.” Because these policies impose vague, overbroad, content-based (and sometimes viewpoint-based) restrictions on

speech, federal courts regularly strike them down. *Id.* at 10, 24; *see also Fenves*, 979 F.3d at 338-39 n.17 (collecting “a consistent line of cases that have uniformly found campus speech codes unconstitutionally overbroad or vague”).

27. In addition to speech codes, universities are increasingly turning to a new, innovative way to deter disfavored speech—so-called “bias response teams.”

28. Living up to their Orwellian name, bias-response teams encourage students to monitor each other’s speech and report incidents of “bias” to the University (often anonymously). “Bias” is defined incredibly broadly and covers wide swaths of protected speech; in fact, speech is often labeled “biased” based solely on the listener’s subjective reaction to it.

29. Students have been reported to bias-response teams for writing a satirical article about “safe spaces,” tweeting “#BlackLivesMatter,” chalking “Build the Wall” on a sidewalk, and expressing support for Donald Trump. *Bias Response Team Report 2017*, at 15-18, FIRE, bit.ly/2P9iEaj.

30. After receiving reports of a bias incident, bias-response teams typically log the incident, investigate it, meet with the relevant parties, attempt to reeducate the “offender,” and can recommend formal or informal discipline.

31. Although universities claim this process is entirely voluntary, they know students do not see it that way. The U.S. Court of Appeals for the Sixth Circuit did not see it that way, either. It found that an “invitation from [a bias-response team] to meet could carry an implicit threat of consequence should a student decline the invitation.”

Speech First, Inc. v. Schlissel, 939 F.3d 756, 765 (6th Cir. 2019). Even when “there is no indication that the invitation to meet contains overt threats,” the University’s disciplinary “referral power lurks in the background.” *Id.*

32. A 2017 report from FIRE found that bias-response teams monitor protected expression and lead to “a surveillance state on campus where students and faculty must guard their every utterance for fear of being reported to and investigated by the administration.” *Bias Response Team Report 2017*, at 28. “[T]he posture taken by many Bias Response Teams,” the study found, “is all too likely to create profound risks to freedom of expression, freedom of association, and academic freedom on campus.” *Id.* at 5.

33. Other universities have discovered that bias-response teams chill student speech. The University of Northern Colorado, for example, shuttered its bias-response team in 2016, explaining that it had come “at the expense of free speech and academic freedom” and that its so-called “voluntary” processes “made people feel that we were telling them what they should and shouldn’t say.” The University of Iowa likewise scrapped its plans to create a bias-response team, citing their “high failure rate” and their tendency to “become almost punitive.”

34. University professors have similarly observed that bias-response teams “result in a troubling silence: Students, staff, and faculty [are] afraid to speak their minds, and individuals or groups [are] able to leverage bias reporting policies to shut down unpopular or minority viewpoints.” Jeffrey Snyder & Amna Khalid, *The Rise of “Bias*

Response Teams” on Campus, The New Republic (Mar. 30, 2016), bit.ly/1SaAiDB; *see also* Keith Whittington, *Free Speech and the Diverse University*, 87 Fordham L. Rev. 2453, 2466 (2019) (“[E]fforts [by bias-response teams] to encourage students to anonymously initiate disciplinary proceedings for perceived acts of bias or to shelter themselves from disagreeable ideas are likely to subvert free and open inquiry and invite fears of political favoritism.”).

35. Courts have likewise recognized the chilling effect of bias-response teams that closely resemble the University’s. After Speech First challenged similar bias-response teams at the University of Texas and the University of Michigan, both schools disbanded their teams. The Sixth Circuit held that Michigan’s team imposed an “objective chill” on speech because it “act[ed] by way of implicit threat of punishment and intimidation to quell speech.” *Schlissel*, 939 F.3d at 765. The Fifth Circuit agreed, stressing that Texas’s team “represent[ed] the clenched fist in the velvet glove of student speech regulation.” *Fenves*, 979 F.3d at 338.

36. Unsurprisingly, the rise of bias-response teams and speech codes at universities is matched by a parallel rise in the percentage of college students who believe they are not free to express controversial opinions on campus. According to a September 2020 survey of more than 20,000 American college students, an astonishing 42 percent of students believe their university would punish them for making an offensive or controversial statement. *2020 College Free Speech Rankings* 19, FIRE (Sept. 2020), bit.ly/3w4miVG. A separate survey found that, among non-freshman college students,

nearly half reported that “sharing ideas and asking questions without fear of retaliation, even when those ideas are offensive to some people,” had become “more difficult” in the Fall 2020 semester than in previous semesters. *Campus Expression Survey Report 2020*, at 3, Heterodox Academy (Mar. 2021), bit.ly/31oGBiy.

III. The University’s Discriminatory-Harassment Policy

37. On August 13, 2020, the University Board of Visitors approved a revised version of Policy 1025, titled Policy on Harassment, Discrimination, and Sexual Assault.

38. According to the University’s Commission on Student Affairs, Policy 1025’s purpose is to “create consistency across the University in addressing conduct that runs contrary to University values.” During an October 2020 Commission meeting, the Commission stated that the goal of Policy 1025 is to require behavior that aligns with the University’s values and prohibit behavior that doesn’t. The agenda for the meeting included the following question: “Values: what should Policy 1025 prohibit and require (beyond compliance obligations)?”

39. Policy 1025 prohibits “[c]onduct of any type (oral, written, graphic, electronic, or physical) that is based upon a person’s age, color, disability, sex (including pregnancy), gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, or veteran status and unreasonably interferes with the person’s work or academic performance or participation in university activities, or creates a working or learning environment that a reasonable person would find hostile, threatening, or intimidating.”

40. Examples of discriminatory harassment include “telling unwelcome jokes about someone’s identity” and “putting down people who are older, who are pregnant, or who come from other countries.”

41. According to the University, discriminatory harassment can occur anywhere, at any time, by any medium. The policy applies to “on-campus incidents and off-campus incidents that cause continuing effects on campus.” It authorizes “students or employees, or others on their behalf” to file complaints “alleging discrimination or discriminatory harassment ... carried out by faculty, staff, other students, or third parties.” The Code of Conduct disavows any “time limit” for students to report an alleged violation to the University.

42. University “[a]dministrators, supervisors, and those with instructional responsibility” have a duty to report incidents of discriminatory harassment “whenever they learn—directly or indirectly—about [them].”

43. Students can make discriminatory-harassment allegations by filing a complaint with the University’s Office of Equity and Accessibility (OEA)—specifically, by using the Equity & Accessibility Complaint Form on the University’s website. The form asks the complainant to describe the alleged harassment and explain how OEA should resolve the complaint. The form allows students to upload “[p]hotos, video, email, and other supporting documentation.”

44. After a student files a complaint, OEA reviews the allegations and conducts an investigation. Students found guilty of discriminatory harassment are subject to disciplinary action via the student conduct process outlined in the Code of Conduct.

45. Depending on the nature of the alleged incident, the University can resolve a student-conduct case through “agreed resolution” or a formal hearing. Under agreed resolution, “the respondent meets with a hearing officer to discuss an incident and collaborates with the hearing officer to determine whether they violated a policy and, if so, what sanctions may be appropriate.” If the student does not agree with the hearing officer’s decision, the matter proceeds to a formal hearing. Students who are found liable for discriminatory harassment are subject to the full range of formal disciplinary sanctions. Even when the University “determines that adjudication is not appropriate,” it still can invite the students involved “to participate in an educational conversation about the concerns raised in the complaint.”

46. On top of forbidding students from engaging in discriminatory harassment, the Code of Conduct also penalizes students for being present “during any violation of the Student Code of Conduct and/or other university policies in such a way as to condone, support, or encourage that violation.” The Code of Conduct further emphasizes that students who “anticipate or observe a violation of university policy are expected to remove themselves from participation and are encouraged to report the violation” to University authorities.

IV. The University's Computer Policy

47. Students must comply with the University's Acceptable Use Standard to maintain access to the internet network. The standard "applies to the use of any computing or communications device, regardless of ownership, while connected to the University network, and to the use of any information technology service provided by or through the University."

48. The Acceptable Use Standard states that students "must NOT" use "university systems for ... partisan political purposes." An example would be "using electronic mail to circulate advertising ... for political candidates."

49. On October 29, 2020, the University also promulgated a revised version of Policy No. 7000, titled Acceptable Use and Administration of Computer and Communication Systems, which governs "every individual using ... Virginia Tech computer and communication networks, systems, and/or data with any device."

50. To comply with Policy 7000, students must "demonstrate respect of ... the rights of others to be free of intimidation, harassment, and unwarranted annoyance." Policy 7000 does not elaborate on the terms "intimidation" "harassment," or "unwarranted annoyance." Nor does it provide any examples of prohibited behavior.

51. Policy 7000 also requires students to abide by the rules set forth in the Acceptable Use Standard.

52. Suspected violations of Policy 7000 can be reported to the University via email. When the University receives a report of an alleged violation, it "automatically

generates a ticket and follow[s] up on the report. Alleged violations are then referred to the appropriate University office or law enforcement agency for further investigation.” The University reserves the right to suspend an accused student’s network access while it investigates an alleged violation.

53. The University considers “any violation” of Policy 7000 to be “a serious offense.” Students accused of violating Policy 7000 are “subject to established university disciplinary policies and procedures.” Under the policy, students “who use information technology resources in ways that violate a University policy, law(s), regulations, ... or an individual’s rights” are “subject to limitation or termination of user privileges/access to services and appropriate disciplinary action, legal action, or both.”

V. The University’s Bias-Related Incidents Policy

54. On top of its speech codes, the University has a “bias-related incidents” policy that monitors “words or actions that contradict the spirit of [its] Principles of Community.”

55. The University defines bias-related incidents as “expressions against a person or group because of the person’s or group’s age, color, disability, gender (including pregnancy), gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, veteran status, or any other basis protected by law.”

56. Bias-related incidents can occur on or off campus, including on social media or other digital platforms.

57. Examples of bias-related incidents listed by the University include “words or actions that contradict the spirit of the [University’s] Principles of Community,” “jokes that are demeaning to a particular group of people,” “assuming characteristics of a minority group for advertising,” and “posting flyers that contain demeaning language or images.”

58. Students can submit complaints about bias incidents online via a “Bias Incident Reporting Form” on the University’s website. Complainants are not required to identify themselves or provide their email addresses or phone numbers.

59. The intake form asks students to specify the date and location of the alleged incident and to “list all involved parties.” It contains entries for the respondent’s name, role in a student organization (if any), email address, and Virginia Tech student ID number. It also contains an option to include additional respondents, if applicable.

60. The form requires complainants to provide a description of the incident and provides an option to include “supporting documentation” for the complaint.

61. Complainants can choose from a list of 12 personal characteristics that were the alleged basis for the bias-related incident. They also have the option to select “other” and then elaborate on the basis for their complaint.

62. The form also asks complainants to select at least one of nineteen options describing “the nature of the incident.” The various categories of “bias-related incidents” recognized by the University include: “Comment in Class or Assignment”; “Comment in Person”; “Comment in Writing or on Internet”; “Comment via

Email/Text”; “Comment via Phone/Voicemail”; “Emotional Attack/Assault”; “Intimidation”; “Verbal Attack/Assault”; and “Written Slur.”

63. University records reveal that the vast majority of bias-incident reports involve protected speech. “Bias-related incidents” reported to the University during the Fall 2018 semester included:

- A report that the words “Saudi Arabia” were written on a whiteboard outside of a student’s dorm room. According to the report, the remainder of the words on the whiteboard had either been erased or were illegible. The complainant alleged bias based on “national or ethnic origin.”
- A report that a student in a University residence hall overheard several male students privately “talking crap about the women who were ‘playing’ in [a] snowball fight.” The witness “could not remember exact quotations,” but stated that “the young men said that the young ladies in the snowball fight were not athletic.” The complaint alleged “discrimination” and “harassment” based on “gender.”
- A report that a student told a joke “that included Caitlyn Jenner’s dead-name” during a classroom lecture. The complaint alleged “discrimination” on the basis of “gender identity.”

64. According to Dean Hughes, the University strives to “be both proactive and responsive” to allegations of bias-related incidents. It usually responds to complaints “within 24 hours.”

65. The “university investigates, adjudicates, and advocates for students” when it receives a complaint about a bias-related incident, “so that all parties are aware of their rights, responsibilities, and the expectations of the university community.”

66. Complaints about bias-related incidents are directed to the Dean of Students Office (DOS), which will “record the incident within the secure DOS Reporting System” and refer reports to the Virginia Tech or Blacksburg Police Department, the University Threat Assessment Team, or the Office of Student Conduct for an “appropriate response, if needed.”

67. DOS reviews complaints using “the following questions”: “Does it seem the incident is bias-motivated? Does it violate university policy? Does it violate the shared values and expectations of university community members? Who is affected by the incident? Are there legal consequences? Might the incident be investigated as a hate crime?” DOS’s response to bias allegations include “record[ing] exactly what was said” and “includ[ing] bystander names” in its summary of an incident.

68. The University separates bias-related incidents into two categories: “localized” bias incidents and “community” bias incidents. “Localized” bias incidents are seen or heard by few people, do not involve violations of a university policy, do not generate interest from the media, and cannot be investigated as hate crimes. “Community” bias incidents, by contrast, are seen or heard by many people, involve violations of university policies, generate media interest “or interest from outside the university community,” and can be investigated as hate crimes.

69. When DOS determines that a “localized” bias-related incident has occurred, “the administrator closest to the incident will address the issue, facilitate a response that resonates with the student or group of students involved, and issue a

community statement if appropriate.” In such instances, DOS refers the complaint “to the appropriate offices for follow-up.” For example, “[i]f the behavior described is an issue between roommates that would impact their living situation or the experience in our residence halls, it would be referred to Housing and Residence Life.”

70. When DOS determines that a “community” bias-related incident has occurred, it forms a “Core Response Team” to address the issue “as soon as feasible.” The Core Response Team can include officials from the “Virginia Tech or Blacksburg Police Department”; DOS; the Office of Student Conduct; the Intercultural Engagement Center; the Office of House and Residence Life; “[d]epartments where the incident occurred”; and students or student organizations “targeted” by the incident.

71. Among other things, the Core Response Team may discuss the “process of adjudication with the reporting student,” determine “if disciplinary action is appropriate,” provide “regular status reports to [the] reporting student(s) until [the] case is closed,” and implement “appropriate restorative justice techniques or methods.”

72. According to the University, all students “involved” in a bias-related incident are “given the opportunity to civilly discuss the incident with a trained professional and will be apprised of their options for resolving the incident.”

73. Even when bias-related incidents involve protected speech and do not rise to the level of a crime or a violation of another University policy, the University still views them as “inconsistent with [its] Principles of Community.” The University believes that it is “crucial” to respond to bias-incident reports “in a timely and consistent

manner,” regardless of whether the “incidents violate policy or are inappropriate or insensitive.” No matter what, the University “is committed to stopping” such incidents.

74. The University refers to this entire scheme of reporting, investigating, and responding as “the bias-related incident protocol.”

75. The protocol provides a number of tips for “[a]chieving bias-free communication.” It tells students to “[b]e aware of words, images, and situations that suggest all or most of a group are the same”; “[a]void qualifiers that reinforce stereotypes”; “[b]e aware of language that has questionable racial, ethnic, class, or sexual orientation connotations”; “[a]void patronizing language and tokenism toward any group”; and “[r]eview language, images, and other forms of communication to make sure all groups are fairly represented.”

76. The protocol also informs students that, “[w]hile a word or phrase may not be personally offensive to you, it may be to others.”

77. The University promotes the protocol and encourages students and professors to report “bias-related incidents.”

78. A DOS webpage “encourage[s]” students “to make a report” if they “hear or see something that feels like a bias incident statement or expression.” The webpage stresses, borrowing the Department of Homeland Security’s famous slogan about terrorism, “[i]n short, if you see something, say something!”

79. In February 2017, the University’s official Twitter account tweeted “[b]ias has no place at Virginia Tech. Help us make sure all #Hokies thrive. See something?”

Say something.” The tweet included a link to the University webpage informing students how to file bias-related incident complaints.

80. A campus notice in the Virginia Tech Daily similarly promoted the “See Something? Say Something” campaign in a release titled “[s]tudents encouraged to report incidents of bias.”

81. After COVID-19 caused the University to switch to a remote-learning format in Spring 2020, the University sent a message reminding professors that they can use the “online reporting form” if they “observe or experience what [they] believe to be a bias-related incident involving students.” In a similar message addressed to the student body, senior University administrators encouraged students to “contact the Dean of Students with concerns about bias-related incidents.”

82. The University’s continuous promotion of its bias-incident reporting system has had an effect. Twenty-nine bias-incident complaints were filed in Spring 2017. That number increased to 35 reports in Fall 2017, 37 reports in Spring 2018, and 52 reports in Fall 2018.

83. Under the University’s Code of Conduct, “[f]ailure to comply with a request and directives of university officials acting within the scope of their authority, including but not limited to ... failure to keep or attend a required meeting” is “prohibited conduct” and subjects a student to formal discipline.

VI. The University's Informational Activities Policy

84. On August 25, 2020, the University issued the latest version of Policy 5215, titled Sales, Solicitation, and Advertising on Campus. Policy 5215 imposes a number of restrictions on students' ability to advertise events, gather petitions, and distribute informational literature. It governs "all ... students" and applies "on the Virginia Tech campus and in university facilities."

85. Policy 5215 requires students to obtain "prior written authorization" before engaging in "informational activities." It defines "informational activities" as "the distribution of literature and/or petitioning for signatures where no fee is involved nor donations or contributions sought." University officials "take into account overall campus safety and security, any special circumstances relating to university activities, and the impact such activity may have on the university" when making "[d]ecisions regarding requests" to distribute literature or to petition for signatures.

86. In addition to requiring prior authorization, Policy 5215 prohibits "informational activities" that are not "sponsored by a university-affiliated organization." Put differently, students who are not sponsored by a University-affiliated organization are forbidden from distributing literature or petitioning for signatures on campus.

87. Violations of Policy 5215 "are actionable under the Student Code of Conduct" and can lead to "sanction[s]."

VII. The Effect of the University's Policies on Speech First's Members

88. Speech First's members who attend the University are suffering concrete injuries as a direct result of the University's unconstitutional policies and actions. These students want to engage in speech that is covered by the University's harassment policies, computer policy, bias-incidents policy, and informational-activities policy, but they credibly fear that the expression of their deeply held views will be considered "biased," "harassing," "unwarranted," "intimidating," and the like.

89. One Speech First member ("Student A") is a junior at the University.

90. Student A is politically conservative and holds views that are unpopular, controversial, and in the minority on campus.

91. Student A is strongly against affirmative action in college admissions. He believes that individuals should be admitted to college because of merit, not the color of their skin.

92. Student A believes that Black Lives Matter has had a terrible impact on society. He believes that they've taken tons of donations and have not helped out black communities. He thinks the organization has caused the destruction of communities and businesses rather than help bring about positive change.

93. Student A is strongly against abortion. He believes that women should have no right to kill an innocent child.

94. Student A believes that human beings are created either male or female. He believes people often change their gender identity because they want to be noticed

or be part of a group, because of childhood trauma, or because they want to fill an empty spot in their lives. He doesn't want to be forced to use someone's "preferred pronouns" simply because that person believes that his or her "truth" involves being "non-binary."

95. Student A does not support gay marriage. He thinks it leads to a slippery slope. He thinks it will lead to society being forced to accept marriages among multiple people or something even worse. Student A is a Christian, so his belief of marriage also stems from his faith.

96. Student A is strongly against illegal immigration and supports the Border Wall. He believes that we need to stop the flow of illegal immigration into this country.

97. Student A also strongly believes in gun rights. He believes that our Second Amendment rights are designed to prevent tyranny.

98. Student A enrolled in the University because he wanted to learn in a challenging environment where students and faculty are free to engage in lively, fearless debate and deliberation.

99. Student A wants to engage in open and robust intellectual debate with his fellow students about these topics in the classroom, in other areas of campus, online, and in the City of Blacksburg.

100. Because he has strong views on these issues, Student A wants to speak passionately and repeatedly about them. He wants to point out the flaws in fellow

students' arguments and encourage them to change their minds or, at a minimum, to understand his views.

101. But the University's harassment policies, computer policy, bias-related incident policy, and informational-activities policy make Student A reluctant to openly express his opinions.

102. Student A does not fully express himself or talk about certain issues because he fears that sharing his beliefs may be considered "discriminatory harassment." He fears that other students will find his views "inappropriate" or "intimidating" or claim that his views "interfere[] with" their educational opportunities. Student A believes that many of the topics that he wants to address could easily be considered "discriminatory" under the University's definition of "discriminatory harassment." Student A's fears are grounded in his own personal experiences on campus.

103. Student A's fears are amplified by the fact that the University can punish him not only for committing "discriminatory harassment" himself, but also for being present during someone else's "discriminatory harassment" in a manner that allegedly "condone[s], support[s] or encourage[s] the violation."

104. Student A also wants to use the University email system to contact other students in support of conservative initiatives and political candidates and to oppose controversial student-government proposals. But Student A refrains because he fears that doing so will be considered a violation of the Acceptable Use Standard and Virginia Tech Policy 7000, and that he will lose his network privileges or even face disciplinary

sanctions as a result. Student A fears that other students will characterize emails asserting his views as “intimidating,” “harassing,” or “unwarranted” and “annoying,” or report him for sending emails for “partisan political purposes.”

105. Student A also does not fully express himself or talk about certain issues because he fears that other students, faculty members, or others will report him to DOS for committing a “bias-related” incident. Student A worries that there are other students who will “catch him” engaging in “biased” speech and that the University will take action against him. For example, Student A is afraid that DOS will keep a record on him, share the allegations with others at the University, call him in for meetings, or refer the allegations to the Office of Student Conduct, the Office of Equity and Accessibility, or the Virginia Tech Police Department.

106. Finally, Student A wants to independently distribute literature about conservative causes on campus and gather signatures for petitions, especially in high-traffic areas of campus that are open to the public. He refrains from doing either of those things, however, because he fears that he will be punished for engaging in “informational activities” without the sponsorship of a “university-affiliated organization.”

107. Another Speech First member (“Student B”) is a senior at the University.

108. Student B is politically conservative and holds views that are unpopular, controversial, and in the minority on campus.

109. Student B believes that affirmative action is reverse racism. He believes that when colleges segregate housing and other activities by a student’s skin color, that

is racism pure and simple. Student B believes that a student should be admitted to a university because of merit, not because of the color of his or her skin.

110. Student B believes that the Black Lives Matter organization is a scam that has taken money from people who believe they are donating to a cause and funneled it to politicians. He believes that Black Lives Matter as a movement is causing hate in the name of getting rid of hate. But Student B believes that other students would consider him a racist for voicing those beliefs.

111. Student B thinks the killing of another human through abortion is wrong. He believes that women are not killing a “fetus” or a “bunch of cells,” they are killing a person. He believes that women should not be allowed to abort their babies.

112. Student B believes that a person is either male or female. Student B thinks if a person is born a male, he will always be a male—even if he “feels” like a female. Student B doesn’t want to be forced to call someone a “he” or a “she” when that is not the person’s biological sex. He thinks it’s terrible that some men are allowed to play women’s sports because they claim to be women.

113. Student B believes that we must stop the flow of illegal immigrants into this country. He finds it incredibly disheartening that illegal immigrants are getting in-person education for free while American citizens are not. Student B thinks American citizens should be prioritized over illegal immigrants, who do not pay taxes and don’t contribute to society.

114. Finally, Student B strongly supports the Second Amendment. He thinks he should be able to own whatever gun he wants in order to defend himself.

115. Student B enrolled in the University because he wanted to learn in a challenging environment where students and faculty are free to engage in lively, fearless debate and deliberation.

116. Student B wants to engage in open and robust intellectual debate with his fellow students about these topics in the classroom, in other areas of campus, online, and in the City of Blacksburg.

117. Because he has strong views on these issues, Student B wants to speak passionately and repeatedly about them. He wants to point out the flaws in fellow students' arguments and encourage them to change their minds or, at a minimum, to understand his views.

118. But the University's discriminatory-harassment policy, computer policy, bias-related incidents policy, and informational-activities policy make Student B reluctant to openly express his opinions.

119. Student B does not fully express himself or talk about certain issues because he fears that sharing his beliefs may be considered "discriminatory harassment." He fears that other students will find his views "inappropriate" or "intimidating" or claim that his views "interfere[] with" their educational opportunities. Student B believes that many of the topics that he wants to address could easily be considered

“discriminatory” under the University’s definition of “discriminatory harassment.” Student B’s fears are grounded in his own personal experiences on campus.

120. Student B’s fears are amplified by the fact that the University can punish him not only for committing “discriminatory harassment” himself, but also for being present during someone else’s “discriminatory harassment” in a manner that allegedly “condone[s], support[s] or encourage[s] the violation.”

121. Student B also wants to use the University email system to contact other students in support of conservative initiatives and political candidates and to oppose controversial student-government proposals. But Student B refrains because he fears that doing so will be considered a violation of the Acceptable Use Standard and Virginia Tech Policy 7000, and that he will lose his network privileges or even face disciplinary sanctions as a result. Student B fears that other students will characterize emails asserting his views as “intimidating,” “harassing,” or “unwarranted” and “annoying,” or report him for sending emails for “partisan political purposes.”

122. Student B also does not fully express himself or talk about certain issues because he fears that other students, faculty members, or others will report him to DOS for committing a “bias-related” incident. Student B worries that there are other students who will “catch him” engaging in “biased” speech and that the University will take action against him. For example, Student B is afraid that DOS will keep a record on him, share the allegations with others at the University, call him in for meetings, or refer

the allegations to the Office of Student Conduct, the Office of Equity and Accessibility, or the Virginia Tech Police Department.

123. Finally, Student B wants to independently distribute literature about conservative causes on campus and gather signatures for petitions, especially in high-traffic areas of campus that are open to the public. He refrains from doing either of those things, however, because he fears that he will be punished for engaging in “informational activities” without the sponsorship of a “university-affiliated organization.”

124. Another Speech First member (“Student C”) is a junior at the University.

125. Student C is “politically conservative/libertarian” and holds political beliefs that are unpopular, controversial, and in the minority on campus.

126. Student C does not support the Black Lives Matter movement. He strongly disagrees with many of the positions it has taken. He thinks all lives matter and that no life matters more than another.

127. Student C is strongly against abortion. He believes that women should have no right to kill an innocent child.

128. Student C believes there are only two genders: male and female. He doesn’t want to be forced to call someone a “him” or a “her” or “they” or “them” because that person claims to have a new gender identity. He is strongly against allowing children to “choose” their gender and have hormones and chemicals pumped into their bodies. He believes that these kids are young and do not know any better.

129. Student C disagrees with gay marriage on a personal level and thinks it is wrong.

130. Student C believes that we need a border wall and border security. He believes that we can't have a country without borders. Illegal immigrants are crossing the border daily and are getting welfare without paying taxes.

131. Student C strongly supports the Second Amendment and is against gun control. He believes that the government should not be allowed to keep logs of people who buy guns.

132. Student C enrolled in the University because he wanted to learn in a challenging environment where students and faculty are free to engage in lively, fearless debate and deliberation.

133. Student C wants to engage in open and robust intellectual debate with his fellow students about these topics in the classroom, in other areas of campus, online, and in the City of Blacksburg.

134. Because he has strong views on these issues, Student C wants to speak passionately and repeatedly about these matters. He wants to point out the flaws in fellow students' arguments and encourage them to change their minds or, at a minimum, to understand his views.

135. But the University's discriminatory-harassment policy, computer policy, bias-related incidents policy, and informational-activities policy make Student C reluctant to openly express his opinions.

136. Student C does not fully express himself or talk about certain issues because he fears that sharing his beliefs may be considered “discriminatory harassment.” He fears that other students will find his views “inappropriate” or “intimidating” or claim that his views “interfere[] with” their educational opportunities. Student C believes that many of the topics he wants to address could easily be considered “discriminatory” under the University’s definition of “discriminatory harassment.” Student C’s fears are grounded in his own personal experiences on campus.

137. Student C’s fears are amplified by the fact that the University can punish him not only for committing “discriminatory harassment” himself, but also for being present during someone else’s “discriminatory harassment” in a manner that allegedly “condone[s], support[s] or encourage[s] the violation.”

138. Student C also wants to use the University email system to contact other students in support of conservative initiatives and political candidates and to oppose controversial student-government proposals. But Student C refrains because he fears that doing so will be considered a violation of the Acceptable Use Standard and Virginia Tech Policy 7000, and that he will lose his network privileges or even face disciplinary sanctions as a result. Student C credibly fears that other students will characterize emails asserting his views as “intimidating,” “harassing,” or “unwarranted” and “annoying,” or report him for sending emails for “partisan political purposes.”

139. Student C also does not fully express himself or talk about certain issues because he fears that other students, faculty members, or others will report him for

committing a “bias-related” incident. Student C worries that there are other students who will “catch him” engaging in “biased” speech and that the University will take action against him. For example, Student C is afraid that DOS will keep a record on him, share the allegations with others at the University, call him in for meetings, or refer the allegations to the Office of Student Conduct, the Office of Equity and Accessibility, or the Virginia Tech Police Department.

140. Finally, Student C wants to independently distribute literature about conservative causes on campus and gather signatures for petitions, especially in high-traffic areas of campus that are open to the public. He refrains from doing either of those things, however, because he fears that he will be punished for engaging in “informational activities” without the sponsorship of a “university-affiliated organization.”

141. Students A, B, and C are not alone. Tellingly, only twenty percent of Virginia Tech students who responded to a recent Gallup survey said they felt comfortable expressing ideas in class that “are probably only held by a minority of people.”

COUNT I
Violation of the First Amendment
(Discriminatory-Harassment Policy)

142. Plaintiff repeats and realleges each of the prior allegations in this complaint.

143. The First Amendment prohibits public universities from adopting regulations of students that are “so broad as to chill the exercise of free speech and expression.” *Dambrot v. Cent. Michigan Univ.*, 55 F.3d 1177, 1182 (6th Cir. 1995). “Because First

Amendment freedoms need breathing space to survive, a state may regulate in the area only with narrow specificity.” *Gooding v. Wilson*, 405 U.S. 518, 522 (1972). A public university must carefully craft its regulations “to punish only unprotected speech and not be susceptible of application to protected expression.” *Id.* A regulation is unconstitutionally overbroad if “a substantial number of its applications are unconstitutional.” *United States v. Stevens*, 559 U.S. 460, 473 (2010). The Court must find such regulations facially unconstitutional because “the threat of enforcement of an overbroad [regulation] may deter or ‘chill’ constitutionally protected speech,” as “[m]any persons, rather than undertake the considerable burden (and sometimes risk) of vindicating their rights through case-by-case litigation, will choose simply to abstain from protected speech, harming not only themselves but society as a whole, which is deprived of an uninhibited marketplace of ideas.” *Virginia v. Hicks*, 539 U.S. 113, 119 (2003).

144. “There is no categorical ‘harassment exception’ to the First Amendment’s free speech clause.” *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 204 (3d Cir. 2001) (Alito, J.). Rather, “[t]he right to provoke, offend and shock lies at the core of the First Amendment. This is particularly so on college campuses. Intellectual advancement has traditionally progressed through discord and dissent, as a diversity of views ensures that ideas survive because they are correct, not because they are popular.” *Rodriguez v. Maricopa Cty. Cmty. Coll. Dist.*, 605 F.3d 703, 708 (9th Cir. 2010). “[I]f it is the speaker’s opinion that gives offense, that consequence is a reason for according it constitutional protection.” *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 55 (1988).

145. The University’s discriminatory-harassment policy is unconstitutionally overbroad. By its terms, the policy applies to protected speech. And virtually any opinion or political belief—as well as any use of humor, satire, or parody—could be perceived as “unwelcome” or “inappropriate.”

146. While a university might be able to prohibit harassment that amounts to “discrimination” against a protected class that is “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school,” *Davis ex rel. LaShonda D. v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 650 (1999), the University’s discriminatory-harassment rule goes far beyond that.

147. The Supreme Court has also consistently recognized the “substantial and expansive threats to free expression posed by content-based restrictions.” *United States v. Alvarez*, 567 U.S. 709, 717 (2012). “Content-based regulations” are “presumptively invalid.” *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992). Accordingly, “any restriction based on the content of the speech must satisfy strict scrutiny, that is, the restriction must be narrowly tailored to serve a compelling government interest.” *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009).

148. “The First Amendment’s hostility to content-based regulation extends” to “restrictions on particular viewpoints.” *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2230 (2015). Policies cannot “suppress disfavored speech.” *Id.* at 2229. Viewpoint discrimination is flatly prohibited. *See Iancu v. Brunetti*, 139 S. Ct. 2294, 2302 (2019).

149. By restricting offensive speech about personal characteristics such as race, ethnicity, or gender, the discriminatory-harassment policy is a content-based and viewpoint-based restriction on protected speech. The University has no compelling interest in suppressing the unfettered exchange of viewpoints. Even if the University could identify a compelling interest, its viewpoint-discriminatory ban is not narrowly tailored to further that interest.

150. Defendants adopted this unconstitutional policy under color of state law.

COUNT II

Violation of the First and Fourteenth Amendments: Void for Vagueness (Discriminatory Harassment Policy)

151. Plaintiff repeats and realleges each of the prior allegations in this complaint.

152. It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined.” *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). “[T]he vagueness doctrine has two primary goals: (1) to ensure fair notice to the citizenry and (2) to provide standards for enforcement [by officials].” *Ass’n of Cleveland Fire Fighters v. City of Cleveland*, 502 F.3d 545, 551 (6th Cir. 2007); see *Hardwick ex rel. Hardwick v. Heyward*, 711 F.3d 426, 442 (4th Cir. 2013) (“A law is unconstitutionally vague if it fails to establish standards for the government and public that are sufficient to guard against the arbitrary deprivation of liberty interests.”).

153. With respect to the first goal, ... [a] statute which either forbids or requires the doing of an act in terms so vague that [individuals] of common intelligence

must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.” *Cleveland Fire Fighters*, 502 F.3d at 551 (quoting *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1925)); see also *Manning v. Caldwell for City of Roanoke*, 930 F.3d 264, 274 (4th Cir. 2019) (“The purpose of the fair notice requirement is to enable citizens to conform their conduct to the proscriptions of the law.”). “With respect to the second goal, ... ‘if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to [officials] for resolution on an ad hoc and subjective basis.’” *Cleveland Fire Fighters*, 502 F.3d at 551 (quoting *Grayned*, 408 U.S. at 108-09).

154. This principle of clarity is especially demanding when First Amendment freedoms are at stake. If the challenged law “interferes with the right of free speech or of association, a more stringent vagueness test should apply.” *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982). “Certainty is all the more essential when vagueness might induce individuals to forego their rights of speech, press, and association for fear of violating an unclear law.” *Scull v. Va. ex rel. Comm. on Law Reform & Racial Activities*, 359 U.S. 344, 353 (1959).

155. The discriminatory-harassment policy gives students no guidance about what speech is permitted and what speech isn’t. The policy does not specify what constitutes an “interfere[nce]” with someone’s “academic performance or participation in

university activities” or delineate the “inappropriate conduct” that the University prohibits.

156. The examples of “discriminatory harassment” provided by the University only compound the policy’s vagueness. The University states that “[m]istreating someone due to their race, religion, or sexual orientation” can be discriminatory harassment, but never defines “mistreating someone.” It likewise states that discriminatory harassment includes “[t]elling unwelcome jokes about someone’s identity such as race or national origin,” but doesn’t elaborate further. And because the policy only prohibits jokes that a listener finds “[u]nwelcome,” the legality of a joke depends entirely on the perception of the listener.

157. This absence of a clear standard creates a serious risk that the policy will be enforced in an arbitrary manner or will be used to target speech based on the viewpoint of the speaker. *See Coates v. City of Cincinnati*, 402 U.S. 611, 614-15 (1971). The University’s disclaimer that “[t]his policy does not allow curtailment or censorship of constitutionally protected expression” only exacerbates the vagueness. *See Nat’l People’s Action v. City of Blue Island*, 594 F. Supp. 72, 75-79 (N.D. Ill. 1984); *Coll. Republicans at San Francisco State Univ. v. Reed*, 523 F. Supp. 2d 1005, 1021 (N.D. Cal. 2007).

158. The discriminatory harassment policy is thus void for vagueness.

159. Defendants adopted this unconstitutional policy under color of state law.

COUNT III
Violation of the First Amendment
(Computer Policy)

160. Plaintiff repeats and realleges each of the prior allegations in this complaint.

161. The University's Policy 7000 requires students to "respect ... the right of others to be free of intimidation, harassment, and unwarranted annoyance." The University's Acceptable Use Standard also prohibits students from using "university systems for ... partisan political purposes, such as using electronic mail to circulate advertising" for "political candidates."

162. Violations of the computer policy are a "serious offense"; students accused of violating it are "subject to established university disciplinary policies and procedures," including the loss of network privileges and other punishments.

163. The computer policy is unconstitutionally overbroad. There are a substantial number of instances where the policy cannot be applied consistent with the First Amendment. According to the policy itself, the legality of a post or message depends entirely upon whether the recipient perceives it to be "intimidat[ing]," "harass[ing]," or "unwarranted" and "annoy[ing]." The policy does not require objectivity or impose a reasonable-person standard, and it does not require any level of severity or pervasiveness. This overbroad policy chills protected speech and expression.

164. The computer policy is also a content-based restriction on political speech—where the First Amendment has "its fullest and most urgent application."

Monitor Patriot Co. v. Roy, 401 U.S. 265, 272 (1971). The University’s email accounts and internet networks are traditional public forums, at least for students. *See Am. Future Sys., Inc. v. Penn. State Univ.*, 752 F.2d 854, 864 (3d Cir. 1984) (explaining that aspects of a college campus can be a traditional public forum for students, even if it’s not for outsiders); *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017) (explaining that the internet is today’s quintessential traditional public forum). Students can and do use these resources for personal and political speech. Content-based restrictions on speech in a traditional public forum must satisfy strict scrutiny. *Summum*, 555 U.S. at 469.

165. “The First Amendment’s hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic. Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter.” *Reed*, 135 S. Ct. at 2230. For instance, “a law banning the use of sound trucks for political speech—and only political speech—would be a content-based regulation, even if it imposed no limits on the political viewpoints that could be expressed.” *Id.* So too here.

166. The University allows students to send emails about any issue of public debate *except* for “partisan political” issues like “advertising ... for political candidates.” That is a classic content-based regulation. For example, the University’s policy appears to allow a student to send an email that says “support universal healthcare” but forbids the same student from sending an email that says “re-elect Delegate Chris Hurst.” That is indefensible and cannot satisfy any level of scrutiny, much less strict scrutiny.

167. Defendants adopted this unconstitutional policy under color of state law.

COUNT IV
Violation of the First and Fourteenth Amendments: Void for Vagueness
(Computer Policy)

168. Plaintiff repeats and realleges each of the prior allegations in this complaint.

169. The University's computer policy prohibits speech that is "partisan"—a term it does not define. Though the policy provides an example, that example does not purport to exhaust the meaning of "partisan"—let alone speech that is made for a "partisan political *purpose*." The policy thus has a "vagueness" problem, as "the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application." *Fed. Election Comm'n v. GOPAC, Inc.*, 917 F. Supp. 851, 861 (D.D.C. 1996) (quoting *Buckley v. Valeo*, 424 U.S. 1, 42 (1976)).

170. The University's computer policy lacks any definitions, detail, context, or notice to students about what sorts of messages the University views as "intimidat[ing]," "harrass[ing]" or "unwarranted" and "annoying." The acceptability of a post or message thus turns entirely on the subjective perspective of an observer or recipient. This provision cannot possibly give students "fair notice" so they can "conform their conduct to the proscriptions of the law." *Manning*, 930 F.3d at 274.

171. Moreover, the policy purports to cover only speech that causes "unwarranted annoyance." But if "unwarranted annoyance" is prohibited, then *warranted*

annoyance must be okay. What constitutes “warranted annoyance” is anyone’s guess. *See Wollschlaeger v. Gov’r*, 848 F.3d 1293, 1305 (11th Cir. 2017) (en banc).

172. Defendants adopted this unconstitutional policy under color of state law.

COUNT V
Violation of the First Amendment
(Bias-Related Incidents Policy)

173. Plaintiff repeats and realleges each of the prior allegations in this complaint.

174. The University’s definition of “bias-related incident” encompasses speech that is fully protected under the First Amendment.

175. The “bias-related incidents” policy is a content-based and viewpoint-based restriction on speech. It is presumptively unconstitutional and cannot survive strict scrutiny.

176. The policy is unconstitutionally overbroad as it encompasses protected speech, and there are a substantial number of instances where the policy cannot be applied consistent with the First Amendment.

177. The University openly acknowledges that students can face disciplinary sanctions for committing “bias-related incidents,” which renders the policy unconstitutional on its own. But even when students cannot be formally disciplined, the bias-related incident protocol objectively chills speech by threatening students with negative consequences and by subjecting them to burdensome administrative processes (including meetings with University administrators and “educational opportunities for

understanding protected speech and the role of tolerance in the campus community”).

See Schlissel, 939 F.3d 756; *Fennes*, 979 F.3d 319.

178. This overbroad policy chills protected speech and expression.

179. Defendants adopted this unconstitutional policy under color of state law.

COUNT VI

Violation of the First and Fourteenth Amendments: Void for Vagueness (Bias-Related Incidents Policy)

180. Plaintiff repeats and realleges each of the prior allegations in this complaint.

181. The University’s definition of a “bias-related incident,” which applies to “expressions against a person or group” based upon “the person’s or group’s age, color, disability, gender, gender identity, gender expression” or other protected characteristics, is amorphous and subjective.

182. This amorphous standard creates a serious risk that the policy will be enforced in an arbitrary or discriminatory manner, or will be used to target speech based on the viewpoint expressed.

183. The University’s policy on “bias-related incidents” is thus void for vagueness.

184. Defendants adopted this unconstitutional policy under color of state law.

COUNT VII
Violation of the First Amendment
(Informational Activities Policy)

185. Plaintiff repeats and realleges each of the prior allegations in this complaint.

186. Prior restraints “preclude expression until certain requirements are met.” *Am. Entertainers, L.L.C. v. City of Rocky Mount*, 888 F.3d 707, 720 (4th Cir. 2018). A prior restraint exists when a regulation gives “public officials the power to deny use of a forum in advance of actual expression.” *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 553, (1975). “The relevant question is whether the challenged regulation authorizes suppression of speech in advance of its expression.” *Ward v. Rock Against Racism*, 491 U.S. 781, 795 n.5 (1989).

187. “Prior restraints bear ‘a heavy presumption against their constitutional validity.’” *In re Murphy-Brown, LLC*, 907 F.3d 788, 797 (4th Cir. 2018) (quoting *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963)). They “upend core First Amendment principles because a free society prefers to punish the few who abuse rights of speech after they break the law [rather] than to throttle them and all others beforehand.” *Id.*

188. Prior restraints cannot overcome their presumptive invalidity if they “place[] unbridled discretion in the hands of a government official or agency” or “fail[] to place limits on the time within which the decisionmaker must issue the license.” *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 225-26 (1990); *see also Am. Entertainers*, 888 F.3d at 720. Thus, “a law subjecting the exercise of First Amendment freedoms to the

prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional.” *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 150-51 (1969).

189. The informational-activities policy is a textbook prior restraint. The University expressly limits informational activities to speakers who “are sponsored by a university-affiliated organization,” and even then, “[s]uch activities require prior approval by the designated university scheduling office and are subject to university policies and the reasonable guidelines of the authorizing official.”

190. The informational-activities policy affords the University unbridled discretion to grant or deny requests to engage in speech that involves “the distribution of literature and/or petitioning for signatures,” and to impose subjective “guidelines” on that speech.

191. The policy also fails to place any limits on the time that the University has to grant or deny permission. The only “standard” the University uses when deciding whether to allow students to distribute literature or gather signatures for petitions on campus is whether the speech in question implicates “overall campus safety and security,” involves “any special circumstances relating to university activities,” or affects the University. These vague criteria fall woefully short of the “concrete standards” required by the First Amendment. *Am. Entertainers*, 888 F.3d at 720. The University’s informational-activities policy is thus an unconstitutional prior restraint.

192. The informational-activities policy also imposes unconstitutional speaker-based restrictions. “Speech restrictions based on the identity of the speaker are all too often simply a means to control content” and are therefore “[p]rohibited.” *Citizens United*, 558 U.S. at 340. The informational-activities policy favors some speakers over others. The policy permits students who “are sponsored by a university-affiliated organization” to engage in (approved) informational activities but does not permit unaffiliated students to do the same.

193. Under the policy, students who engage in unauthorized “informational activities” face discipline.

194. Defendants adopted this policy under color of state law.

WHEREFORE, Speech First respectfully requests that this Court enter judgment in favor of Plaintiff and against Defendants and provide the following relief:

A. A declaratory judgment that the University’s discriminatory-harassment policy violates the First and Fourteenth Amendments;

B. A declaratory judgment that the University’s computer policy violates the First and Fourteenth Amendments;

C. A declaratory judgment that the University’s bias-related incidents policy violates the First and Fourteenth Amendments;

D. A declaratory judgment that the University’s informational-activities policy violates the First Amendment;

E. A permanent injunction barring Defendants from enforcing the University's discriminatory-harassment policy;

F. A permanent injunction barring Defendants from enforcing the University's computer policy;

G. A permanent injunction barring Defendants from enforcing the University's bias-related incidents policy;

H. A permanent injunction barring Defendants from investigating, logging, threatening, referring, or punishing (formally or informally) students for bias-related incidents;

I. A permanent injunction barring Defendants from enforcing the University's informational-activities policy;

J. A preliminary injunction granting the relief specified above during the pendency of this action;

K. An order holding Defendants jointly and severally liable for nominal damages in the sum of \$1;

L. Plaintiff's reasonable costs and expenses of this action, including attorneys' fees, per 42 U.S.C. §1988 and all other applicable laws; and

M. All other relief that Plaintiff is entitled to.

Dated: April 8, 2021

Respectfully submitted,

/s/ Cameron T. Norris


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VERIFICATION

I, Nicole Neily, declare as follows:

1. I am the President of Speech First, Inc., the plaintiff in this case.
2. I have reviewed this complaint.
3. For the allegations within my personal knowledge, I believe them all to be true.
4. For the allegations not within my personal knowledge, I believe them all to be true based on my review of the cited policies and documents and based on my conversations with members of Speech First, including Students A, B, and C.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April, 7, 2021



Nicole Neily, President of Speech First,
Inc.