



# Castleton University

## *Campus Safety and Security Report*

### *A Guide to Campus Crime Prevention and Awareness for 2020-21*

Castleton University is located in a rural town about ten miles west of Rutland, Vermont. The local area has about 4,500 full-time residents spread throughout a large area. Both state and local police patrol the town.

At Castleton we are fortunate to live in a community where crime is not widespread. However, as with other universities and communities, crime is present. Controlling the amount of crime requires effort from all who wish to enjoy Castleton's unique setting; therefore you are encouraged to report any crime or suspicious activity immediately to Castleton's Department of Public Safety. Reporting criminal activity is a means to identify and attempt to reduce crime. All members of the Castleton University community are encouraged to become familiar with Castleton's security policies and procedures and to become more safety conscious. Castleton's Annual Fire Safety Report is published separately. Copies of the Annual Fire Safety Report, along with this Campus and Security Report, are available at the Office of Public Safety or at the following link: <http://www.castleton.edu/campus-life/student-resources/campus-safety/>.

**Reporting Crimes and Emergencies** – All members of the Castleton University community are encouraged to report accurately and promptly all emergencies and criminal incidents to the Public Safety Department (802) 468-1215, their Area Coordinator, Community Advisor, the Dean of Student's Office, or local law enforcement. Local emergency services, including police, fire, and ambulance may be reached by dialing 911. Castleton Public Safety officers carry portable radio telephones to enable them to be contacted in the event of an emergency. Telephones are located in the lobbies of the residence halls and every building on campus which may be used to request emergency services or to report a criminal incident. Blue light emergency phones are placed throughout the campus and will connect you directly to Public Safety. Castleton encourages accurate and prompt reporting of all crimes to the Office of Public Safety and appropriate law enforcement authorities by victims, witnesses, and others if the victim is unable to make such a report. Professional counselors functioning within the scope of their license or certification are considered Campus Security Authorities. Castleton allows voluntary, confidential reporting of crimes. In cases involving sexual misconduct where a victim chooses not to report, Castleton's counselors are instructed to report the incident, without identifying names, for inclusion in the annual crime statistics.

**The Public Safety Department** – Castleton's Public Safety Department coordinates and monitors campus safety and security policies and procedures. The department is staffed by seven full-time and one part-time security officers, plus student officers, who may be identified by their uniforms. The names and titles of Public Safety Department staff are listed at the end of this report. The Department is located in Hope House on South Street across from Ellis Hall and may be reached by dialing extension 31215. Public Safety officers patrol campus 24 hours a day, and provide escorts, upon request, to members of the campus community. Public Safety officers are unarmed and do not possess police arrest powers but use citizen's arrest authority when needed. Public Safety officers have the authority to enforce all Castleton University rules and regulations.

The Department of Public Safety works with local law enforcement, pursuant to a written memorandum of understanding. When necessary, arrests on campus are generally made by the appropriate law enforcement agency, with cooperation, as requested, from the Department of Public Safety. Local law enforcement agencies include: Castleton, Rutland, and Bennington Police Departments; Vermont State Police ; Rutland County Sheriff's Office; State's Attorney's Office for Rutland County; and the Vermont Department of Liquor Control. Castleton has non-campus housing in Rutland, and Killington VT and academic facilities in Bennington, VT. It does not operate non-campus student organization facilities such as sororities or fraternities.

**Campus Crime Statistics** – Section 485(f) of Title IV of the Higher Education Act of 1965 contains statutory requirements related to campus crime and security, known collectively as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"). In accordance with the Clery Act, Castleton prepares an annual Uniform Campus Crime Report consistent with the FBI's Uniform Crime Reporting system. The report reflects the crime statistics on Castleton property for the three most recent calendar years as collected by the Office of Public Safety, in cooperation with the Offices of Residence Life and Dean of Students. The report discloses the statistics for the following crimes: murder and non-negligent manslaughter, negligent manslaughter, sex offenses (rape, fondling, incest, and statutory rape), arson, robbery, aggravated assault, burglary, motor vehicle theft, domestic violence, dating violence, and stalking. The Clery Act also requires disclosure of statistics for arrests and referrals for disciplinary action for liquor law violations, drug law violations, and illegal weapons possession. The Clery Act also requires disclosure of any hate crimes (larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property) motivated by a category of bias (race, gender, gender identity, religion, sexual orientation, ethnicity, national origin or disability).

**Hate Crimes**

In 2019 there was one report of vandalism of property based on race which occurred on campus.

In 2018 there were two reports of vandalism of property based on sexual orientation which occurred on campus.

In 2017 there was one report of intimidation, based on the gender identity of the victim, which occurred on campus.

**Castleton Crime Statistic Report**

CALENDAR YEAR 2019

<b>OFFENSE</b>	<b>On Campus Property</b>	<b>On Campus Student Housing Facilities</b>	<b>Non-Campus Property</b>	<b>Public Property</b>
Murder / Non-negligent Manslaughter	0	0	0	0
Negligent Manslaughter	0	0	0	0
Rape	0	0	0	0
Fondling	0	0	0	0
Incest	0	0	0	0
Statutory Rape	0	0	0	0
Robbery	0	0	0	1
Assault	0	0	0	2
Burglary	6	5	0	2
Motor Vehicle Theft	0	0	0	0
Arson	0	0	0	0
Liquor Law – Arrests	0	0	0	9
Liquor Law – Referrals	72	71	0	0
Drug Law – Arrests	0	0	0	0
Drug Law – Referrals	46	46	0	0
Weapons Possession – Arrests	0	0	0	0
Weapons Possession – Referrals	2	2	0	0
Dating Violence	2	0	0	1
Domestic Violence	0	0	0	0
Stalking	3	0	0	0

Calendar Year **2018**

<b>OFFENSE</b>	<b>On Campus Property</b>	<b>On Campus Student Housing Facilities</b>	<b>Non-Campus Property</b>	<b>Public Property</b>
Murder / Non-negligent Manslaughter	0	0	0	0
Negligent Manslaughter	0	0	0	0
Rape	1	1	0	0
Fondling	2	2	0	0
Incest	0	0	0	0
Statutory Rape	0	0	0	0
Robbery	0	0	0	0
Assault	0	0	0	0
Burglary	4	4	0	0
Motor Vehicle Theft	0	0	0	0
Arson	1	1	0	0
Liquor Law – Arrests	3	2	0	1
Liquor Law – Referrals	112	112	0	0
Drug Law – Arrests	0	0	0	0
Drug Law – Referrals	80	79	0	0
Weapons Possession – Arrests	0	0	0	0
Weapons Possession – Referrals	0	0	0	0
Dating Violence	3	3	0	0
Domestic Violence	0	0	0	0
Stalking	5	5	1	1

CALENDAR YEAR 2017

<b>OFFENSE</b>	<b>On Campus Property</b>	<b>On Campus Student Housing Facilities</b>	<b>Non-Campus Property</b>	<b>Public Property</b>
Murder / Non-negligent Manslaughter	0	0	0	0
Negligent Manslaughter	0	0	0	0
Rape	5	5	0	0
Fondling	2	2	0	0
Incest	0	0	0	0
Statutory Rape	0	0	0	0
Robbery	0	0	0	0
Assault	0	0	0	0
Burglary	3	2	0	0
Motor Vehicle Theft	0	0	0	0
Arson	0	0	0	0
Liquor Law – Arrests	23	20	0	10
Liquor Law – Referrals	128	126	0	0
Drug Law – Arrests	0	0	0	0
Drug Law – Referrals	102	98	0	0
Weapons Possession – Arrests	0	0	0	0
Weapons Possession – Referrals	0	0	0	0
Dating Violence	7	6	0	0
Domestic Violence	1	1	0	0
Stalking	7	5	0	0

Additional information concerning crime statistics, crime prevention, and security practices is available from the Department of Public Safety, Castleton University, Castleton, VT 05735 or by calling (802) 468-1399.

University policies on student conduct, due process, alcohol, drugs, sexual assault, and other matters are publically-available on Castleton's website (link: <https://www.castleton.edu/>) and are available from the Office of the Dean of Students. Castleton will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any disciplinary hearing conducted by the University against the student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, Castleton will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

**Bias-Related Reporting** – Castleton informs incoming students about bias-related crime and prevention measures through programs that include workshops, seminars, discussion groups, and orientation sessions. The purpose of these programs is to disseminate information about bias-related crime, promote discussion, encourage reporting of incidents of such crime, and facilitate prevention.

**Campus Facilities** – The campus buildings and facilities are open to the campus community and to guests and visitors during normal business hours, Monday-Friday, and for limited designated hours in the evenings and on weekends. At all other times, access is by key, if issued, or by admittance via the Offices of Public Safety or Residence Life. Some facilities may have individual hours which may vary at different times of the year. Examples include the Glenbrook Athletic Center, Spartan Stadium, Coolidge Library, and the Office of Public Safety. In these cases, the facilities will be secured according to schedules developed by the department responsible for the facility. Emergencies may necessitate changes or alterations to any posted schedules. Castleton has non-campus housing in Rutland. It does not operate non-campus student organization facilities such as sororities or fraternities.

**Residence Halls** – The front doors of all residence halls are normally locked 24 hours a day with a computer-access control system. Residents are issued proximity cards that allow access at main entrances, along with keys to the door of their individual suite and/or room. Authorized personnel, including staff of Public Safety, Facilities, and Residence Life have access to the residence halls. Residence Life staff are available in each hall from 9 p.m. to 7 a.m.

**Accommodations** – Upon request and if reasonably available and appropriate given the circumstances, Castleton will make accommodations and provide protective measures to victims of sexual misconduct, domestic violence, dating violence, sexual assault, and stalking. Individuals do not need to file a formal complaint, participate in a disciplinary process, or file a criminal complaint to request such assistance. Examples of possible measures that may be taken include changes to academic or work schedules, permission to withdraw from or retake a class without penalty, access to academic support services, changes to residence hall assignments, and the issuance of no-contact or no-trespassing orders.

**Drug/Alcohol Abuse** –The legal drinking age in Vermont is 21 years old. Any person under 21 who purchases alcoholic beverages, procures alcoholic beverages, willfully misrepresents his/her age, alters, or falsifies his/her I.D. with intent to purchase alcohol is committing a crime. Any person who sells or furnishes alcohol to a person under the age of 21 may be liable under Vermont law (*see* 7 V.S.A. § 501) and are violating Castleton's Code of Conduct.

Castleton does not allow open containers or the consumption of alcoholic beverages in public without prior approval. "In public" means on Castleton property, walkways, roadways, athletic fields or facilities, and academic facilities, or any area not approved in advance by Castleton. Violators may be asked to dump contents on the ground, be warned, face University disciplinary actions, or be reported to the police. The manufacture, sale, distribution, or use of illegal drugs is not tolerated, and is a violation of Castleton's Code of Conduct.

Laws pertaining to this area are enforced by the Vermont Department of Liquor Control and/or law enforcement agencies. However, the enforcement of these laws on campus is primarily the responsibility of the Office of Public Safety and Office of Residence Life.

Despite the change in Vermont state law, federal law continues to classify marijuana as a controlled substance and prohibits marijuana use, possession, production and distribution at educational institutions and on the premises of all recipients of federal funds. Accordingly, Castleton prohibits the use, possession, production and distribution of marijuana on its property and at university-related events.

### **Missing Students who Reside in On Campus Housing**

If a member of the Castleton University community has reason to believe that a student who resides in on-campus housing is missing, he or she should immediately notify Public Safety at (802) 468-1215. Public Safety will generate a missing person report and initiate an investigation.

If, after investigating the missing person report, the Castleton Public Safety Department determines that the student is missing and has been missing for more than 24 hours, Public Safety will generally notify the Castleton Police Department and will notify the student's emergency contact within 24 hours after the student has been determined to be missing. If the missing student is under the age of 18 and is not an emancipated individual, Castleton University will endeavor to notify the student's parent or legal guardian within 24 hours of the determination that the student is missing. Students residing in on-campus housing have the option to identify confidentially an individual whom Castleton University may contact in the event the student is determined to be missing for more than 24 hours. If a student has identified such an individual, Castleton University will endeavor to notify that individual no later than 24 hours after Castleton determines the student is missing. Students who wish to identify a confidential contact can do so

through the Office of Public Safety. This information will be accessible only to authorized campus officials, as well as law enforcement personnel as necessary.

### **Safety Tips**

It is essential for the success of Castleton's crime prevention efforts that every member of the community cooperates with its security policies and programs. Students and employees are strongly encouraged to take simple common sense precautions for their own personal safety and the security of their personal possessions. Students are advised to use the Public Safety escort service or to travel in groups when walking around campus late at night. Residence hall room doors and office doors should be locked at night and when the room is unoccupied. Vehicles should be locked at all times and valuables should be locked in the trunk. All motor vehicles parked on campus should possess a Castleton parking decal. Bicycles should be kept locked.

Members of the campus community should report any criminal acts and any suspicious looking individuals or unusual incidents to appropriate University officials, preferably to the Office of Public Safety.

Crime Prevention programs on personal safety and theft prevention are sponsored by various campus organizations throughout the year. Some examples include programs provided at new student orientation, in the halls by Residence Life staff or the Wellness Center Staff, and programming specifically on the topic of bystander intervention and sexual assault prevention provided by Peer Advocates for Change.

### **Campus Programs and Services**

The Department of Public Safety, along with other departments and agencies, offers programs to help prevent and reduce crime. An explanation of some of the programs follows. For more information, contact Public Safety.

- **Campus Escorts Service** – Public Safety is available to escort any person on campus. Dial (802) 468-1215 or use the blue light emergency phones located across the campus to request the service.
- **Films & Lectures** – A variety of films and lectures are presented periodically. Programs range from victim awareness to crime prevention and may include outside speakers and instructors.
- **Counseling** – Castleton offers developmental counseling, assessment and referrals. Counseling services are located in the Campus Center at the Wellness Center. The (802) 468-1346.
- **Sexual Assault Education** – Castleton provides educational programs to encourage respect and trust and to educate the community about sexual misconduct, including rape, acquaintance rape, domestic violence, dating violence, sexual assault, stalking and other sex offenses. Examples include programming by the Peer Advocates for Change (a student group dedicated to promoting bystander intervention and sexual assault prevention) at new student orientation, with student athletes following the mandated or best practices of the NCAA, and through the Residence Life Staff. Castleton has educational programs to promote awareness of sexual misconduct, domestic violence, dating violence and stalking. These include primary prevention and awareness programs for all incoming students and new employees, as well as ongoing prevention and awareness campaigns for students and employees. These programs include: a statement that these crimes are prohibited at Castleton; definitions of consent, domestic violence, dating violence, sexual assault, and stalking under Vermont state law; safe and positive bystander intervention; information on reducing risk by recognizing warning signs of abusive behavior and avoiding potential attacks; and information about Castleton's institutional disciplinary procedures.
- **Alcohol & Drug Abuse Education** – The Office of Student Life and the Wellness Center offers programs on drug and alcohol abuse. Programming will be provided in classrooms at the request of faculty, in the Residence Halls, and via workshops throughout the year. Additionally, all students— though the primary audience is new students—have access to the on-line tool E-Checkup, one-on-one or small group counseling on alcohol and other drug issues, and are referred as needed through the conduct system to services that may be applicable.

### **Campus Notification**

#### **Emergency Response and Evacuation Procedures**

- Castleton has an Emergency Management Team that meets regularly to update procedures to respond to emergencies that may occur on campus.
- Castleton works to immediately notify the campus community upon receiving confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students and employees occurring on campus. Castleton will, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgement of responsible authorities, compromise efforts to assist a victim or contain, respond to or otherwise mitigate the emergency. Authority to activate such a notification rests with the President, Dean of Students, or in an imminent situation, Director of Residence Life, Director of Public Safety, and the on-duty Public Safety Officer.
- When an emergency situation occurs on campus, public safety officers are dispatched to assess and render aid. Additionally, local and state police, fire and EMS resources may be immediately requested, depending Castleton's assessment, in consultation with local law enforcement if necessary, of the emergency.

- When it is confirmed that a serious emergency or dangerous situation exists, relevant information will be disseminated to the community by various means. These include: a siren system, emergency cellular text messaging system, emails, flyers, and personal contact.
- Response procedures and communication systems are tested on campus several times each year. Tests are announced ahead of time through email. Documentation stating the date and time and nature of tests is maintained in the Office of Public Safety.

### **Emergency Notification System**

Castleton has an Emergency Notification System through Everbridge that quickly sends messages to wired phones, cell phones, e-mail addresses, and text devices. Except for tests, this system is typically used only in the case of a serious threat to campus and not for routine weather notifications. The campus community is asked periodically to update personal information in their Everbridge account. It is important to do so. A siren may sound if there is a threat to campus. Phones, e-mail, and text devices should be monitored for details and advice.

### **Crime Advisories**

Any crime that is reported to Castleton or to a local law enforcement agency that Castleton, in consultation with local law enforcement, if necessary, considers to represent a serious or continuing threat to students and employees will result in the posting of an advisory as soon as possible after a serious incident has occurred to warn the campus of a potential danger. Authority to activate such an advisory rests with the President and Dean of Students. Names and specific locations are not posted, but details such as description of the alleged assailant, suspect vehicle, and last known location are all posted, as appropriate. These advisories will be distributed and posted, as appropriate, in all residence halls, Hudon Dining Hall, the Campus Center, and other areas used by many students, and through campus e-mail.

### **Sex Offender Information**

Information regarding registered sex offenders in Vermont can be obtained by visiting the State of Vermont's website at <http://vcic.vermont.gov/sor>

Castleton is a member of the Vermont State Colleges and is subject to the following VSC policies:

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

VSC Policy 311 prohibits discrimination and harassment on the basis of a person's race, color, ancestry, ethnicity, national origin, place of birth, sex, sexual orientation, gender identity, creed, religion, disability, age, veteran status, marital status, genetic information, positive HIV-related blood test results, or any other status protected by state or federal laws. Sexual harassment is illegal and Castleton University will not tolerate sexual harassment of its students and employees, nor will the College tolerate related unprofessional conduct by its employees that leads to and is associated with sexual harassment.

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

VSC Policy 311: *Non-discrimination and Prevention of Harassment and Related Unprofessional Conduct* and the Chancellor's Implementing Procedures can be found here on the VSC's main website and here on the VSC's Policy 311/Title IX website. The policy and procedures described herein are pursuant to the policy in effect, as of December 1, 2020, and may be subject to future revision.

To initiate a Policy 311 complaint, formally or informally, or for further information, contact:

Title IX/Policy 311 Coordinator  
 Janet Hazelton  
 Woodruff Hall  
 Castleton, VT 05735  
 (802) 468-1207  
 Janet.Hazelton@castleton.edu

### ***Policy 311-A: Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault, and Stalking***

In accordance with Title IX, as well as applicable state and federal law, the VSC Policy 311-A prohibits discrimination on the basis of sex in its education programs and activities, admission, and employment. Prohibited sex discrimination includes sexual harassment.

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

Policy 311-A: *Sexual Harassment, Sexual Exploitation, Domestic Violence, Dating Violence, Sexual Assault, and Stalking* and the Chancellor's Implementing Procedures can be found here on the VSC's main website and here on the VSC's Policy 311-A/Title IX website. Additional information can also be found on Castleton University website here [insert hyperlink]. The policy and procedures described herein are pursuant to the policy in effect, as of December 1, 2020, and may be subject to future revision.

To initiate a complaint under Policy 311-A, or for further information, contact:

Title IX Coordinator  
Janet Hazelton  
Woodruff Hall  
Castleton, VT 05735  
(802) 468-1207  
Janet.Hazelton@castleton.edu

## DEFINITIONS

**Consent:** Under Vermont law, "consent" to sexual activity is defined to mean "words or action by a person indicating a voluntary agreement to engage in a sexual act." For purposes of VSC Policy 311-A, effective consent means words or actions that demonstrate to a reasonable person a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective consent cannot be gained by threat, force, coercion or intimidation or by ignoring words or actions that indicate a lack of consent or objection to the activity. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be rescinded at any time. It is the responsibility of the person who wants to engage in the sexual activity to ensure that he or she has effective consent from any other person involved. Silence, lack of protest, or lack of resistance are not sufficient standing alone to establish consent. The actions of the individuals involved and the context in which those actions occurred will be considered in determining whether or not there was consent. The existence of a dating relationship or a past sexual relationship between the persons involved is not a sufficient basis to assume consent. Past consent between two individuals does not imply present or future consent to sexual activity.

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

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

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

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

- (i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (ii) For the purposes of this definition—
  - (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - (B) Dating violence does not include acts covered under the definition of domestic violence.

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

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

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

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

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

Retaliation as defined here violates Castleton policy and is prohibited.

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

**Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

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

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

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

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

Sexual assault can be committed by any person against another person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

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

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

Sexual misconduct also includes sexually exploitative behavior and attempted sexually exploitative behavior. Examples of sexually exploitative behavior include, but are not limited to: (1) prostituting another person; (2) recording or capturing (through any means) images or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent; (3) viewing or allowing or aiding others to view another person's sexual activity intimate body parts, or nudity without the person's consent; and (4) sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.

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

**Stalking:** (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

(ii) For purposes of this definition—

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

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

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

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

The Vermont state law definitions of dating violence, domestic violence, sexual assault and stalking are set forth in Appendix B; and contact information for Vermont's Special Investigation Units are set forth in an Appendix C to the Chancellor's Procedures for Implementation of VSC Policy 311-A (link: <https://www.vsc.edu/wp-content/uploads/2020/08/Policy-311-A-Procedures-rev.-eff.-8-12-20.pdf>).

## **PREVENTING AND RESPONDING TO SEXUAL HARASSMENT, SEXUAL EXPLOITATION, DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING**

Sexual misconduct often creates difficult emotional issues for the individual. Through regular educational programs, the University seeks to promote awareness and to inform students of risk reduction strategies and of the steps to take in the event of sexual misconduct. Copies of, or links to, this policy are made available annually to all students and employees. In addition, students and employees who report being the victim of domestic violence, dating violence, sexual assault, or stalking will be provided with a written explanation of their rights and options. Support and guidance for victims of sexual violence are available at [www.resolve.vsc.edu](http://www.resolve.vsc.edu)

Victims of sexual misconduct, domestic violence, dating violence have the option to:

- Notify law enforcement;
- Obtain assistance from campus authorities in notifying law enforcement; or
- Not notify law enforcement.

A victim who chooses not to notify law enforcement immediately has the option to notify law enforcement at a later time. A victim may also choose to pursue a criminal complaint and a complaint through Castleton's institutional disciplinary procedures simultaneously.

The University is committed to taking action against those who are found to have violated its code of conduct policies. A sexual misconduct violation can result in consequences up to and including criminal charges and dismissal from the University. The University is also committed to assisting individuals, regardless of whether the conduct occurs on or off campus. If you are a victim of sexual assault:

- Get to a safe place as soon as possible. Contact a trusted person for support. The following resources are available to you and are here to help.
  - Peer Advocates for CHANGE (802-417-1408);
  - An Area Coordinator;
  - Wellness Center professional staff (x 31313, 31314, 31346);
  - Public Safety (x1215);
  - Your Academic Advisor;
  - Associate Dean of Students (x 1231);
  - Rutland County 24-Hour Rape Crisis Line (1-800-489-7273 or 1-800-228-7395 or 802-775-3232);
  - Sexual Assault Nurse Examiner (SANE) 802-747-3601 (Emergency Department);
  - Parents or a trusted friend.
- Preserving evidence is important because it may assist in proving that an alleged crime occurred or may be helpful in obtaining a protective order. Do not wash, go to the bathroom, or change clothing, if it can be avoided. This will help to preserve physical evidence, should you decide to take legal action. If you must change clothing, all of the clothing worn at the time of the assault should be put in a paper bag (not plastic).
- Seek medical attention as soon as possible.
- Decide what actions to take (see below)

Everyone is strongly encouraged to report alleged violations. All Castleton employees are responsible for reporting any alleged violation of Policy 311 or Policy 311-A of which they are aware or made aware to the Dean of Students, the Title IX Coordinator, or Public Safety. General information from the reports of Clery Act crimes occurring on the University's covered property will be included in the University's annual crime statistics. Personally identifiable information about victims is not otherwise publicized.

Victims of sexual misconduct may decide what action they wish to take, if any. Incidents of sexual misconduct may be reported to the state or local law enforcement and/or to Public Safety, the Dean of Students Office or the Title IX Coordinator (see above). Regardless of where the alleged offense occurred, the University provides alleged victims who have reported potential violations with a written explanation of their rights and options.

Choosing not to request official action at the time of the incident does not preclude a person from requesting action at a future date, though the process of investigation and adjudication becomes more difficult over time. Please note, that where circumstances warrant, the University may report and/or investigate an alleged violation even if the alleged victim chooses not to pursue official action.

The University's disciplinary process is intended to provide a prompt, fair, and impartial investigation and resolution for all parties involved. The process is conducted by officials who receive annual training on issues related to sexual misconduct (including sexual assault), domestic violence, dating violence, and stalking, and on how to conduct an

investigation and a hearing process that protects the safety of victims, respects the due process rights of all parties, and promotes accountability. The University uses the preponderance of the evidence standard (*i.e.*, whether it is more likely than not that a violation occurred) in determining the outcome of an investigation.

The complainant and respondent are entitled to equal opportunities to have others present during a University disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choosing. Both the complainant and respondent are simultaneously informed, in writing (by electronic or other means), of: (a) the outcome of any University disciplinary proceeding that arises from an allegation of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault or stalking; (b) the University's appeal procedures, as applicable; (c) any change to the result that occurs prior to the time that the result becomes final; and (d) when the result of the disciplinary proceeding becomes final.

The complainant and respondent are entitled to the same opportunities to have others present during a disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice. Both the complainant and respondent are simultaneously informed, in writing (by electronic or other means), of: (a) the outcome of any College disciplinary proceeding that arises from an allegation of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault or stalking; (b) the College's appeal procedures; (c) any change to the result that occurs prior to the time that the result becomes final; and (d) when the result of the disciplinary proceeding becomes final.

### **CONFIDENTIALTY**

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

- **Confidential Off-Campus Resources** - Crisis services and off-campus healthcare providers will generally maintain confidentiality, to the extent permissible under applicable law.
- **Campus Counselors and Health Services Professionals** – Castleton's licensed professional counselors and health services staff respect and protect confidential communications from students and employees to the extent permissible under applicable law. They may have the legal or ethical responsibility to disclose otherwise-privileged information in the event they perceive an immediate and/or serious threat to any person or property. In addition, medical and mental health professionals are required by law to report any allegation of sexual assault of a person under age 18. These professionals will report incidents, without any identifying information, to the Title IX Coordinator so Castleton is aware that an incident of alleged misconduct under this Policy has occurred. If the incident is a crime covered by the Clery Act, these professionals will report it, without any identifying information, to Public Safety for Clery Act purposes. The non-identifying information to be reported includes the nature, date, time and general location of the incident.
- **University Employees** - University employees, other than those employed by Castleton in their capacity as licensed professional counselors and health services staff, are not confidential resources and cannot guarantee confidentiality. General inquiries or questions about policies and procedures do not have to be reported. Employees who learn of an incident of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault or stalking are expected to report this information to the Title IX Coordinator, the Dean of Students, or the President. Employees who are Campus Security Authorities are also required to report certain sex offenses and other crimes to the Department of Public Safety for the purpose of Castleton's compliance with the Clery Act. All information will be kept securely and, even if an individual does not request confidentiality, information is shared on a "need to know" basis only with those assisting in any review, investigation or adjudication of the report, or who otherwise need to know the information to perform the duties of their position. Although not bound by confidentiality, these individuals should be discreet and respect the privacy interests of all individuals involved in the process. Castleton will strive to protect the privacy interests of individuals to the extent it can while fulfilling its obligations to uphold relevant policies and regulations, to conform to any legal requirements, and to take reasonable steps to promote the safety of members of the University community. Castleton will evaluate requests for confidentiality on a case-by-case basis, within the context of its responsibility to provide a safe and nondiscriminatory environment for all students, employees and third parties, and to promote the health, safety, and wellbeing of the University community.
- **Law Enforcement** - Reports to law enforcement are not confidential.

## **SUPPORT AND ASSISTANCE**

### Court Orders

Castleton University is committed to ensuring the safety and well-being of individuals who are being or who may have been subjected to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, or stalking. They may have the right to obtain orders of protection, restraining orders and/or relief from abuse orders from Vermont courts. Upon request, Castleton University will assist them in making contact with law enforcement authorities and other external resources to seek such orders. This assistance is available regardless of whether an individual chooses to file an internal complaint with Castleton University.

### Supportive Measures

Sometimes it may be necessary to take steps to protect the rights and interests of an individual before or during an investigation so that the individual feels safe in his or her work or educational environment. Upon request, the Title IX Coordinator, with the assistance of other Castleton University officials as appropriate, will provide the complainant and/or respondent with changes to academic, transportation, working and/or living situations or other supportive measures, if reasonably available.

Individuals do not have to file a formal complaint, participate in a disciplinary process, or file a criminal complaint in order to request supportive measures from the Castleton University. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Castleton University's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Castleton University's educational environment, or deter Prohibited Conduct.

Supportive measures may include but are not limited to: counseling; academic accommodations, such as extensions of deadlines or other course-related adjustments, course changes or late drops, or other arrangements as appropriate; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; residential accommodations, including but not limited to arranging for new housing, or providing temporary housing options, as appropriate; changes in work locations; leaves of absence; increased security and monitoring of certain areas of campus; changing transportation or working arrangements or providing other employment accommodations, as appropriate; assisting the individual in accessing support services, including, as available, victim advocacy, academic support, counseling, disability, health or mental health services, visa and immigration assistance, student financial aid services, and legal assistance both on and off campus, as applicable (visit <https://resolve.vsc.edu/> for further information); no trespass notices prohibiting the presence of an individual on Castleton University property, and/or other properties on which Castleton University programs are occurring; informing the individual of the right to report a crime to local law enforcement and/or seek orders of protection, restraining orders, or relief from abuse orders from United States courts or courts outside of the United States as applicable, and providing assistance if the individual wishes to do so. Castleton University will also work with complainants and others as appropriate to respect and implement the requirements of such orders on premises that it owns or controls, as necessary and appropriate; and other similar measures. Factors that may be considered in determining the appropriateness of supportive measures may include but are not limited to: the specific need expressed by the requesting individual; the age and position of the individuals involved; the severity or pervasiveness of the alleged conduct; any continuing effects of the alleged violation on the requesting individual; whether the individuals involved share the same residence hall, dining hall, classes, transportation or job location; and, whether any judicial measures, such as court orders, have been taken to protect the requesting individual.

Supportive measures may be offered as appropriate to the respondent, as well as to the complainant. Assessment of a party's need to receive a supportive measure will generally be made on an individualized basis, as appropriate, based on the information gathered by the Title IX Coordinator. The measures needed by each party may change over time and the Title IX Coordinator will communicate with the parties to evaluate whether the measures provided are necessary and effective based on the parties' evolving needs.

The imposition of any of these measures does not indicate a presumption of guilt, nor does it preclude subsequent disciplinary action. A no contact order in and of itself does not constitute discipline and will not appear in an employee's personnel file or on a student's disciplinary record, but refusal to comply with a no contact order (or other supportive measure) is a violation of policy and may result in disciplinary action. A no trespass notice prohibits the presence of an individual in a designated area. Such notices are legally enforceable and, if violated, may lead to arrest.

### Interim Suspension of Students in Non-Title IX Sexual Misconduct Cases

If Castleton University has reasonable cause to believe that a student accused of violating Non- Title IX Misconduct in Policy 311-A poses a substantial threat to him or herself, the alleged victim, other people, property, or the continuance of normal Castleton University operations, Castleton University may suspend the student for an interim period, pending the outcome of the disciplinary process. Careful consideration should be given to alternative interim measures, such as changing class schedules and issuing no contact orders or building access restrictions, before imposing an interim suspension, so as to avoid depriving a student of his or her education where possible.

An interim suspension will not be imposed without prior notice to the student (either written or oral) of the contemplated suspension and the factual basis for it. The student shall have forty-eight hours in which to submit a letter to or appear personally before the Dean of Students (or the Dean's designee) to contest the interim suspension. The Dean of Students (or the Dean's designee) shall consider: (1) the reliability of the identification of the student; and (2) whether the alleged conduct, if true, based on the surrounding circumstances, reasonably indicates that the continued presence of the student on campus poses a substantial threat to him or herself, the alleged victim, other people, property, or the normal operations of Castleton University. The Dean (or the Dean's designee) may require the student to meet certain conditions in lieu of an interim suspension. Unless the Dean of Students (or the Dean's designee) determines that it would be unreasonably difficult or dangerous to delay the interim suspension, the student shall have the opportunity to be heard in person, virtually or in writing before the interim suspension takes effect.

#### Emergency Removal of Students or Employees in Title IX Sexual Harassment Cases

When Castleton University determines that there is an immediate threat to the physical health or safety of any student or other individual arising from reported conduct that falls within the definition of Title IX Sexual Harassment in Policy 311-A, Castleton University can remove a respondent from the education program or activity (which may include removing an employee respondent from their employment at Castleton University per the applicable terms of the any pertinent bargaining unit agreement or personnel handbook) and issue any necessary related no-trespass and no-contact orders. Castleton University will make the decision to remove a respondent from the education program or activity based on an individualized assessment and risk analysis. If Castleton University makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal. Specifically, the respondent shall have forty-eight hours in which to submit a letter to or appear personally or virtually before the Dean of Students (or the Dean's designee), if a student-respondent, or before the President (or the President's designee) if an employee-respondent, to contest the interim suspension (though a meeting could be scheduled sooner if requested by the respondent, if practicable or required per the terms of the applicable bargaining unit agreement or personnel handbook).

#### Non-student Administrative Leave in Title IX Sexual Harassment Cases

Castleton University always maintains the discretion to place non-student employee respondents on paid administrative leave during the pendency of an investigation and resolution process as outlined below, consistent with the terms of the applicable bargaining unit agreement or personnel handbook. Castleton University may also place a non-student employee respondent on unpaid administrative leave during the pendency of an investigation and resolution process, consistent with the terms of the applicable bargaining unit agreement or personnel handbook. In those instances in which Castleton University determines that an administrative leave will be unpaid and the respondent was not offered the opportunity to challenge the suspension without pay before it was imposed through some other process, the respondent may present a written challenge regarding the need for or the adequacy of the unpaid administrative leave to the President or their designee, if the respondent is employed at a Castleton University institution, or the Chancellor or their designee if the respondent is a President or employee at the Chancellor's Office.

### **Overview of Disciplinary Procedures**

The following is an overview of the disciplinary process. A copy of the Chancellor's Implementing Procedures for Policy 311-A can be found on the VSC website here [insert hyperlink]. These are the procedures that will be followed in cases of sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault and stalking. Additional information is also available on the VSC's RESOLVE/Title IX website here [insert hyperlink], which contains helpful handouts.

Castleton University may investigate and pursue disciplinary action against a person accused of violating Policy 311-A once a formal complainant has been filed.

The complainant will be asked to prepare a written statement describing the alleged conduct. The complainant may incorporate by reference a previously prepared statement. The Title IX Coordinator may alternatively draft a statement, based upon the complainant's verbal description of the alleged conduct, for the complainant's review and approval. To be considered a formal complaint, this document must be filed by a complainant, signed personally or electronically by the complainant (or signed by the Title IX Coordinator under circumstances outlined below), and request that Castleton University investigate the reported Prohibited Conduct.

If a formal complaint of conduct that would, if proved, satisfy all four of these elements and constitute Title IX Sexual Harassment (meet Title IX Sexual Harassment definition, conduct allegedly occurred in Castleton University's education program or activity, occurred in the United States and the complainant was participating or attempting to participate in a Castleton University program or activity) is received, it will be investigated and resolved through the procedures applicable to Title IX Sexual Harassment matters.

If some but not all of the conduct alleged in the formal complaint satisfies all four of these elements Castleton University will, in its discretion, address the entire matter through the procedures applicable to Title IX Sexual Harassment to promote efficiency, so that all related misconduct may be addressed through one investigation and resolution process.

If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all four of these elements, Castleton University will, as required by May 2020 Title IX regulations, dismiss the matter for purposes of the Title IX Sexual Harassment process, and will transfer it for handling under the Non-Title IX Sexual Misconduct procedures, as deemed appropriate by Castleton University.

Even if the allegations of a matter fall within the definition of Title IX Sexual Harassment, Castleton University may (but is not required to) dismiss a formal complaint or any allegations therein if at any time during the investigation or resolution process a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations; the respondent is no longer enrolled or employed by Castleton University; or specific circumstances prevent Castleton University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

If a formal complaint is dismissed by Castleton University under the circumstances described, Castleton University will simultaneously provide to the parties written notice (by electronic or other means) of the dismissal and the reasons for the dismissal, and notice of the parties' opportunity to appeal such dismissal through the Title IX Sexual Harassment appeal procedures.

If the respondent is both a student and an employee, the Title IX Coordinator will determine which procedures apply based upon the facts and circumstances, such as whether the respondent's status as a student or an employee predominates in the context of the Prohibited Conduct. If a student-employee is found to have engaged in Prohibited Conduct, the student-employee may be subject to sanctions both in connection with their employment, and in connection with their student status, as appropriate under these and other applicable procedures.

#### Notice

If Castleton University initiates an investigation of Title IX Sexual Harassment or Non-Title IX Sexual Misconduct it will provide to the parties a written notice (by electronic or other means) that includes information about Castleton University's formal and informal resolution processes; a statement of the allegations of behavior potentially constituting Prohibited Conduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial post-intake interview; a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process; information regarding Castleton University's presumption of good faith reporting and a summary of the false information policy outlined in Policy 311-A; notification that parties may have an advisor of their choice, who may be, but is not required to be, an attorney; notification of existing counseling, health and mental health services available on campus and/or in the community; and notification that taking any retaliatory action (directly or through others) against any person involved in the investigation is prohibited and will be considered a separate violation of Castleton University policy.

In Title IX Sexual Harassment cases, the notice will also notify parties that they may inspect and review evidence during the investigation and resolution process. If, in the course of an investigation, Castleton University decides to investigate allegations about any party that are not included in the notice described above, it will provide notice of the additional allegations to the parties whose identities are known.

Castleton University may consolidate formal complaints as to allegations of Title IX Sexual Harassment and/or Non-Title IX Sexual Misconduct against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of such Prohibited Conduct arise out of the same facts or circumstances.

If at any point during an investigation, a respondent chooses to accept responsibility under this policy and the Title IX Coordinator has concluded that the respondent is doing so with full knowledge of their rights to participate in the investigation and resolution procedures described below, the Responsible College Administrator (RCA) may issue a determination and impose disciplinary sanctions upon the. The RCA may also take other action that is reasonably calculated to address the conduct and prevent its recurrence, including further investigation of the allegations. By accepting responsibility and the imposition of any assigned disciplinary sanction, the respondent waives the right to appeal.

## The Investigation

The Title IX Coordinator will appoint at its discretion an investigator or investigators who is/are impartial, qualified, and trained, to investigate complaints alleging violations of Policy 311-A. Investigators may be employees of the Member Institution, other Castleton University employees, or outside investigators.

In selecting the investigator for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The complainant or respondent may raise an objection to the selection of a particular investigator if either believes there is a conflict of interest or demonstrable or reasonably perceived bias on the part of the investigator. Any such objections must be raised upon receipt of notice of the appointments. The RCA shall have final authority in the appointment of investigators.

## Conducting the investigation

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

The investigation will be conducted as promptly as possible, without compromising thoroughness. The investigator will endeavor to prepare their report within 45 calendar days from their appointment to serve as investigator, excluding scheduled breaks during the fall and spring semesters and other Castleton University Holidays or closures. This timeframe may be extended for good cause with written notice to the parties of the delay and the reason(s) for the delay.

## Witnesses and Evidence

The investigator will interview the complainant, respondent, and any witnesses separately. The complainant and respondent will be asked to identify: (a) relevant evidence they would like the investigator to review; (b) witnesses they would like the investigator to interview; and (c) questions they would like the investigator to ask the witnesses. The investigator has discretion as to what evidence to pursue, which witnesses to interview, and which questions to ask, depending on their determination of what they reasonably believe to be related to the issues in dispute.

The investigator is authorized to contact any and all individuals who may have relevant information. Castleton University recognizes, however, that individuals who are bound by legal privileges may not be able to disclose privileged information, unless an exception applies. The investigator is authorized to access relevant records, except those legally protected as confidential or privileged, and may collect any additional evidence relevant to the complaint. The investigator will not access, consider, disclose or otherwise use a party's privileged records without the party's voluntary, written consent to do so.

## Advisors

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

## Additional Policy Violations

If, in the course of the investigation, other allegations against the respondent surface which could result in discipline under this policy, other Castleton University policies, policies of the Member Institution, any collective bargaining agreement, or personnel handbook, the investigator will inform the respondent, in writing, of such allegations and the respondent will be given an opportunity to respond to the additional allegations before the investigators submit their report. If the alleged additional violations are related to the allegations contained in the complaint, they will be handled through the procedures otherwise applicable to allegations in the formal complaint, as provided below. If the alleged additional violations are unrelated to the allegations contained in the complaint, the Castleton University may choose to address these separately and not as part of the ongoing investigatory and adjudicatory process.

## General Investigation Provisions Applicable Only to Title IX Sexual Harassment Matters

The following general investigation-related provisions are applicable only to the investigation of matters that fall within the definition of Title IX Sexual Harassment, as required by May 2020 Title IX regulations. In such matters, the following provisions will apply: parties' equal opportunity to present witnesses may include evidence from fact and expert witnesses; and parties are not restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence; and parties whose participation is invited or expected will receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

### Preliminary Investigative Reports

In both Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters, when the investigator has completed witness interviews and the gathering of evidence as deemed appropriate by the investigator, the investigator will prepare a preliminary investigative report. The preliminary investigative report will summarize relevant evidence but will not contain any recommendations regarding whether the respondent violated Policy 311-A or any other Castleton University policy at issue.

### Preliminary Report Provisions Applicable only to Title IX Sexual Harassment Matters

In Title IX Sexual Harassment cases, the following additional provisions will apply during the preliminary investigative report stage of the investigation: Castleton University will provide each party with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised, including the evidence upon which Castleton University does not intend to rely in reaching a determination regarding responsibility and/or which the investigator does not deem relevant, and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Such evidence will not include un-redacted privileged records or information that may have been gathered or received during the investigation, absent written consent from the party holding the privilege. Castleton University will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.

Parties and advisors are not permitted to download, print or copy such evidence subject to inspection and review, and are not permitted to re-disclose such evidence without Castleton University's permission. Parties and advisors will be required to sign an acknowledgment form indicating that they understand these prohibitions. Violations of these prohibitions may subject parties to Castleton University discipline under applicable conduct codes.

### Review and Response to Preliminary Investigative Report

In both Title IX Sexual Harassment and Non-Title IX Sexual Misconduct matters, the complainant and the respondent will have an opportunity to review the preliminary report and 3 Parties to Non-Title IX Sexual Misconduct matters will receive adequate notice of meetings and hearings, but such notice may not include all of these elements, provide written responses to the report. The complainant and the respondent must submit any comments, feedback, additional documents, evidence, suggested questions for individuals interviewed, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigator, additional documents or other evidence, within 10 calendar days after the preliminary report is sent to them for review. The parties' written responses will be considered by the investigator prior to completion of the final investigative report, and some or all of the responses may be attached or otherwise incorporated into the final investigative report.

In the event that new, relevant information is provided or identified at this stage, the information will be incorporated into the preliminary report as deemed appropriate by the investigator, and, if the investigator, in consultation with the Title IX Coordinator, determine the new information is sufficiently material to the investigation, the complainant and the respondent will be provided a second opportunity to review and provide a written response regarding the new information within five calendar days, which the investigator will consider prior to completion of the final investigation report. Identification of new and relevant information after the parties' review of the preliminary report is likely to extend the time frame of the investigation.

### Final Investigative Reports

#### Final Investigative Report Generally

In both Title IX Sexual Harassment matters and Non-Title IX Sexual Misconduct matters, after considering any written response submitted by either party, or after the 10 calendar day comment period has lapsed without receiving a written response or responses, the investigator will address any relevant issues identified by the complainant and/or the respondent, and as appropriate, pursue any additional investigative steps as needed. The final investigative report may include the investigator's recommendation as to whether the respondent should be found responsible for violating the policy provisions at issue. The investigator's recommendation, if any, will be reached by applying the preponderance of evidence standard, i.e., whether it is more likely than not that the policy was violated. The final investigative report will be reviewed by the Title IX Coordinator before it is issued. Final investigative reports will be provided simultaneously to the parties and their advisors, if any, and a copy will also be provided to the Castleton University's general counsel.

#### Final Investigative Report Provisions Applicable Only to Title IX Sexual Harassment Matters

The following provisions regarding the final investigative report will apply in Title IX Sexual Harassment matters: the final investigative report created by the investigator will fairly summarize relevant evidence and include as exhibits evidentiary materials as deemed appropriate by the investigator; At least 10 calendar days prior to the hearing referenced below, Castleton University will send to each party and the party's advisor, if any, the final investigative report and exhibits in an electronic format or a hard copy, for their review and written response; any

written response a party wishes to provide must be submitted to the Title IX Coordinator or designee within 10 calendar days of receiving the final investigative report and exhibits; and the final investigative report and the parties' written responses, if any, will be provided to the hearing officer in advance of the hearing.

## HEARINGS

### A. Hearing and Resolution Provisions Applicable Only to Title IX Sexual Harassment Matters

#### Hearings

Live hearings will be provided in Title IX Sexual Harassment matters, as required by May 2020 Title IX regulations.

#### Hearing Officers

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the respondent violated the policy provisions at issue. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and what cross-examination questions will or will not be permitted. Hearing officers will be appointed by the Title IX Coordinator. In selecting a hearing officer for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. Castleton University will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within three calendar days of sending such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

#### Advisors

Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors may be, but are not required to be, attorneys. If a party does not have an advisor of their choice present at a hearing, Castleton University will without fee or charge to the party provide an advisor of Castleton University's choice, again for the limited purpose of conducting cross-examination on behalf of that party. No later than 10 calendar days before the hearing, parties should inform the Title IX Coordinator of the identity of any advisor of choice who will accompany them to the hearing, so that Castleton University will know whether or not it needs to arrange for the presence of a Castleton University-provided advisor.

At a time and manner deemed appropriate by the hearing officer, the advisor for each party will be permitted to ask the other party and any witnesses all relevant cross-examination questions and follow-up questions, including those challenging credibility. Except for that limited role, advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. Castleton University reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the appointment of an alternate Castleton University-provided advisor and, in extreme cases, exclusion of the advisor from future hearings.

#### Requests for Appearance of Witnesses

If a Party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator or designee at least 10 calendar days before the date of the hearing. The Title IX Coordinator or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator or designee will inform the witness that their presence at the hearing is required (to the extent that Castleton University has jurisdiction to require the presence of the witness) or requested.

#### Conduct of Hearings and Relevance

At or before the hearing, the hearing officer will receive a copy of the final investigative report, any attachments thereto, and copies of the parties' written responses to the final investigative report, if any, which will be part of the information of record to be considered by the hearing officer.

Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer, followed by opening statements from any party who wishes to provide one, followed by the hearing officer's asking relevant initial questions of the parties as deemed appropriate by the hearing officer. During this

portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party's advisor to ask the other party all relevant questions and follow-up questions, including those challenging credibility.

Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties' advisors will be permitted to ask relevant questions of witnesses.

In accordance with May 2020 Title IX regulations, such cross-examination by advisors will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Advisors are not permitted to object to hearing officer decisions regarding relevance during a hearing.

Regarding the evidence subject to inspection and review that was provided to the parties and their advisors under the Title IX Sexual Harassment matter-specific investigation procedures outlined above, a copy of such evidence will be made available at the hearing, and each party and/or their advisor (as applicable) will have an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege.

At the request of either party, Castleton University will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at Castleton University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

If a party or witness does not submit to cross-examination at the live hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

At the discretion of the hearing officer, parties (but not their advisors) will usually be given an opportunity to make a closing statement at the conclusion of the hearing.

### Record of Hearings

Castleton University will create an audio or audiovisual recording and/or transcript (at its discretion), of any live hearing, and will make it available to the parties for inspection and review.

### Determinations Regarding Responsibility

Within 30 calendar days after the hearing, the hearing officer (and, if necessary, the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include: identification of the section(s) of Castleton University's Policy 311-A alleged to have been violated; a description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; findings of fact supporting the determination; conclusions regarding

the application of definitions of sexual harassment in Castleton University's Policy 311-A to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor; and identification of Castleton University's procedures and permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final either on the date that Castleton University provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

The determination will also notify the parties whether remedies designed to restore or preserve equal access to the Castleton University's education program or activity will be provided by the Castleton University to the complainant, but will not provide details about any such remedies.

If sanctions are necessary, they will be assigned in accordance with the Sanctions section below. The parties will receive notice simultaneously of the written determination regarding responsibility and, if necessary, any sanctions as determined through the procedures outlined below.

## B. Resolution and Other Provisions Applicable Only to Non-Title IX Sexual Misconduct Matters

### Hearings

Live hearings will be provided in Non-Title IX Sexual Misconduct matters.

### Hearing Officers

Hearings will be presided over by a hearing officer, who will make the decision by a preponderance of the evidence as to whether or not the respondent violated the policy provisions at issue. The hearing officer has broad authority to determine the process, timing and conduct of a hearing. For example, the hearing officer will determine the order of presentation, timing and overall duration of the hearing, what information and evidence will be heard, what information and questions are relevant to the determination of the matter, and the nature and substance of any questions asked of parties and/or witnesses.

Hearing officers will be appointed by the Title IX Coordinator. In selecting a hearing officer for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. Castleton University will notify the parties of the identity of the hearing officer in advance of the hearing, and parties may, within 3 calendar days of such notice, object to the service of the hearing officer by providing a written statement (which may be transmitted electronically) as to why the party believes that the hearing officer has a conflict of interest or bias. The Title IX Coordinator or designee will make decisions regarding such objections and the appointment of an alternate hearing officer, as necessary.

### Advisors

Each party may have an advisor of their choice present at a hearing. Advisors may not participate actively in the hearing and may not speak or otherwise communicate on the part of the party that the advisor is advising. However, the advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the hearing. Scheduling accommodations generally will not be made for advisors if they unduly delay the process. Castleton University reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the hearing officer, which may include exclusion of the advisor from the hearing and the alternate appointment of a Castleton University-provided advisor and, in extreme cases, exclusion of the advisor from future hearings

### Requests for Appearance of Witnesses

If a party wishes to have an individual appear at the hearing as a witness, they must provide notice of the identity of the proposed witness and a brief description of the subject matter of the witnesses' testimony to the Title IX Coordinator or designee at least 10 calendar days before the date of the hearing. The Title IX Coordinator or designee, in consultation with the hearing officer as necessary, will determine whether the witness is likely to have information that is relevant to the hearing, and if it is determined that the witness is likely to have relevant information, the Title IX Coordinator or designee will inform the witness that their presence at the hearing is required (to the extent that Castleton University has jurisdiction to require the presence of the witness) or requested.

## Conduct of Hearings

At or before the hearing, the hearing officer will receive a copy of the final investigative report, any attachments thereto, and copies of the parties' written responses to the final investigative report, if any, which will be part of the information of record to be considered by the hearing officer.

Subject to the discretion of the hearing officer, hearings will ordinarily begin with introductory remarks by the hearing officer, followed by opening statements from any party who wishes to provide one, followed by the hearing officer's asking relevant initial questions of the parties as deemed appropriate by the hearing officer. During this portion of the hearing, advisors may confer privately and in a non-disruptive manner with their advisee, but they are not allowed to make opening statements or otherwise address the hearing officer or anyone else present at the hearing.

After the hearing officer has asked their initial questions of the parties, the hearing officer will permit each party to submit to the hearing officer proposed questions that they would like the hearing officer to pose to the other party. The hearing officer may at their discretion pose, rephrase, or decline to pose any and all such proposed questions. Subject to the discretion of the hearing officer, questioning of witnesses will generally follow a similar process, whereby the hearing officer will pose relevant questions to each witness, then the parties may submit to the hearing officer proposed questions that they would like the hearing officer to pose to each witness. The hearing officer may at their discretion pose, rephrase, or decline to pose any and all such proposed questions. No direct cross-examination of parties or witnesses by parties or their advisors will be permitted.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Information protected under a legally recognized privilege (such as, for example, privileged communications between a party and their physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a treatment capacity, or privileged communications between a party and their attorney), is not relevant unless the person holding the privilege has waived the privilege. At the request of either party, Castleton University will provide for the hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at Castleton University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Formal rules of evidence do not apply to hearings under these procedures. The hearing officer will accept, consider and give weight to information as deemed appropriate at the discretion of the hearing officer.

At the discretion of the hearing officer, parties (but not their advisors) will usually be given an opportunity to make a closing statement at the conclusion of the hearing.

## Record of Hearings

Castleton University will create an audio or audiovisual recording, and/or transcript (at its discretion), of any live hearing and make it available to the parties for inspection and review.

## Determinations Regarding Responsibility

Within 30 calendar days after the hearing, the hearing officer (and, if necessary, the sanctioning officer, as provided below) will prepare and issue a written determination regarding responsibility and sanctions. In determining responsibility, the hearing officer will apply the preponderance of the evidence standard. The written determination will include:

identification of the section(s) of VSC's Policy 311-A alleged to have been violated; a description of the procedural steps taken from the receipt of the complaint through the determination, including but not limited to, as applicable, any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; findings of fact supporting the determination; conclusions regarding the application of definitions of sexual harassment in VSC's Policy 311-A to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, where necessary and in collaboration with the sanctioning officer, a statement regarding any sanctions and the rationale therefor; and identification of Castleton University's procedures, timelines and permissible bases for the complainant and respondent to appeal (as outlined below).

The determination regarding responsibility becomes final either on the date that Castleton University provides the parties with the written determination of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

### Determination and Sanctions

The parties will receive notice simultaneously of the written determination and, if necessary, any sanctions.

#### 1. Student Respondents

The RCA is not bound by the investigators' report and may accept or reject the investigators' recommended conclusion, in whole or in part, or may request additional relevant information before making a final determination. The complainant and respondent may request to meet individually with the RCA before a final determination is made and may be accompanied by an advisor of their choosing. The advisor may confer privately with the individual but cannot act as a speaking advocate. The RCA may request to meet with either party or any other person(s) the RCA considers appropriate before making a final determination. The parties have seven (7) calendar days from the date the report is sent to the RCA to request a meeting with the RCA.

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

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

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

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

To the extent permitted by law, the complainant and respondent will be notified, simultaneously and in writing, of: (1) the RCA's determination; (2) the disciplinary sanctions, if any, to be imposed; and (3) Castleton University's procedures for complainants and respondents to appeal the determination and disciplinary sanctions. The notification will include the rationale for the determination and for any sanctions. A copy of the RCA's determination shall be sent to the Title IX Coordinator and to VSC's general counsel.

Absent extenuating circumstances, the RCA will endeavor to issue a determination as to whether a violation of VSC's policies has occurred and the imposition of any sanctions (or other action) within fourteen (14) calendar days after receiving the investigators' report or within seven (7) calendar days of obtaining additional information or meeting with the parties, whichever is later. This period may be extended for good cause, with written notification to the parties, if, for example, the RCA determines that further information or investigation is needed.

### Disciplinary Action

If the hearing officer determines that a student has engaged in conduct that violates Policy 311-A (or other VSC policies, if applicable), information about the matter will be provided to the RCA, and the RCA will impose disciplinary sanctions on the student. The RCA shall consider what sanctions are: (1) fair and appropriate given the facts of the particular case, including whether the respondent has accepted responsibility for their actions, and the impact of separating a student from their education; (2) necessary to restore or preserve the complainant's equal access to the education programs or activities of the Castleton University; and (3) adequate to protect the safety of the complainant and the Castleton University community.

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

Regardless of the finding, other non-disciplinary action may be taken as appropriate under the circumstances, including but not limited to room changes, class changes, building restrictions, extracurricular activity restrictions, modification of no contact orders, and other actions to restore or preserve the complainant's equal access to the education programs or activities of the Castleton University.

To the extent permitted by law, the complainant and respondent will be notified, simultaneously and in writing, of: (1) the hearing officer's determination (as described above); (2) the disciplinary sanctions, if any, to be imposed by the RCA; and (3) the Castleton University's procedures for complainants and respondents to appeal the determination and disciplinary sanctions. Again, the notification will include the rationale for the determination and for any sanctions. A copy of the hearing officer's and RCA's determination will be sent to the Title IX Coordinator and to VSC's general counsel.

#### Time-frame

Absent extenuating circumstances, the RCA will endeavor to issue a determination as to any sanctions (or other action) within fourteen (14) calendar days after receiving notice of the hearing officer's decision regarding responsibility. This period is included within the 30-day period for the hearing officer to issue a final determination, detailed above, and may be extended for good cause, with written notification to the parties.

#### 2. Employee Respondents

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

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

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

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

Disciplinary action under existing policies and/or contracts may include verbal warnings, written warnings, written reprimands, probation, suspension, termination of employment, non-renewal of a contract, or other action determined to be appropriate under the circumstances. The sanctions of probation and suspension will be for a particular period of time, ranging from a number of days to a number of semesters, as determined on a case-by-case basis.

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

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

## Disciplinary Action

If the hearing officer determines that an employee has engaged in conduct that violates Policy 311-A (or other Castleton University policies, if applicable), information about the matter will be provided to the RCA, and the RCA will impose disciplinary sanctions on the employee, consistent with the applicable terms of any collective bargaining agreement.

Disciplinary action under existing policies and/or contracts may include verbal warnings, written warnings, written reprimands, probation, suspension, termination of employment, non-renewal of a contract, referral to a separate process (for determination of employment-status sanctions only) as defined by or provided in the applicable collective bargaining agreement, or other action determined to be appropriate under the circumstances. The sanctions of probation and suspension will be for a particular period of time, ranging from a number of days to a number of semesters, as determined on a case-by-case basis.

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

## Time-frame

Absent extenuating circumstances, the RCA will endeavor to issue a determination regarding sanctions within fourteen (14) days of receiving notice of the hearing officer's decision regarding responsibility. This period is included within the 30-day period for the hearing officer to issue a final determination, detailed above, and may be shorter or longer depending on the circumstances, including any contractual rights of the parties. The parties will be notified if changes are made to the time-frame. A copy of the written determination will be sent to the Title IX Coordinator and to VSC's general counsel.

## Appeal

### 1. Student Respondents

In cases in which the respondent is a student, both the complainant and respondent have the right to appeal the Title IX Coordinator's dismissal of a formal complaint for Title IX purposes based on the Title IX Coordinator's determination that it did not fall within the definition of Title IX Sexual Harassment or the result of a hearing and/or sanctioning process, on the following grounds: procedural irregularity that affected the outcome of the matter; new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or the sanction is substantially disproportionate to the findings.

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

### 2. Employee Respondents

#### Appeals from Initial Determinations

In cases in which the respondent is an employee, both the complainant and respondent have the right to appeal the Title IX Coordinator's dismissal of a formal complaint for Title IX purposes based on the Title IX Coordinator's determination that it did not fall within the definition of Title IX Sexual Harassment. Within seven (7) calendar days of receiving the notification of such a decision by the Title IX Coordinator, the parties may appeal to the President of the Institution (or the President's designee), or to the Chancellor (or the Chancellor's designee) as appropriate, by delivering a written statement of appeal to the President or Chancellor and to the Title IX Coordinator. The Title IX Coordinator will notify the other party of the appeal and the other party will be given seven (7) calendar days in which to submit a written response to the appeal to the President (or the President's designee) or to the Chancellor (or the Chancellor's designee) as appropriate, with a copy to the Title IX Coordinator. Both parties will be informed simultaneously and in writing, of the President's or Chancellor's decision. The decision of the President (or the President's designee) or the Chancellor (or the Chancellor's designee) as appropriate, is final.

#### Appeals in Title IX Sexual Harassment Cases

In Title IX Sexual Harassment cases where the respondent is an employee, both the complainant and respondent have the right to appeal the result of a hearing and/or sanctioning process, on the following grounds: Procedural irregularity

that affected the outcome of the matter; New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

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

#### Appeals in Non-Title IX Sexual Misconduct Cases

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

#### Informal Resolution

The parties may voluntarily agree to participate in an informal resolution that does not involve a formal hearing-based resolution procedure, if all parties consent in writing after receiving a full disclosure of the allegations and their options for formal resolution, and if Castleton University determines that the particular complaint is appropriate for informal resolution. Informal resolution may be used in Title IX Sexual Harassment matters in which a formal complaint has been filed by a Complainant or signed by the Title IX Coordinator, and in Non-Title IX Sexual Misconduct matters when deemed appropriate by the Title IX Coordinator. The Castleton University will not offer to facilitate an informal resolution process in any matter that involves allegations that an employee sexually harassed a student. At any time prior to reaching a determination regarding responsibility, Castleton University may facilitate an informal resolution process (e.g., mediation or restorative justice) where requested by a party and agreed to by both parties.

#### Notices

For purposes of this policy, written notifications to the parties and written responses from the parties may be hand-delivered, mailed, and/or sent to or from the parties' official Castleton University e-mail addresses and/or other e-mail addresses if known to Castleton University, and/or sent via the Castleton University's secure file-sharing service. The same method of communication will be used where practicable for both the complainant and the respondent.

#### Training

Investigators and Responsible College Administrators receive annual training. The training typically covers issues related to sexual harassment, sexual exploitation, domestic violence, dating violence, sexual assault, and stalking. Training includes how to conduct investigations that are prompt, fair and impartial and, as appropriate, on how to conduct an investigation and an adjudicatory process, free from conflicts of interest or bias, that seeks to protect the safety of a complainant, respects the due process rights of a respondent, and promotes accountability.

#### **Public Safety Staff**

Student and employees should report missing persons and criminal offenses for the purpose of making timely warnings and annual Clery Act disclosures to the following members of the Public Safety Department:

Keith Molinari, Director of Public Safety

Greg Sheldon, Full-time Officer

Floyd Morey, Full-time Officer

Tom Scheck, Full-time Officer

Brad Adair, Full-time Officer

Gus Austin, Full-time Officer

Michael Scott, Full-time Officer

Jeremiah Desautels, Part-time Officer

Karla Tomasi, Administrative Assistant

*The Public Safety Department includes student officers and student switchboard operators.*

**See also the Annual Fire Report found on Castleton's website ([www.castleton.edu](http://www.castleton.edu)) under Campus Safety.**