

# **WEST VIRGINIA STATE UNIVERSITY BOARD OF GOVERNORS**

## **West Virginia State University**

### **BOG Policy #14**

#### **Title: Sexual Harassment**

#### Section 1. General

- 1.1 Scope: This policy defines sexual harassment, provides guidelines for filing sexual harassment complaints and indicates what action will be taken against those found to have engaged in sexual harassment.
  - 1.1.a Persons, Conduct, Locations, Programs, Activities and Relationships Covered: All University students, employees, campus visitors, and third-party vendors are covered by this policy, regardless of sexual orientation or gender identity. This policy applies on all property owned by the University, on all property at which the University holds educational programs or activities, and on all airplanes, buses or other vehicles used to transport the University's students, and this policy applies to all of the University's educational programs and other activities.
- 1.2 Authority: West Virginia Code §18B-1-6, a policy statement issued by the Office for Civil Rights of the U.S. Department of Education on the interpretation of the following: Title IX of the Education Amendments of 1972 and Equal Employment Opportunity Commission (EEOC) interpretative guidelines issued in March, 1980, and subsequent federal court decisions on the subject of sexual harassment.
- 1.3 Effective: April 1, 2015
- 1.4 Adopted: March 19, 2015

#### Section 2. Overview

- 2.1 The University prohibits all forms of sexual discrimination, including sexual misconduct. The University is committed to addressing sexual misconduct in a manner consistent with applicable law. A notice of the University's policy of nondiscrimination shall be widely disseminated on the University's campus to students, employees, applicants for admission and applicants for employment. The notice shall specifically state that (a) the University does not discriminate on the basis of sex in its education programs and activities, (b) the University is required by Title IX not to discriminate in such a manner, and (c) questions concerning Title IX may be referred to the University's Title IX Coordinator or to the Office of Civil Rights at the United States Department of Education. The notice of non-discrimination shall state the name or title, office address, telephone number and email address of the University's Title IX Coordinator.
- 2.2 It is the policy of the University that designated staff members take immediate and appropriate steps to investigate or otherwise determine what happened when the University knows or reasonably should know of possible sexual misconduct. When sexual misconduct is determined to have occurred, the University shall take prompt and effective steps reasonably calculated to end the sexual misconduct, eliminate the hostile environment, prevent its recurrence, and, as

appropriate, remedy its effects. All complaints shall be processed in accordance with the procedures established in this policy.

- 2.3 It is the policy of the University to protect any student or employee filing a complaint alleging sexual misconduct and to ensure the student's safety as necessary, including taking interim steps to protect the student or employee prior to the final outcome of any investigation. It is the University's duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for all students and employees, free from sexual harassment and sexual misconduct. This duty also applies to complaints involving parties of the same sex, and it requires the University to use the same procedures and standards used in all complaints involving sexual misconduct.
- 2.4 Inappropriate conduct by University personnel toward students is prohibited, and University policies shall identify procedures for identifying and responding to inappropriate conduct by University personnel.

### Section 3. Options for Assistance Following an Incident of Sexual Misconduct

- 3.1 The University shall take prompt steps to protect the complainant once the University has notice of sexual misconduct. The University shall take interim measures, including accommodations, to protect the complainant and witnesses as necessary while any criminal or campus investigation is underway and before the final outcome of any investigation. University officials should be mindful that sexual misconduct can result in delayed decision-making by a person who has experienced sexual misconduct. In anticipation of the need for support services from other agencies in the community, the University shall enter memoranda of understanding with other agencies as may be necessary to meet the University's obligation under Title IX. All such memoranda shall comply with all FERPA requirements. In the event of an alleged off-campus sexual misconduct incident, the University shall protect the student and the University community in the same manner it would had the sexual misconduct occurred on campus. Further, the University shall handle off-campus sexual misconduct incidents as it would handle other off-campus incidents of misconduct or violence and consistent with any applicable law. The Title IX Coordinator must be consulted in identifying safety risk and interim measures that are necessary to protect the complainant.

3.1.a Immediate Assistance - In the event of a sexual assault, various resources are available to students:

- 3.1.a.i Trained on- and off- campus advocates and counselors who can provide an immediate confidential response in a crisis situation:

Contact Information: (304) 766-3262; 125 Sullivan Hall, East

Contact Information: (304) 766-3224; 129 Sullivan Hall, East

Contact Information: REACH Advocate, The Counseling Connection  
1021 Quarrier Street, Suite 414  
Charleston, WV 25301  
304-340-3676; www.tccwv.org

3.1.a.ii Emergency phone numbers for on- and off- campus safety, law enforcement, and other first responders, including the Title IX Coordinator:

Campus Safety/Police: WVSU Campus Police  
(304) 766-3353

Agency & Contact Information: Kanawha Co. Sherriff's Office  
301 Virginia Street, East, Charleston, WV 25301  
(304) 357-0169

Ambulance: Kanawha Co. Emergency Ambulance Authority  
(304) 342-1107

Title IX Coordinator: Human Resources Director  
(304) 766-5224

3.1.a.iii Advocates who can meet a victim at the hospital or other health care provider:

Contact Information: REACH Advocate  
The Counseling Connection  
1021 Quarrier Street, Suite 414  
Charleston, WV, 25301  
304-340-3676; [www.tccwv.org](http://www.tccwv.org)

3.1.a.iv The Sexual Assault Response Team (SART) can provide the following resources and support and can be accessed by: REACH SART, 1021 Quarrier Street, Suite 414, Charleston, WV 25301; (304) 340-3676; and 1-800-656-HOPE.

3.1.a.v Health care services are available as follows:

On-Campus: WVSU Health Center (304) 766-3323

Off-Campus: CAMC Women's and Children's Hospital  
800 Pennsylvania Avenue, Charleston, WV 25302  
(304) 388-2550

3.1.a.vi A Sexual Assault Nurse Examiner (SANE) can be found or a rape kit can be obtained at:

CAMC Women's and Children's Hospital  
800 Pennsylvania Avenue, Charleston, WV 25302  
(304) 388-2550

CAMC General Hospital  
501 Morris Street, Charleston, WV 25301  
(304) 388-5432

CAMC Memorial Hospital  
3200 MacCorkle Avenue SE, Charleston, WV 25304  
(304) 388-5432

- 3.2 Any victim of sexual misconduct should be aware of the options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other services. Victims are encouraged to discuss with health care providers, campus officials, and/or first responders the option of seeking medical treatment in order to preserve evidence which may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protective order.
- 3.3 Alleged offenses may be reported to the law enforcement agencies or to University officials designated in Section 6, and victims may (a) notify law enforcement authorities, (b) be assisted by campus authorities in notifying law enforcement authorities if the victim chooses, or (c) decline to notify such authorities. Victims may also be able to obtain orders of protection, no contact orders, restraining orders, or similar lawful orders issued by an appropriate court.
- 3.4 University officials should be mindful of the University's obligation to provide interim measures to protect the complainant in the educational setting. The University must consider a number of factors in determining what interim measures to take, including, (a) the specific need expressed by the complainant, (b) the age of the students involved, (c) the severity or pervasiveness of the allegations, (d) any continuing effects on the complainant, (e) whether the complainant and the alleged perpetrator share the same residence hall, dining hall, class, transportation or job location, and (f) whether other judicial measures have been taken to protect the complainant. The University shall minimize the burden of any interim measures on the complainant. The University will provide counseling services without charge to the complainant if the University determines that counseling is necessary as a part of its Title IX obligation to protect the complainant while the investigation is ongoing. The University shall notify the complainant of complainant's options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or complainant's living, transportation, dining, and working situation as appropriate. The University shall ensure that the complainant is aware of (a) complainant's Title IX rights, (b) any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and (c) the right to report a crime to campus or local law enforcement. The University shall not dissuade a complainant from filing a criminal complaint either during or after the University's internal Title IX investigation.

#### 3.4.b Ongoing Assistance

##### 3.4.b.i Counseling, Advocacy and Support – On-and Off-Campus

- 3.4.b.i.1 Counseling and support services for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the University's disciplinary process or criminal process, include:

Contact Information:  
Director, Counseling and Academic Support Services (CASS)  
(304) 766-3262; 125 Sullivan Hall, East

Contact Information:  
CASS Mental Health Specialist  
(304) 766-3224; 129 Sullivan Hall, East

3.4.b.i.2 Confidential counseling, advocacy, health, mental health, or sexual- misconduct-related sources, can be found both on and off campus as follows:

On-Campus:

CASS, 1<sup>st</sup> Floor Sullivan Hall, East; (304) 766-3168

On-Campus:

Health Center, 004 University Union; (304) 766-3323

Off-Campus:

REACH Advocate, The Counseling Connection

1021 Quarrier Street, Suite 414

Charleston, WV 25301

304-340-3676; www.tccwv.org

3.4.b.i.3 Ongoing support during the University's disciplinary process or the criminal process can be found as follows:

Contact Information: (304) 766-3262; 125 Sullivan Hall, East

Contact Information: (304) 766-3224; 129 Sullivan Hall, East

3.4.b.ii Academic Accommodation and Interim Measures

3.4.b.ii.1 The University can provide immediate steps and interim measures to ensure the safety and well-being of the victim, such as the ability to move dorms, change work schedules, alter academic schedules, withdraw from/retake a class, and access academic support (e.g. tutoring).

3.4.b.ii.2 The University may be able to provide additional interim measures for complainants while an investigation is pending, such as no contact orders and changing the alleged perpetrator's living arrangements or course schedule.

#### Section 4. Title IX Coordinator

4.1 The President shall designate at least one employee to coordinate the University's efforts to comply with and carry out responsibilities under Title IX. The University shall notify all students and employees of the name or title and contact information for the Title IX Coordinator. The President shall give the Title IX Coordinator the training, authority, and visibility to fulfill the required duties set forth in this section and elsewhere in this policy in sections, 1, 3, 4, 6, 7, 9, and 10. The Title IX Coordinator shall have knowledge of Title IX requirements, of the University's policies and procedures on sex discrimination and of all complaints raising Title IX issues throughout the University. The University shall appropriately train the Title IX Coordinator in all areas over which the Title IX Coordinator has responsibility. The Title IX Coordinator shall be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation is to

be conducted by another individual or office. The Title IX Coordinator shall be available to meet with students as needed. The Title IX Coordinator shall have no other job responsibilities which create a conflict of interest with the responsibilities associated with being the Title IX Coordinator. If more than one Title IX Coordinator is designated by the President, the University's notice of nondiscrimination and the University's grievance procedure shall describe each coordinator's duties and shall designate one coordinator as having ultimate oversight responsibility. The Title IX Coordinator shall review all processes used to resolve complaints of sexual misconduct to ensure that they (a) comply with requirements for prompt and equitable resolution of these complaints, (b) allow for appropriate interim measures to be taken to protect the complainant during the process, and (c) provide for remedies to the complainant and University community where appropriate. The Title IX Coordinator shall also review the University's disciplinary policy to ensure it does not have a chilling effect on student's reporting of sexual misconduct offenses or participating as witnesses.

## Section 5. Definitions

5.1 As used in this policy, the phrases and words listed shall have the meanings set forth below:

**Complainant** - The person making an allegation or complaint of sexual misconduct or relationship violence.

**Consent** - Verbal statements or non-verbal actions which a reasonable person would understand to mean a voluntary agreement to engage in sexual activity. Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent.

**Counseling employees** - Counselors employed by the University and other employees working under the direct supervision and control of counselors are covered under statutory privilege.

**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. 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 the relationship, and the frequency of interaction between the persons involved in the relationship. "Dating violence" includes, but is not limited to, sexual or physical abuse or the threat of such abuse, but it does not include acts covered under the definition of domestic violence.

**Domestic violence** - A felony or misdemeanor crime of violence committed by: (a) a current or former spouse or intimate partner of the victim, (b) a person with whom the victim shares a child in common, (c) a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner, (d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (e) 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.

**Educational setting** - All of the University's academic programs and other activities of whatever nature on campus and at every other location where the University conducts authorized programs or activities.

Incapacitation - Any situation in which a person is incapable of giving consent due to the person's age, state of consciousness, use of drugs or alcohol, or an intellectual or other disability.

Intimidation - The intentional act of coercing or frightening someone to engage or not engage in conduct of a sexual nature against that person's will.

Hostile environment - "Hostile environment" means activity or conduct involving sexual harassment that is sufficiently serious that it interferes with or limits a person's ability to participate in or benefit from the University's program.

Non-consensual sexual contact - Any physical touching of a sexual nature which is not preceded by consent or which continues after a previous consent is withdrawn.

Non-consensual sexual intercourse - Any sexual intercourse which is not preceded by consent or which continues after a previous consent is withdrawn. "Sexual intercourse" includes vaginal or anal penetration by a penis, object, tongue or finger and oral copulation.

Respondent - The person against whom the allegation or complaint of sexual misconduct or relationship violence is made.

Responsible employees - The President, Vice Presidents, and Deans of the University, the Title IX Coordinator, Department Chairs, Program Coordinators, Faculty members, Directors, Supervisors, resident advisors (RAs), and University security officers are responsible employees.

Retaliation - The act of seeking revenge upon another person.

Sexual assault - An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

Sexual exploitation - The abuse of a position of vulnerability, differential power, or trust for sexual purposes.

Sexual harassment - Gender-based verbal or physical conduct that unreasonably interferes with or deprives someone of educational access, benefits or opportunities.

Hostile environment sexual harassment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive/persistent and patently/objectively offensive that alters the conditions of education or employment, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint. The determination of whether an environment is hostile must be based on all of the circumstances. These circumstances could include: the frequency of the conduct; the nature and severity of the conduct; whether the conduct was physically threatening; whether the conduct was humiliating; the effect of the conduct on the alleged victim's mental or emotional state; whether the conduct was directed at more than one person; whether the conduct arose in the context of other discriminatory conduct; whether the conduct unreasonably interfered with the alleged victim's educational or work performance; or whether the statement is a mere utterance of an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness; and whether the speech or conduct deserves the protections of academic freedom.

Quid pro quo sexual harassment exists when there are: unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and submission to or rejection of such conduct results in adverse educational or employment action.

Retaliatory harassment is any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct.

Sexual misconduct - Any act of sexual harassment, sexual violence, sexual assault, non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, stalking, intimidation, dating violence, or domestic violence, or any act that creates a hostile environment or any act of retaliation against a complainant or anyone involved in a grievance procedure under this policy.

Sexual violence - Physical sexual acts perpetrated against a person's will or with a person who suffers from incapacitation. "Sexual violence" also means same-sex conduct that violates the University's prohibition on sexual violence, including, but not limited to, the following examples: sexual assault, non-consensual sexual intercourse, non-consensual sexual contact, dating violence or domestic violence.

Stalking - 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. As used in this definition, "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; "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling; and "reasonable person" means a person under similar circumstances and with similar identities to the victim.

Title IX Coordinator - The person designated as such by the University's President or the person temporarily designated by the Title IX Coordinator to serve in that capacity during the Title IX Coordinator's incapacity or absence from the University's campus.

## Section 6. Reporting Policies and Protocols

- 6.1 The University encourages victims of sexual misconduct to talk to somebody about what happened so victims can get the support they need and so that the University can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality:
  - 6.1.a Some are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
  - 6.1.b Other employees may talk to a victim in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a University investigation into an incident against the victim's wishes.
  - 6.1.c Thirdly, some employees are required to report all of the details of an incident (including the identities of both the victim and the alleged perpetrator) to the Title IX Coordinator.



A report to these employees (called “responsible employees”) constitutes a report to the University - and generally obligates the University to investigate the incident and take appropriate steps to address the situation.

6.2 This policy is intended to make students and their parents, if appropriate, employees and others aware of the various reporting and confidential policies available to them - so they can make informed choices about where to seek assistance should they become a victim of sexual misconduct and so they will know how to report any problems relating to retaliation which may subsequently arise. The University encourages victims to talk to someone identified in one or more of these groups.

6.2.a Reporting Required - All employees must be aware of their own reporting responsibilities and the importance of informing complainants of (a) the reporting requirements of responsible employees, (b) complainants’ option to request confidentiality and available confidential advocacy, counseling, or other support service, and (c) complainants’ right to file a Title IX complaint with the University and to report a crime to campus or local law enforcement. All responsible employees shall report incidents of sexual misconduct to the Title IX Coordinator, subject to the exemption for the University’s counseling employees. All other employees shall respond to reports of sexual misconduct by notifying a responsible employee of the information pertaining to the incident of sexual misconduct. The University shall take the following steps to ensure that a student understands an employee’s reporting obligation before the student reveals any information to that employee:

6.2.a.1 New Student Seminars;

6.2.a.2 Brochures/webpage/posters; and

6.2.a.3 Training of all employees to provide information about their reporting obligations to students seeking assistance.

6.2.b Responsible Employees - Responsible employees shall report to the Title IX Coordinator all relevant details about the alleged sexual misconduct that the complainant or other reporter has shared and that the University will need to determine what occurred and to resolve the situation. Before a complainant or other reporter reveals information that the complainant or other reporter wishes to keep confidential, a responsible employee, including a resident advisor, should make effort to ensure that the complainant or other reporter understands: (a) the responsible employee's obligation to report the names of the alleged perpetrator and complainant involved in the alleged sexual misconduct, as well as relevant facts regarding the alleged incident to the Title IX Coordinator or other appropriate University officials, (b) the complainant’s option to request that the University maintain the complainant’s confidentiality which the University will consider, and (c) the complainant’s ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services. Resident advisors and all responsible employees shall report the names of the alleged perpetrator (if known), the person who experienced the alleged sexual misconduct, other persons involved in the alleged sexual misconduct, as well as relevant facts, including the date, time and location to the Title IX Coordinator. A responsible employee, including a resident advisor, prior to providing information about the incident to the Title IX Coordinator, shall consult with the complainant about how to protect his or her safety and the details of what will be shared with the Title IX Coordinator. Responsible employees do not need to determine

whether the alleged sexual harassment or sexual misconduct actually occurred or that a hostile environment has been created before reporting an incident to the Title IX Coordinator.

- 6.2.c Requests for Confidentiality - Upon receipt of a complaint of sexual misconduct, the University must act immediately to protect the complainant while keeping the identity of the complainant confidential. The Title IX Coordinator and other appropriate University personnel shall determine, consistent with state and local law, whether appropriate law enforcement or other authorities should be notified. The Title IX Coordinator shall evaluate complainant requests for confidentiality and shall determine when such requests shall be honored. The Title IX Coordinator shall make every effort to respect requests for confidentiality. In considering a request for confidentiality that would preclude a meaningful investigation or potential discipline of the alleged perpetrator, the Title IX Coordinator shall consider an evaluation of circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual misconduct or other violence, such as: (a) whether there have been other sexual misconduct complaints about the same alleged perpetrator, (b) whether the alleged perpetrator has a history of arrests or records from a prior University indicated a history of misconduct, (c) whether the alleged perpetrator threatened further sexual misconduct or other violence against the student or others, (d) whether the sexual misconduct was committed by multiple perpetrators, (e) whether the complainant's report reveals a pattern of perpetration at a given location or by a particular group, (f) whether the misconduct was perpetrated with a weapon, (h) the age of the complainant subjected to sexual misconduct, and (i) whether the University possesses other means to obtain relevant evidence. The Title IX Coordinator shall evaluate confidentiality requests in the context of the University's responsibility to provide a safe and nondiscriminatory environment. The University shall inform the complainant that a request may limit the University's ability to fully respond to the incident, including pursuing disciplinary action against the alleged perpetrator. A responsible employee, including a resident advisor, shall explain to the student that reporting the student's information to the Title IX Coordinator does not necessarily mean that a formal complaint or investigation under the University's Title IX grievance procedure must be initiated if the student requests confidentiality. All information reported in connection with an alleged sexual misconduct incident shall be maintained in a secure manner. The University shall only disclose information regarding alleged incidents of sexual misconduct to individuals who are responsible for handling the University's response. The University shall notify students of the information that will be disclosed, to whom it will be disclosed and why the disclosure is being made. In the event the complainant requests that the University inform the perpetrator that the student asked the University not to investigate or seek discipline, the University shall honor this request and inform the alleged perpetrator that the University made the decision to go forward. In the event the University determines that it can respect the student's request for confidentiality, the University shall take all reasonable steps to respond to the complaint consistent with the request and to determine what interim measures are appropriate or necessary. In the event the University determines it must disclose the complainant's identity to an alleged perpetrator, the University shall inform the complainant prior to making the disclosure.
- 6.2.d Reporting Options – Complainants may use any combination of the following options to report sexual misconduct:

6.2.d.1 Criminal Complaint - Criminal complaints are filed with local law enforcement officials and the University is not involved in that process. Criminal complaints can be filed with the following agencies:

Agency & Contact Information: WVSU Department of Public Safety  
122 Wallace Hall, Institute, WV 25112  
(304)766-3353

Agency & Contact Information: Kanawha Co. Sherriff's Office  
301 Virginia Street, East, Charleston, WV 25301  
(304) 357-0169

Agency & Contact Information: West Virginia State Police  
725 Jefferson Road  
South Charleston, WV 25309; (304) 746-2100

6.2.d.2 Institutional Complaint - Institutional complaints are filed with the University, and upon receipt of the complaint, the University will initiate an investigation by the University in accordance with this policy. Institutional complaints may be filed with the Title IX Coordinator. The Title IX Coordinator's contact information is: Title IX Coordinator; Human Resources Director, 105 Cole Complex; (304) 766-5224

6.2.d.3 Report to Responsible Employee - Reports made to responsible employees, including resident advisors are required by federal law to be relayed to the University's Title IX Coordinator and will initiate an investigation by the University in accordance with this policy. Responsible employees are identified in Section 5. Responsible employees can be found at [www.wvstateu.edu/titleix](http://www.wvstateu.edu/titleix). The Title IX Coordinator is a responsible employee. You can report sexual misconduct to any responsible employee.

6.2.d.4 Privileged and Confidential Reporting - Either as an alternative to the reporting options listed above or in lieu of reporting sexual misconduct to the individuals or offices listed above, complainants may make privileged and confidential reports of sexual misconduct to certain health or mental health providers or to off-campus pastoral counselors. While criminal complaints, institutional complaints, and reports to responsible employees will result in the initiation of an investigation, reports to health or mental health providers or to certain pastoral counselors are privileged and will remain confidential so long as the student filing the report does not represent a threat to his or her self or to others. Privileged and confidential reports may be made to:

On-Campus Health Provider and Contact Information:  
Health Center  
004 Wilson University Union, (304) 766-3323

Off-Campus Health Provider and Contact Information:  
CAMC Women's and Children's Hospital  
800 Pennsylvania Avenue  
Charleston, WV 25302; (304) 388-2550

On-Campus Mental Health Care Provider and Contact Information:  
(304) 766-3262; 125 Sullivan Hall, East  
(304) 766-3224; 129 Sullivan Hall, East

Off-Campus Mental Health Care Provider and Contact Information:  
REACH, The Counseling Connection  
1021 Quarrier Street, Suite 414  
Charleston, WV 25301; (304) 340-3676

6.2.d.5 Reports of sexual misconduct may be made by third-parties (individuals who were not the victim or perpetrator) or anonymously to: Title IX Coordinator, Human Resources Director 105 Cole Complex; (304) 766-5224. Requests for amnesty from drug, alcohol, and other student conduct policies should be directed to the Title IX Coordinator who shall consider the request and make a recommendation to the Vice President for Enrollment Management and Student Affairs or the Vice President for Business and Finance if the Title IX Coordinator believes the request should be approved in order to further the objectives of Title IX. The President or his/her designee (Vice President for Enrollment Management and Student Affairs or the Vice President for Business and Finance) may approve or disapprove the request after considering all of the University's interests.

6.2.e Reporting under the Clery Act - The University has various reporting obligations under the Clery Act which promotes campus safety by ensuring that students, employees, parents and the broader community are well-informed about important public safety and crime prevention matters. Details about the University's reporting obligations under Clery may be obtained at: <https://www.notalone.gov/assets/ferpa-clerychart.pdf>. Depending on the circumstances, the Clery Act may also require the University to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. Certain Campus Security Authorities (CSAs) are required to report information gathered during the investigation of criminal activity. These CSAs include campus law enforcement officers, non-law enforcement campus security officers, and local law enforcement officers. These CSAs will typically be required to document incidents in a fashion that contains personally identifiable information about the parties involved and witnesses. Other CSAs, such as University officials, are not typically required to report personally identifiable information.

## Section 7. Investigation Procedures and Protocols

7.1 The University shall process all complaints of sexual misconduct, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity. The University shall determine whether any alleged off-campus sexual misconduct occurred in the context of an education program or activity of the University. If the off-campus misconduct occurred in the context of an education program or activity of the University, the University shall treat the complaint in the same manner that treats complaints regarding on-campus conduct. Once the University is on notice of an allegation of off-campus sexual misconduct against a student, the University shall assess whether there are any continuing effects on-campus or in an off-campus education program or activity that are creating or

contributing to a hostile environment and, if so, the University shall address the hostile environment in the same manner in which it would address a hostile environment created by on-campus misconduct. Since there may be continuing effects of off-campus sexual misconduct while at University or in an off-campus education program or activity, if the off-campus sexual misconduct did not occur in the context of an education program or activity of the University, the University shall consider the effects of the off-campus misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity. The Title IX Coordinator or an individual designated by the Title IX Coordinator shall conduct the investigation of any complaint of sexual misconduct under this policy. An investigation may entail interviews with witnesses, a review of any documentary or electronic evidence, a review of medical evidence, a review of campus security data, or a review of any other material which the investigator deems relevant to an assessment of the facts surrounding the complaint. As soon after the initiation of the investigation as possible, the Title IX Coordinator or the designated investigator shall notify all University employees or students who are believed to have documentary, electronic, or tangible evidence to preserve such evidence for the investigation. The investigation shall provide the respondent and the complainant with equitable rights during the investigation. The University will endeavor to complete investigations and resolve complaints within sixty (60) days of the date on which the complaint was received, but the University's primary objective is a thorough investigation. Thus, if the Title IX Coordinator believes additional time beyond sixty days is necessary to complete a thorough investigation, the Title IX Coordinator shall advise the President of such information in writing and request an extension of time for the investigation, and such extensions shall be approved whenever the President believes an extension is warranted.

- 7.2 The University shall coordinate its Title IX investigation with any other ongoing University or criminal investigation of the incident and establish appropriate fact-finding roles for each investigator. The University shall consider whether information can be shared among the investigators so that complainants are not unnecessarily required to give multiple statements about a traumatic event. The University should not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation. If the fact-finding portion of the University's Title IX investigation is suspended due to the existence of a criminal investigation, the University's fact-finding portion of the Title IX investigation shall resume promptly once law enforcement officials have completed their evidence-gathering state of the criminal investigation. The University shall periodically update the parties on the status of the investigation and inform the parties when the University resumes its Title IX investigation following any delay associated with a criminal investigation.
- 7.3 The University shall immediately investigate any possible retaliation against the complainant, including threats, intimidation, coercion, or discrimination.

## Section 8. Grievance/Adjudication Procedures

- 8.1 The University has jurisdiction over Title IX complaints. The University shall adopt and publish grievance procedures for the prompt and equitable resolution of discrimination complaints, including harassment complaints, filed by students against University employees, other students and third parties, which shall:
- 8.1.a Provide notice to students and employees of the grievance procedures, including where complaints may be filed.
- 8.1.b Explain generally the grievance/adjudication process.

- 8.1.c Ensure that hearings are conducted in a manner that does not inflict additional emotional trauma on the complainant.
- 8.1.d Explain the possible results of the adjudication process, including sanctions, remedies/accommodations for the victim, and additional remedies for the University community.
- 8.1.e Explain that mediation is never appropriate in sexual misconduct cases.
- 8.1.f Notify the complainant of the right to end the informal process at any time and to begin the formal stage of the complaint process, if voluntary informal mechanisms for resolving some types of sexual harassment complaints are provided.
- 8.1.g Provide for the application of the procedure to complaints filed by students or on their behalf alleging sexual misconduct carried out by employees, other students, or third parties.
- 8.1.h Provide for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and the alleged perpetrator to present witnesses and evidence.
- 8.1.i Designate reasonably prompt time frames for the major stages of the complaint process.
- 8.1.j Provide for simultaneous written notice to the complainant and the alleged perpetrator of the outcome of the complaint and any appeal.
- 8.1.k Provide assurance that the University will take steps to prevent the recurrence of any sexual misconduct and remedy discriminatory effects on the complainant and others, if appropriate.
- 8.1.l Provide adequate definitions of “sexual harassment” and an explanation as to when such conduct creates a hostile environment.
- 8.1.m Include reporting policies and protocols, including provisions for confidential reporting.
- 8.1.n Identify the employee or employees responsible for evaluating requests for confidentiality.
- 8.1.o Provide notice that Title IX prohibits retaliation.
- 8.1.p Provide notice of a student’s right to file a criminal complaint and a Title IX complaint simultaneously.
- 8.1.q Provide notice of available interim measures that may be taken to protect the student in the educational setting.
- 8.1.r State the evidentiary standard that must be used (preponderance of the evidence) in resolving a complaint.
- 8.1.s Provide notice of the potential remedies for students.

- 8.1.t Provide notice of the potential sanctions or protective measures which may be imposed against the perpetrators, including, specifically, the sanctions regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking.
- 8.1.u Provide sources of counseling, advocacy, and support.
- 8.1.v Provide for the extension of all rights given to the alleged perpetrator to the complainant.
- 8.1.w Provide notice of hearing(s) to both parties.
- 8.1.x Identify a process by which either party may raise issues related to potential conflicts of interest of the adjudicators.
- 8.1.y Identify the trained individuals who will determine whether the alleged sexual misconduct occurred and the individuals who will determine the sanction.
- 8.1.z Provide for all proceedings to provide a prompt, fair, and impartial investigation and resolution.
- 8.1.aa Provide for all proceedings to be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- 8.1.ab Provide an equal opportunity for the parties to present relevant witnesses and other evidence.
- 8.1.ac Provide the parties with similar and timely access to any information that will be used at the hearing.
- 8.1.ad Provide a description of the types of evidence that may or may not be presented.
- 8.1.ae Provide an equal opportunity for the parties to be represented by counsel.
- 8.1.af Impose equal restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings.
- 8.1.ag Identify the persons who may attend and/or participate in the adjudication process and the extent of their participation.
- 8.1.ah Provide an equal opportunity for the parties to present expert testimony.
- 8.1.ai Provide an equal opportunity for the parties to appeal.
- 8.1.aj Require the same type of review be applied on appeal, regardless of which party files the appeal.
- 8.1.ak Describe the appellate procedures, grounds for appeal, the person/entity that will decide appeals, and the applicable reasonably prompt time frames for appeal.

- 8.1.al Include a statement that the University will not require a party to abide by a nondisclosure agreement, in writing or otherwise that would prevent the redisclosure of information relating to the outcome of the proceeding.
- 8.1.am Provide an equal opportunity for the parties to be present at the hearing.
- 8.1.an Permit the hearing to proceed if the complainant is not present.
- 8.1.ao Provide the parties with an equal opportunity to cross-examine witnesses.
- 8.1.ap Provide a description of alternative methods that preclude the respondent from personally cross-examining the complainant.
- 8.1.aq Require the University to notify both parties in writing about the outcome of the complaint.
- 8.1.ar Require the University to notify both parties in writing if there is any change to the results of the hearing that occurs prior to the time that such results become final.
- 8.1.as Require the University to notify both parties in writing when such results become final.
- 8.1.at Require the University to notify the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the University has taken to eliminate the hostile environment, if the University finds one to exist, and prevent recurrence.
- 8.1.au Prohibit questioning about the complainant's sexual history with anyone other than the alleged perpetrator.
- 8.1.av Acknowledge that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual misconduct.
- 8.1.aw Prohibit University officials from notifying the perpetrator of the individual remedies offered or provided to the complainant.
- 8.1.ax Require the University to offer the complainant all services needed to remedy the hostile environment on an interim basis.
- 8.1.ay Require the University to offer the complainant all services needed as a final remedy to the hostile environment, even if the complainant declined the service as part of an interim measure.
- 8.1.az Require the University to consider remedies for the broad student population whenever the University is unable to conduct a full investigation.
- 8.1.aaa Require the University to take steps to provide appropriate remedies for the complainant and the broader student population when the perpetrator is not affiliated with the University.



8.1.aab If the University uses its student disciplinary procedures to meet its Title IX obligations to resolve complaints of sexual misconduct promptly and equitably, require the University to assess whether imposing sanctions against the perpetrator, without additional remedies, will be sufficient to eliminate the hostile environment, prevent recurrence, and remedy effects as required by Title IX.

8.2 The University shall continue to protect the complainant after a determination that sexual misconduct has occurred.

8.3 The University's Grievance Procedure, consistent with these requirements, is attached as Exhibit "A".

## Section 9. Prevention and Education

9.1 This policy shall be accessible to students and employees with disabilities. This policy, reporting forms, information and training shall be accessible to students who are English language learners. This policy shall be distributed on campus in such a way that all students, regardless of their immigration status, including undocumented students and international students, are aware of their rights under Title IX. Title IX prohibits retaliation against the complainant, anyone who files a third-party report, any witness or anyone who otherwise participates in the investigative and/or disciplinary process, and the University will take steps to prevent retaliation and strong responsive action if it occurs, including any retaliatory actions by University officials. The University must routinely take steps to inform students that the University's primary concern is student safety and that the use of alcohol and drugs never makes the survivor at fault for sexual misconduct.

9.1.a Resident Advisors (RAs) - As noted above, RAs are responsible employees. As such, RAs shall explain to the student (before the student reveals confidential information) that although the RA must report the names of the perpetrator and the complainant and other relevant facts to the Title IX Coordinator or other designated University officials, the University will protect the student's confidentiality to the greatest extent possible. RAs shall provide students with information regarding on-campus resources, including victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, legal assistance, and the local rape crisis center or other off-campus resources.

9.1.b Sexual Violence and Prevention Program - The University's sexual violence and prevention program (SVPP) shall clearly identify the offices or individual with whom students can speak confidentially. The SVPP shall clearly identify the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling disability services, health and mental health services, and legal assistance. The SVPP shall identify the University's responsible employees. The SVPP shall explain that, if students report incidents to responsible employees, these employees are required to report the incident to the Title IX Coordinator or other appropriate official, including the names of the alleged perpetrator and student involved in the sexual misconduct, the date, time, and location. The University's approach to prevention, including the type and frequency of prevention programming and education/outreach activities, shall consist of:

Program/Activity	Description	Frequency
Training all new hires	Reporting obligations	Annual training for faculty and staff.
Bystander Intervention Programs	Ongoing awareness campaigns and residence hall programming	Incoming students
Presentations	A combination of in person presentation by Residence Hall, Athletic Presentations, Student Organizations and Freshman Experience Seminars	Alternate forms of delivery and frequency (including on-line modules).

- 9.1.c Bystander Intervention - The University shall utilize bystander intervention as a tool to prevent sexual misconduct. In implementing the bystander-focused prevention methods, the University shall implement the common components of bystander intervention and delivery methods found at: <https://www.notalone.gov/assets/bystander-summary.pdf>.
- 9.1.d Campus Assessments - Beginning in the spring of 2015, the University shall conduct an annual climate survey in accordance with the guidelines found at: <https://www.notalone.gov/assets/ovw-climate-survey.pdf>. In addition, the University shall aggregate data about sexual misconduct incidents in the University's on-campus health centers in order to identify patterns or systemic problems related to sexual misconduct.
- 9.1.e Educating Students - The University shall conduct programs to educate students about the University's sexual misconduct policy at least once during each calendar year. At sexual misconduct awareness events, the University shall provide information on (a) Title IX, (b) how to file a Title IX complaint with the University, (c) resources available to sexual misconduct victims such as counseling, mental health and health services, and (d) options for reporting an incident of sexual misconduct to campus or local law enforcement. The University shall provide education programs to promote the awareness of rape, acquaintance rape, domestic violence, sexual assault, and stalking, which shall include:
- 9.1.e.1 Primary prevention and awareness programs for all incoming students and new employees, which shall include:
- 9.1.e.1.a A statement that the University prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;
- 9.1.e.1.b The definition of domestic violence, dating violence, sexual assault, and stalking in the state of West Virginia;
- 9.1.e.1.c The definition of consent, in reference to sexual activity, in the state of West Virginia;
- 9.1.e.1.d Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;
- 9.1.e.1.e Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;

9.1.e.1.f Information described in 20 U.S.C. 1092(f)(8)(B)(ii) through (vii); and

9.1.e.2 Ongoing prevention and awareness campaigns for students and faculty, including the information described in clauses (a) through (f) of subparagraph 1 above.

## Section 10. Training

10.1 In all forms of training, the University shall establish methods for verifying that the training was effective.

10.1.a Student Training - The University shall provide the following training for students:

10.1.a.1 Encouragement to report incidents of sexual misconduct.

10.1.a.2 How to report sexual misconduct to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance.

10.1.a.3 General information on Title IX.

10.1.a.4 What constitutes sexual misconduct under the University's policies.

10.1.a.5 The University's definition of consent as applicable to sexual conduct, including examples.

10.1.a.6 How the University analyzes whether unwelcome sexual conduct creates a hostile environment.

10.1.a.7 Available reporting options, including formal reporting and confidential disclosure options and any timeframes set by the University for reporting.

10.1.a.8 Places where students can seek confidential support services.

10.1.a.9 Grievance procedures used to process sexual misconduct complaints.

10.1.a.10 Disciplinary code provisions relating to sexual misconduct and the consequences of violating those provisions.

10.1.a.11 Effects of trauma, including neurobiological changes.

10.1.a.12 The role alcohol and drugs often play in sexual misconduct incidents, including the deliberate use of alcohol and/or other drugs to perpetuate sexual misconduct.

10.1.a.13 Strategies and skills for bystanders to intervene to prevent possible sexual misconduct.

10.1.a.14 Title IX's protections against retaliation.

10.1.a.15 Persons on campus to whom students can confidentially report incidents of sexual misconduct.

- 10.1.a.16 An explanation that students do not need to determine whether incidents of sexual misconduct or other sexual harassment created a hostile environment before reporting the incident.
- 10.1.a.17 With regard to all training directed toward students, the University shall consider educational methods that are most likely to help students retain information when designing its training, including repeating the training at regular intervals.
- 10.1.b Resident Advisers Training - The University shall provide the following training for Resident Advisers:
  - 10.1.b.1 Places where students can seek confidential support services.
  - 10.1.b.2 Information about local rape crisis centers or other off-campus resources so that RAs can provide this information to students.
- 10.1.c Faculty and Staff Training - The University shall provide training on a regular basis, even if employees have prior relevant experience in sexual misconduct, to all employees likely to witness or receive reports of sexual harassment and misconduct, including faculty, University law enforcement unit employees, University administrators, University counselors, general counsels, athletic coaches, health personnel and RAs. The University shall determine how training should be conducted, who has the relevant expertise to conduct the training, and who should receive the training to ensure that the training adequately prepares employees, particularly responsible employees, to fulfill their duties under Title IX. Employees who work with international students shall be trained on the University's sexual misconduct policies. The University requires (a) training or experience in handling sexual misconduct complaints and (b) training in the operation of the University's grievance procedures for the Title IX Coordinator, others who receive complaints, investigators, and adjudicators. The University shall provide the following training for faculty and staff:
  - 10.1.c.1 Practical information about (a) how to prevent and identify sexual misconduct, including same-sex sexual misconduct. (b) the behaviors that may lead to and result in sexual misconduct; (c) the attitudes of bystanders that may allow conduct to continue; (d) the potential for revictimization by responders and its effect on students; (e) appropriate methods for responding to a student who may have experienced sexual misconduct, including the use of nonjudgmental language; (f) the impact of trauma on victims; and (g) the person(s) to whom such misconduct must be reported.
  - 10.1.c.2 Training to explain responsible employees' reporting obligation, including what should be included in a report and any consequences for the failure to report and the procedure for responding to student or employee requests for confidentiality, as well as provide the contact information for the University's Title IX Coordinator.
  - 10.1.c.3 Practical information on how and when to identify and report harassment to appropriate University officials.
- 10.1.d Special Training for Responsible Employees - Responsible employees are those employees defined in Section 5. Responsible employees shall be trained so that they will know how to

respond properly to sexual misconduct complaints. The University shall train responsible employees to inform students of: (a) the reporting obligations of responsible employees; (b) students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and (c) their right to file a Title IX complaint with the University and to report a crime to campus or local law enforcement.

- 10.1.e Special Training for Title IX Coordinator and Others Involved in Grievance Procedure - The University shall require training for the Title IX Coordinator, others who receive complaints, investigators, and adjudicators to include information on: (a) working with and interviewing persons subjected to sexual misconduct, including same-sex sexual misconduct; (b) the proper standard of review for sexual misconduct complaints (preponderance of the evidence); (c) information on consent and the role drugs or alcohol can play in the ability to consent; (d) the importance of accountability for individuals found to have committed sexual misconduct; (e) the need for remedial actions for the perpetrator, complainant, and University community; (f) how to determine credibility; (g) how to evaluate evidence and weigh it in an impartial manner; (h) how to conduct investigations; (i) confidentiality; (j) the effects of trauma, including neurobiological change; and (k) cultural awareness training regarding how sexual misconduct may impact students differently depending on their cultural backgrounds. All staff involved in the grievance procedure must be trained so that they are capable of providing culturally competent counseling for all complainants. Counselors and other staff who are responsible for receiving and responding to complaints of sexual misconduct, including investigators and hearing board members, shall receive appropriate training about working with LGBT and gender-nonconforming students and same-sex sexual misconduct. Counselors and other staff who are responsible for receiving and responding to complaints of sexual misconduct, including investigators and hearing board members, and others counseling students who have experienced sexual misconduct shall be trained to be aware of the special issues that international students may encounter. Any University officials responsible for discussing safety and confidentiality with students shall be trained on the effects of trauma and the appropriate methods to communicate with students subjected to sexual misconduct. Any individual or body handling appeals shall be trained in the dynamics of and trauma associated with sexual misconduct.
- 10.1.f Special Training for Professional Counselors - The University shall instruct counselors to inform students:
- 10.1.f.1 Of their right to file a Title IX complaint with the University and a separate complaint with campus or local law enforcement.
  - 10.1.f.2 That they are available to assist the student in filing such complaints.
  - 10.1.f.3 That Title IX includes protections against retaliation.
  - 10.1.f.4 That University officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

**LIST OF EXHIBITS**

“A” - Grievance Procedure

## **West Virginia State University Sexual Misconduct Grievance Procedure**

West Virginia State University has adopted a Sexual Misconduct Policy (“Policy”), all of the provisions of which are incorporated herein by reference. A copy of the policy can be viewed at <http://www.wvstateu.edu/administration/board-governors/board-governors-policies>. In accordance with Section 8 of that policy, the University adopts and publishes the following grievance procedures for the prompt, fair, impartial and equitable investigation and resolution of sexual misconduct complaints, including discrimination and sexual harassment complaints, filed against University employees, other students, and third parties. Generally, these procedures provide (a) a method by which individuals can file complaints under Title IX, (b) a description of how those complaints will be investigated, (c) an informal resolution process, (d) procedures for the hearing to adjudicate factual disputes, (e) the method for appealing the outcome of the hearing, and (f) the method by which remedies and sanctions will be imposed.

Pursuant to Title IX and the requirements established by the United States Department of Education, please be aware that:

- Persons who file complaints (“Complainants”) have the right to end the informal process described in Section 3 at any time and to begin the formal stage of the complaint process as outlined in Section 4.
- The University will take steps to prevent the recurrence of any sexual misconduct and remedy discriminatory effects on the Complainant and others, if appropriate.
- The employee responsible for evaluating requests for confidentiality is the Title IX Coordinator as identified in the Policy.
- Reporting policies and protocols are set forth in Section 6 of the Policy, and members of the campus community are encouraged to review those policies and protocols, including the provisions for confidential reporting.
- Title IX prohibits retaliation against the Complainant or any witness involved in the investigation or hearing.
- Complainants have the right to file simultaneously a criminal complaint with appropriate law enforcement agencies and a Title IX complaint with the University.
- Various interim measures may be taken to protect Complainants in the educational setting, including those set forth in Section 3 of the Policy.
- The evidentiary standard that must be used in resolving the complaint is a preponderance of the evidence.
- The potential remedies for Complainants are set forth in Section 3 of the Policy.
- It is the intent of this procedure to provide the Complainant with all rights given to the alleged perpetrator.
- The potential sanctions or protective measures which may be imposed against the perpetrators include the possible reprimand, suspension or expulsion of a student perpetrator, the possible reprimand, suspension or termination of an employee perpetrator, and complainant’s options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or complainant’s living, transportation, dining, and working situation as appropriate.
- The process may result in additional remedies for the campus community, including greater emphasis on student awareness, educational and professional development courses for students, faculty and staff, and other steps designed to address the specific issues raised by the complaint.
- Sources of counseling, advocacy and support are listed in Sections 3 and 6 of the Policy.
- Information about how the University will protect the confidentiality of victims is listed in Section 6 of the Policy.

- As used in this procedure, “sexual harassment” and “hostile environment” shall have the meanings set forth in Section 5 of the Policy.
- The University will not require a party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of information relating to the outcome of the proceeding.
- The University shall offer the Complainant all services needed to remedy the hostile environment on an interim basis, all as outlined in Section 3 of the Policy.
- The University shall offer the Complainant all services needed as a final remedy to the hostile environment, even if the Complainant declined the service as a part of an interim measure.
- The mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual misconduct.
- In the event the University is unable to conduct a full investigation, such as when the perpetrator is a visitor to the campus, the University shall still consider remedies for both the Complainant and the broader student population.

1. **Initiation of Complaint** – Any person who believes that he or she has been the victim of sexual misconduct as defined in the University’s Policy shall file a written complaint with the University’s Title IX Coordinator as identified in the Policy. The complaint shall specify the alleged sexual misconduct; the name of the individual who engaged in the alleged misconduct and such other information as may assist the University in promptly investigating the alleged sexual misconduct.

2. **Investigation** – The Title IX Coordinator or the Coordinator’s designee(s) shall promptly investigate the alleged sexual misconduct in accordance with the provisions of Section 7 of the Policy. Any designee shall have received training in conducting investigations of Title IX complaints. It is the goal of the University to provide for an adequate, reliable, and impartial investigation of each complaint, including the opportunity for both the Complainant and the alleged perpetrator to present witnesses and evidence. Upon the conclusion of the investigation, the University shall determine whether probable cause exists to believe that the alleged sexual misconduct occurred. If the University determines that there is no probable cause to believe the alleged sexual misconduct occurred, the complaint shall be dismissed, and both the Complainant and the alleged perpetrator shall be notified in writing of such determination by the University. If the University determines that there is probable cause and believes that the alleged sexual misconduct occurred, both the Complainant and the alleged perpetrator shall be notified in writing of such determination by the University, and an adjudicative hearing shall be scheduled within fourteen (14) working days to resolve all disputed facts, if any. The University shall provide both the Complainant and the alleged perpetrator of the time and place of the hearing and the name of the hearing officer. The hearing shall be conducted in accordance with Section 4. In the event there are no disputed facts, no hearing will be held, and the University shall proceed to implement remedies and sanctions pursuant to Section 6.

3. **Informal Resolution Process** - Mediation is never appropriate in sexual misconduct cases and shall not be utilized by the University. However, after a finding of probable cause and prior to the hearing to resolve factual disputes, the University shall informally discuss possible remedies and sanctions with the Complainant and the alleged perpetrator to ascertain if a satisfactory resolution of the matter can be reached without the necessity of an adjudicative hearing. If so, the remedies and sanctions to which the parties agree shall be imposed. If not, the hearing pursuant to Section 4 will proceed as scheduled.

4. **Adjudicative Hearing** – The purpose of the adjudicative hearing is to resolve any facts disputed by the parties.



- a. **The Hearing Officer** - The hearing shall be conducted by a hearing officer designated by the University who has received annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and on how to conduct a hearing that protects the safety of victims and promotes accountability. If either party wishes to object to the hearing officer on the basis of a potential conflict of interest by the hearing officer, the party must notify the Title IX Coordinator of the objection within seven (7) working days after receipt of the notice specifying the name of the hearing officer. The Title IX Coordinator shall evaluate the objection and determine if a different hearing officer should conduct the hearing.
- b. **The Hearing Process** - The hearing officer shall endeavor to conduct the hearing in a manner that does not inflict additional emotional trauma on the Complainant. The hearing shall permit both the Complainant and the alleged perpetrator an equal opportunity to present relevant witnesses and evidence, including expert testimony. The hearing officer shall determine the probative value of the evidence presented and the rules of evidence shall not be strictly enforced. Seven (7) working days prior to the hearing, both the Complainant and the alleged perpetrator shall notify the hearing officer of the witnesses and documentary evidence that the party intends to present. Both the Complainant and the alleged perpetrator may be represented by legal counsel, but if either of the parties chooses not to be represented by counsel, the other party may still be represented by counsel. The hearing officer shall impose equal restrictions on the ability of legal counsel to speak or otherwise participate in the hearing. Only the Title IX Coordinator, the Complainant and the alleged perpetrator, the parties' legal counsel and the parties' parents (if invited by the parties) may attend the hearing, but parents may not participate in the hearing unless they are called as witnesses to address factual disputes. The hearing may proceed if either of the parties fails to attend. The Title IX Coordinator shall present the results of the investigation. The Complainant may then present evidence, and the alleged perpetrator may present evidence following the Complainant. Each witness may be cross-examined by opposing counsel or the parties if they are not represented by counsel, but the parties may not cross-examine each other. In the event a party is not represented by counsel and wishes to question the opposing party, the party may submit written questions for the opposing party to the hearing officer who may ask the questions to the opposing party, if the hearing officer deems such questions relevant to the issues being adjudicated. Questions pertaining to the Complainant's sexual history with anyone other than the alleged perpetrator shall be prohibited. An audio recording of the hearing shall be made and retained by the University.
- c. **The Proposed Findings of Fact and Conclusions of Law and Recommended Remedies and Sanctions** – Within five (5) working days following the completion of the hearing, the hearing officer shall prepare proposed findings of fact and conclusions of law and recommended remedies and sanctions (“Findings”). The hearing officer shall make a finding of fact as to whether a hostile environment exists at the University in light of the Findings, and if so, the hearing officer shall make recommendations as to how the hostile environment can be eliminated. The Findings shall be submitted in writing to a panel (“Panel”) comprised of the Vice President for Enrollment Management and Student Affairs, the Provost and Vice President for Academic Affairs, and the Vice President for Business and Finance for consideration and a determination on behalf of the University (“Ruling”). The Panel may adopt the Findings in whole or in part and shall make a determination as to what, if any, remedies and sanctions should be imposed. The Panel may also remand the matter to the hearing officer for further findings and conclusions, if necessary. The Panel shall make the Ruling within five (5) working days following the

receipt of the Findings. The members of the Panel shall receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and on how to conduct a hearing that protects the safety of victims and promotes accountability. In determining sanctions against the perpetrator, both the hearing officer and the Panel shall assess whether imposing sanctions against the perpetrator, without additional remedies, will be sufficient to eliminate the hostile environment, prevent recurrence, and remedy effects as required by Title IX.

- d. **Notice to the Parties** – Within five (5) working days following the receipt of the Findings, the Panel shall simultaneously send written notice via email to the parties of the University’s Ruling and of their right of appeal under Paragraph 5 below. Specifically, the Panel shall notify both parties as to whether or not the University found that the alleged conduct occurred, any sanction imposed on the perpetrator that directly relate to the Complainant, and other steps the University has taken to eliminate the hostile environment, if the University finds one to exist, and prevent recurrence of the misconduct. The Panel shall also notify the Complainant of any individual remedies offered or provided to the Complainant, but, the Panel shall not notify the perpetrator of the individual remedies offered or provided to the Complainant.

**5. Appeals** - Either party may appeal the Ruling by the Panel by submitting a written statement of appeal to the University’s President or his/her designee. The appeal must be received by the President or his/her designee within seven (7) working days following the date on which the parties received notice of the Ruling from the Panel. The President or his/her designee shall have seven (7) working days to grant or deny the appeal. Regardless of which party files the appeal, the President or his/her designee may reverse the Ruling by the Panel only if the President or his/her designee finds that the Ruling was arbitrary or capricious or if the Ruling was not supported by substantial evidence. If the appeal is granted, the President or his/her designee shall make such instructions to the Panel as may be appropriate to modify the Ruling. The President’s or his/her designee’s decision on the appeal shall constitute the final action by the University, and the University shall simultaneously send written notice of the President’s or his/her designee’s decision via email to the parties. If neither party appeals the Panel’s Ruling, the University shall simultaneously send written notice of the expiration of the time for an appeal via email to the parties. Upon the expiration of the time for an appeal of the Panel’s Ruling or upon the President’s or his/her designee’s decision on a timely appeal, the University’s decision shall be deemed final.

Any such appeal shall be in writing and shall state the grounds for the appeal. Grounds for appealing the results are:

1. An error in procedural due process which prejudiced the accused to the extent that they were denied a fundamentally fair hearing as a result of the error. Procedural flaws alone are not grounds for an appeal. Significant procedural errors that may have affected the outcome will be considered.
2. The emergence of new evidence that could not have been previously discovered and that, had it been represented at the initial hearing, would have substantially affected the original decision.
3. The imposition of sanctions which are disproportionate to the offense.

Both parties will be notified simultaneously, in writing, about any changes that occur prior to the time the results become final and the outcomes of any appeal. A copy will be sent to the Office of Human Resources for faculty and staff, and to the Title IX Coordinator. The University will follow the law in

protecting the complainant's and respondent's confidentiality. The University will protect complainant confidentiality, including publicly available records, and will withhold complainant identity to the extent permissible by law.

**6. Imposition of Remedies and Sanctions** – After the time for an appeal of the Panel's Ruling has expired or after the President's or his/her designee's decision on the appeal is made, the Panel shall take the steps necessary to implement the remedies and sanctions. In the event interim measures should be taken to protect the Complainant at any point prior to the University's final determination, the Panel and the Title IX Coordinator may implement such measures in accordance with Section 3 of the Policy.