

**Sexual Misconduct Policy
for
Wheeling Jesuit University**

1. Introduction

The University prohibits all forms of sexual discrimination, including sexual misconduct as defined on page 6. 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.

Specifically, 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.

It is also the policy of the University to protect any student filing a complaint alleging sexual misconduct and to ensure the student's safety as necessary, including taking interim steps to protect the student 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, free from 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.

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.

2. Scope of Policy

a. Persons, Conduct, Locations, Programs, Activities and Relationships Covered - All of University's students, employees, and campus visitors 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.

b. Overview of Confidentiality Policy - The University's confidentiality policy is set forth in Section 6.

3. Options for Assistance Following an Incident of Sexual Misconduct

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 academic 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 student 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. The University shall enter a memorandum of understanding with local victim services provider if the University does not offer services required by 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 and consistent with any applicable law. If the University has a sexual assault response coordinator, that person must be consulted in identifying safety risks and interim measures that are necessary to protect the student.

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

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

Sexual Assault Help Center at Ohio Valley Medical Center (OVMC) 2000 Eoff Street
Nurses Residence #214
Wheeling, WV 26003
304-234-1783

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

Campus Safety/Police: 304-243-2486 / 911
Local Police: 304-234-3661 / 911
Ambulance: Tri-State 304-233-4357
Title IX Coordinator: 304-243-2650
Director of Resident Life: Swint Hall, Suite 201
316 Washington Ave
Wheeling, WV 26003
304-243-2390
Director of Security: Swint Hall, Suite 209
316 Washington Ave
Wheeling, WV 26003
304-243-2486

iii. The Sexual Assault Response Team (SART) can provide the following resources and support and can be accessed by:

Sexual Assault Help Center at Ohio Valley Medical Center (OVMC)
2000 Eoff Street
Nurses Residence #214

Wheeling, WV 26003
304-234-1783

iv. Health care services are available as follows:

On-Campus: Part Time Nurse RN Campus Health Center
Swint Hall, Suite 208
316 Washington Ave
Wheeling, WV 26003
304-243-2275

Off-Campus: EMSTAR Trauma Services
Ohio Valley Medical Center
2000 Eoff Street
Wheeling WV 26003
304-234-0123

Off-Campus: Family Health Center
1 Medical Park
Wheeling, WV 26003
304-243-3880

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

OVMC
2000 Eoff Street
Wheeling WV 26003
304-234-8888

Wheeling Hospital
1 Medical Park
Wheeling, WV 26003
304-243-3000

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.

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.

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 Respondent 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. Non-professional counselors or advocates shall consult with students regarding what information needs to be withheld to protect each student's identity. The University shall notify the complainant of complainant's options to avoid contact with the Respondent 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.

b. Ongoing Assistance

i. Counseling, Advocacy and Support - On and Off Campus

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:

Name and Contact Information: Sexual Assault Help Center
Ohio Valley Medical Center
2000 Eoff Street
Wheeling, WV 26003
304-234-1783

Name and Contact Information: Tri-County Help Center
104½ North Marietta Street.
St. Clairsville, Oh 43950
800-695-1639

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

On-Campus: WJU Counseling Center
Whelan Hall, Room 101
316 Washington Ave
Wheeling, WV 26003
304-243-2081

Off-Campus: Sexual Assault Help Center, OVMC
2000 Eoff Street
Wheeling, WV 26003
304-243-1783

Off-Campus: Tri-County Help Center
104½ North Marietta Street.
St. Clairsville, Oh 43950
800-695-1639

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

Contact Information: Dean of Student Development
Swint Hall, Suite 209
316 Washington Ave
Wheeling, WV 26003
304-243-2350

ii. Academic Accommodation and Interim Measures

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 without penalty, and access academic support (e.g. tutoring).

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 Respondent's living arrangements or course schedule.

4. Title IX Coordinator

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 current Title IX Coordinator is: Natalie Mogan. 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.

5. Definitions

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

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 - Pastoral and professional counselors who are licensed by the state in which they practice and employed by the University and other non-licensed employees working under the direct supervision and control of the licensed employees such that non-licensed employees are covered by the licensed employees' 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.

Discrimination on the basis of sex - Any action that adversely affects the employment or educational opportunities of a person due to his or her sex. This includes discrimination on the basis of pregnancy, in sports, in scholarship programs and in decisions or actions at all operational levels on campus. "Discrimination on the basis of sex" also encompasses harassment of an individual on the basis of sex or any form of sexual misconduct.

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 student'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 student'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.

Responsible employees - The President, Vice Presidents and Deans of the University, the Title IX Coordinator, Deputy Title IX Coordinators, faculty members, resident advisors (RAs) and their supervisors, Athletics Staff and coaches, and University security officers are responsible employees.

Retaliation - The act of seeking revenge upon another person.

Sex discrimination or sexual discrimination - Same as "Discrimination on the basis of sex."

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 - Unwelcome conduct of a sexual nature.

Sexual misconduct - Any act, including acts between members of the same sex, 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.

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.

6. Reporting Policies and Protocols

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:

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.”
- 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.
- Thirdly, some employees are required to report all of the details of an incident (including the identities of both the victim and the Respondent) 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.

This policy is intended to make students and their parents, if appropriate, aware of the various reporting and confidential policies available to them - so they can make informed choices about where to turn 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.

a. Reporting Required – All responsible 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:

1. Training responsible employees annually so that they will make appropriate disclosures of their reporting obligations.
2. Making disclosure checklists available to responsible employees.
3. Offering an annual student awareness campaign.

b. **Responsible Employees** - Responsible employees shall report to the Title IX Coordinator all relevant details about the alleged sexual misconduct that the student or other person has shared and that the University will need to determine what occurred and to resolve the situation. Before a student reveals information that the student wishes to keep confidential, a responsible employee, including a resident advisor, should make effort to ensure that the student understands: (a) the responsible employee's obligation to report the names of the Respondent and student 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 student's option to request that the University maintain the student's confidentiality which the University will consider, and (c) the student'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 Respondent (if known), the student who experienced the alleged sexual misconduct, other students 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 student 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.

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 student requests for confidentiality and shall determine when such requests shall be honored. If the University has a sexual assault response coordinator, the Title IX Coordinator shall be consulted in evaluating requests for confidentiality. The Title IX Coordinator shall make every effort to respect requests for confidentiality. In considering a student's request for confidentiality that would preclude a meaningful investigation or potential discipline of the Respondent, the Title IX Coordinator shall consider an evaluation of circumstances that suggest there is an increased risk of the Respondent committing additional acts of sexual misconduct or other misconduct, such as: (a) whether there have been other sexual misconduct complaints about the same Respondent, (b) whether the Respondent has a history of arrests or records from a prior University indicated a history of violence, (c) whether the Respondent threatened further sexual violence or other violence against the student or others, (d) whether the sexual violence was committed by multiple Respondents, (e) whether the student's report reveals a pattern of perpetration at a given location or by a particular group, (f) whether the violence was perpetrated with a weapon, (h) the age of the student subjected to sexual violence, 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 for all students. The University shall inform the student that the student's request that the student's name not be released to the Respondent or asks that the University not investigate or seek action against the Respondent may limit the University's ability to fully respond to the incident, including pursuing disciplinary action against the Respondent. 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. All University employees shall only disclose information regarding alleged incidents of sexual misconduct to individuals who are responsible for

handling the University's response. All University employees 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 Respondent that the student asked the University not to investigate or seek discipline, the University shall honor this request and inform the Respondent 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 a Respondent, the University shall inform the complainant prior to making the disclosure.

d. Reporting Options - Students may use any combination of the following options to report sexual misconduct:

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: Ohio County Sheriff's
Office 51 16th Street,
Wheeling WV 26003
304-234-3680

Agency & Contact Information: Wheeling Police Department
1600 Chapline Street
Wheeling WV 26003
304-234-3664

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 name and contact information are:

Natalie Mogan
Swint 204
304-243-2650
nmogan@wju.edu

Institutional complaints can also be filed with the following offices:

Office & Contact Information: Dean of Student Development
Swint Hall, Suite 209
316 Washington Ave
Wheeling, WV 26003
304-243-2350

Office & Contact Information: Director of Athletics
McDonough Center
316 Washington Ave
Wheeling, WV 26003
304-243-2365

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 around campus. The Title IX Coordinator is a responsible employee. You can report sexual misconduct to any responsible employee.

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,

students may make privileged and confidential reports of sexual misconduct to certain health or mental health providers or to certain 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
Swint Hall, Suite 208
316 Washington, Ave
Wheeling, WV 26003
304-243-2275

Off Campus Health Provider and Contact Information:

OVMC ER
2000 Eoff Street
Wheeling, WV 26003
304-234-8888

Wheeling Hospital ER
1 Medical Park
Wheeling, WV 26003
304-243-3000

On Campus Mental Health Care Provider and Contact Information:

WJU Counseling Center
Paul Bellotte, LPC
101 Whelan Hall
316 Washington Ave
Wheeling, WV 26003
304.243.2081

Off Campus Mental Health Care Provider and Contact Information:

OVMC/Hillcrest Behavior Health Services
2101 Jacob Street #501
Wheeling WV 26003
304-234-8517
24/7 Inquiry Line
304-234-8887

On Campus Pastoral Counselor and Contact Information:

Fr. Hadi Sasmita, S.J./Campus Ministries Office
Chapel, Suite 007
316 Washington Ave
Wheeling, WV 26003
304-243-2385

Off Campus Pastoral Counselor and Contact Information:

Sharon Goudy/Office of Safe Environment
Diocesan Pastoral Care
1300 Byron Street
Wheeling, WV 26003
304-233-0880

Reports of sexual misconduct may be made by third-parties (individuals who were not the victim or respondent) or anonymously to: Title IX Coordinator- Natalie Mogan. 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 President if the Title IX Coordinator

believes the request should be approved in order to further the objectives of Title IX. The President may approve or disapprove the request after considering all of the University's interests.

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.

7. Investigation Procedures and Protocols

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.

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 following information may be shared with law enforcement during a parallel investigation: All public information associated with the report or incidents. Clinical records when appropriate per FERPA and ACA Code of Ethics. The following information may not be shared with law enforcement during a parallel investigation: Clinical records when not appropriate per FERPA or the ACA Code of Ethics. 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.

The University shall immediately investigate any possible retaliation against the complainant, including threats, intimidation, coercion, or discrimination.

8. Grievance/Adjudication Procedures

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:

- Provide notice to students and employees of the grievance procedures, including where complaints may be filed.
- Explain generally the grievance/adjudication process.
- Ensure that hearings are conducted in a manner that does not inflict additional emotional trauma on the complainant.
- Explain the possible results of the adjudication process, including sanctions, remedies/accommodations for the victim, and additional remedies for the University community.
- Explain that mediation is never appropriate in sexual misconduct cases.
- 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.
- 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.
- Provide for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and the Respondent to present witnesses and evidence.
- Designate reasonably prompt time frames for the major stages of the complaint process.
- Provide for simultaneous written notice to the complainant and the Respondent of the outcome of the complaint and any appeal.
- 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.
- Provide adequate definitions of "sexual harassment" and an explanation as to when such conduct creates a hostile environment.
- Include reporting policies and protocols, including provisions for confidential reporting.

- Identify the employee or employees responsible for evaluating requests for confidentiality.
- Provide notice that Title IX prohibits retaliation.
- Provide notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously.
- Provide notice of available interim measures that may be taken to protect the student in the educational setting.
- State the evidentiary standard that must be used (preponderance of the evidence) in resolving a complaint.
- Provide notice of the potential remedies for students.
- Provide notice of the potential sanctions or protective measures which may be imposed against the respondents, including, specifically, the sanctions regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking.
- Provide sources of counseling, advocacy and support.
- Provide for the extension of all rights given to the Respondent to the complainant.
- Provide notice of hearing(s) to both parties.
- Identify a process by which either party may raise issues related to potential conflicts of interest of the adjudicators.
- Identify the trained individuals who will determine whether the alleged sexual misconduct occurred and the individuals who will determine the sanction.
- Provide for all proceedings to provide a prompt, fair, and impartial investigation and resolution.
- 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.
- Provide an equal opportunity for the parties to present relevant witnesses and other evidence.
- Provide the parties with similar and timely access to any information that will be used at the hearing.
- Provide a description of the types of evidence that may or may not be presented.
- Provide an equal opportunity for the parties to be represented by counsel.
- Impose equal restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings.
- Identify the persons who may attend and/or participate in the adjudication process and the extent of their participation.
- Provide an equal opportunity for the parties to present expert testimony.
- Provide an equal opportunity for the parties to appeal.
- Require the same type of review be applied on appeal, regardless of which party files the appeal.
- Describe the appellate procedures, grounds for appeal, the person/entity that will decide appeals, and the applicable reasonably prompt time frames for appeal.
- 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.
- Provide an equal opportunity for the parties to be present at the hearing.
- Permit the hearing to proceed if the complainant is not present.
- Provide the parties with an equal opportunity to cross-examine witnesses.
- Provide a description of alternative methods that preclude the respondent from personally cross-examining the complainant.
- Require the University to notify both parties in writing about the outcome of the complaint.
- 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.
- Require the University to notify both parties in writing when such results become final.

- 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 Respondent 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.
- Prohibit questioning about the complainant’s sexual history with anyone other than the Respondent.
- 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.
- Prohibit University officials from notifying the Respondent of the individual remedies offered or provided to the complainant.
- Require the University to offer the complainant all services needed to remedy the hostile environment on an interim basis.
- 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.
- Require the University to consider remedies for the broad student population whenever the University is unable to conduct a full investigation.
- Require the University to take steps to provide appropriate remedies for the complainant and the broader student population when the Respondent is not affiliated with the University.
- 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 Respondent, without additional remedies, will be sufficient to eliminate the hostile environment, prevent recurrence, and remedy effects as required by Title IX.

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

The University’s Grievance Procedure, consistent with these requirements, is attached as Exhibit “A”.

9. Prevention and Education

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.

a. Resident Advisors - 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 respondent 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.

b. Sexual Misconduct and Prevention Program - The University's sexual misconduct and prevention program (SMPP) shall clearly identify the offices or individual with whom students can speak confidentially. The SMPP 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 SMPP shall identify the University's responsible employees. The SMPP 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 Respondent 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, but not be limited to:

Program/Activity	Description	Frequency
Freshman Orientation Training	Sexual Misconduct Prevention Program	For freshmen during fall orientation
RA Training	Reporting obligations and Sexual Misconduct Policies of the University	Annual
Think-About-It	Describe sexual misconduct policy on campus	Annual
Annual Faculty, Staff and Administration Training	At the beginning of each academic year, there is a review of the University's sexual misconduct policy.	Annual

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>.

d. Campus Assessments – 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 from non-professional counselors or advocates in the University's on-campus sexual assault centers, women's centers, or health centers in order to identify patterns or systemic problems related to sexual misconduct.

e. Educating Students - The University shall conduct programs to educate students about the University's sexual misconduct policy at least one time 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:

1. primary prevention and awareness programs for all incoming students and new employees, which shall include -
 - (a) a statement that the University prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;
 - (b) the definition of domestic violence, dating violence, sexual assault, and stalking in the state of West Virginia;
 - (c) the definition of consent, in reference to sexual activity, in the state of West Virginia;
 - (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;
 - (e) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
 - (f) information described in 20 U.S.C. 1092(f)(8)(B)(ii) through (vii); and
2. ongoing prevention and awareness campaigns for students and faculty, including the information described in clauses (a) through (f) of subparagraph 1. above.

10. Training

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

- a. Student Training - The University shall provide the following training for students:
 - Encouragement to report incidents of sexual misconduct.
 - 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.
 - General information on Title IX.
 - What constitutes sexual misconduct under the University's policies.
 - The University's definition of consent as applicable to sexual conduct, including examples.
 - How the University analyzes whether unwelcome sexual conduct creates a hostile environment.
 - Available reporting options, including formal reporting and confidential disclosure options and any timeframes set by the University for reporting.
 - Places where students can seek confidential support services.
 - Grievance procedures used to process sexual misconduct complaints.
 - Disciplinary code provisions relating to sexual misconduct and the consequences of violating those provisions.
 - Effects of trauma, including neurobiological changes.
 - 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.
 - Strategies and skills for bystanders to intervene to prevent possible sexual misconduct.
 - Title IX's protections against retaliation.
 - Persons on campus to whom students can confidentially report incidents of sexual misconduct.
 - 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.

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.

b. Resident Advisers Training - The University shall provide the following training for Resident Advisers:

- Places where students can seek confidential support services.
- Information about local rape crisis centers or other off-campus resources so that RAs can provide this information to students.

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 violence, 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:

- Practical information about (a) how to prevent and identify sexual misconduct, including same-sex sexual violence. (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.
- 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 students' requests for confidentiality, as well as provide the contact information for the University's Title IX Coordinator.
- Practical information on how and when to identify and report harassment and/or to appropriate University officials.

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.

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 respondent, 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.

f. Special Training for Pastoral and Professional Counselors - The University shall instruct pastoral and professional counselors to inform students:

- Of their right to file a Title IX complaint with the University and a separate complaint with campus or local law enforcement.
- That they are available to assist the student in filing such complaints.
- That Title IX includes protections against retaliation.
- That University officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

Pastoral and professional counselors shall be trained to ensure that they understand the extent to which they may keep a report confidential. In addition to receiving the training listed for pastoral and professional counselors, non-professional counselors or advocates shall be trained to report only general information about incidents of sexual misconduct and to avoid disclosing personally identifiable information.

LIST OF EXHIBITS

“A” - Grievance Procedure