

West Virginia University at Parkersburg Board of Governors

**POLICY B-62
MANDATORY REPORTERS**

Section 1. General

- 1.1 This rule sets forth West Virginia University at Parkersburg's policy regarding mandated reporting by employees of concerning behaviors, discrimination, harassment and crimes. It explains briefly the meaning and purpose of mandatory reporters, outlines the legal context, and articulates a straightforward set of guidelines for all employees to follow.
- 1.2 Authority. – WV Code 18B-1-6; Title 135 Procedure Rule, Series 4, WV Council for Community and Technical College; Clery Act, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq); Title VII of the Civil Rights Act of 1964, § 7, 42 U.S.C. § 2000e et seq; W. Va. Code [§ 49-6A-1, et seq](#)
- 1.3 Effective Date. – June 5, 2014

Section 2. Purpose

- 2.1 There are three federal laws that establish responsibilities for employees of colleges to report certain types of crimes and incidents, especially sexual misconduct--the Clery Act, Title VII and Title IX. Each of these areas of federal law has a different purpose, but generally the laws are intended to protect members of the campus community, visitors and guests from criminal and discriminatory behavior. The responsibilities established by these laws give rise to the term "mandatory reporter." Reporting of concerning and disruptive behaviors is not legally mandated, but is mandated by this policy to assist the institution in early identification and detection of at-risk situations. Additionally, state law imposes mandates with respect to the reporting of abuse, including sexual abuse, of children under the age of 18 [W. Va. Code [§ 49-6A-1, et seq](#)]. Reporting requirements for all three federal laws exempt some employees from reporting requirements. This selective approach may create confusion and risk, and it fails to ask everyone to share the responsibility to create an environment free of sexual harassment and discrimination. The purpose of this policy is to explain some of the requirements of the Clery Act, Title VII, Title IX, and W. Va. Code [§ 49-6A-1, et seq](#), and to define all employees as mandatory reporters for purposes of reporting obligations under these and other laws that prohibit discrimination and harassment

Section 3. The Legal Context

3.1 The Clery Act

3.1.1 The Clery Act creates a duty for institutions to report crimes in several different categories and has the broadest scope. It is the college that has the duty to report these crimes and failure to do so can result in substantial fines being imposed on the institution by the Department of Education. Guided by the language of the Clery Act and subsequent amendments, the college is required to define which employees must report crime information they receive.

3.2 Title VII

3.2.1 Title VII of the Civil Rights Act of 1964 prohibits sex discrimination (including sexual harassment) by covered employers. It also prohibits discrimination on the basis of race, color, religion, and national origin. In this case, the law creates a duty to report for employees who supervise other employees.

3.3 Title IX

3.3.1 Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. Examples of the types of discrimination that are covered under Title IX include sexual harassment including but not limited to acts of sexual misconduct; the failure to provide equal opportunity in athletics; discrimination in a school's science, technology, engineering, and math (STEM) courses and programs; and discrimination based on pregnancy. Title IX creates obligations for the college to investigate alleged Title IX violations and to provide a "prompt and effective remedy." If the victim is a student, Title IX means among other things that the college must provide a safe environment that does not interfere with the victim's right to pursue an education. The college incurs this obligation when a victim has given notice to a "responsible employee," or when the college, in the exercise of reasonable care, should have known, about the assault or harassment.

3.4 W. Va. Code § 49-6A-1, et seq

3.4.1 W. Va. Code § 49-6A-2 requires any WVU Parkersburg employee or volunteer over the age of eighteen who receives a disclosure from a credible witness or who observes any sexual abuse or sexual assault of a child to immediately notify WVU at Parkersburg, and the Department of Health and Human Resources or the law enforcement agency having jurisdiction to investigate.

Section 4. Policy

4.1 This policy of West Virginia University at Parkersburg defines **all employees** as mandatory reporters for purposes of reporting obligations under the Clery Act, Title VII, Title IX, or W. Va. Code [§ 49-6A-1, et seq.](#) and any other crime or violation explained in this policy.

4.2 For purposes of this policy only, "employee" is defined as any regular full-time or part-time classified staff, non-classified staff, all categories of faculty including adjunct faculty, faculty equivalent/academic professional, or any other individual who is paid wages, a salary or a stipend of any kind from WVU at Parkersburg payroll. The definition of "employee" under this policy also includes volunteers who work/volunteer in any formal capacity that is recognized and approved by the President and who have received training from WVU at Parkersburg on the obligations created by this policy. Neither a volunteer nor any other person satisfying the definition of "employee" under this policy may be exempted from the reporting requirements set forth in this policy. For the purposes of W. Va. Code § 49-6A-1, *et seq.* any WVU Parkersburg employee or volunteer over the age of eighteen who receives a disclosure from a credible witness or who observes any sexual abuse or sexual assault of a child, whether the employee has had training on this policy or not, must immediately notify WVU at Parkersburg and the Department of Health and Human Resources or the law enforcement agency having jurisdiction to investigate.

Section 5 Reporting of Sexual Misconduct and Discrimination

5.1 If any employee learns about discrimination or sexual misconduct, including any violation of Policy A-44, "Sexual Misconduct and Other Forms of Discrimination and Harassment" or Policy A-34, "Equal Opportunity, Affirmative Action and Nondiscrimination," the employee is expected to promptly contact the campus Social Justice Officer/Title IX Coordinator who will take responsibility for prompt notification of appropriate college officials, including Campus Police and Security when applicable.

- 5.2 Hate crimes, including larceny/theft, simple assault, intimidation, destruction/damage/vandalism of property, or other reportable criminal offense motivated by bias because of actual or perceived characteristics of race, gender, religion, sexual orientation, ethnicity, disability, gender identity, and national origin--must be immediately reported to the SJO/Title IX Coordinator, who will take responsibility for prompt notification of Campus Police and Security.
- 5.3 Any employee who learns about sex/gender discrimination (including forcible or non-forcible sex offenses, dating violence, domestic violence or stalking) must make an immediate report to the SJO/Title IX Coordinator, who will take responsibility for prompt notification of Campus Police and Security.
- 5.4 When reporting sexual harassment, discrimination or sexual assault, a non-supervisory employee may initially be able to omit personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, location, etc.) The SJO/Title IX Coordinator will provide guidance regarding how much detail is needed in an initial report. Subsequent to an initial report, campus officials may need additional information in order to fulfill the institution's obligations under Title IX. In taking these subsequent actions, the college will always be guided by the goals of empowering the victim and allowing the victim to retain as much control over the process as possible. No employee (other than counselors, health care providers and clergy employed at WVU Parkersburg to serve in that role) can or should promise confidentiality. Counselors, health service providers and clergy are voluntary reporters, not mandated by law, but this policy creates an expectation to report non-personally identifiable information.
- 5.5 When an employee thinks that a student may be about to report an act of sexual harassment, discrimination or assault, the employee should, if at all possible, tell the student that the college will maintain the privacy of the information, but the employee cannot maintain complete confidentiality, and is required to report the act and may be required to reveal the names of the parties involved. If the student wishes to proceed, the employee should inform the student of the implications of sharing the names of the parties involved, which puts the college on notice.
- 5.6 Rather than speaking to the victim about confidential details, during office hours the employee should offer to accompany the victim to the college counselor for counseling services or to the SJO/Title IX Coordinator for filing a complaint. The employee may also refer the complainant to an area hospital emergency room, to Westbrook Health Services' Crisis Hotline at 304-485-1725 (within Wood County) or 1-800-579-5844 (outside Wood County), or to the Rape, Abuse and Incest National Network's Sexual Assault Hotline at 1-800-656-HOPE (4673).
- 5.7 If any employee (or volunteer) receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child under the age of eighteen, the employee is expected to immediately notify the SJO/Title IX Coordinator who will take responsibility for prompt notification of Campus Police and Security. Campus Police and Security shall take responsibility for promptly notifying the Department of Health and Human Resources or the law enforcement agency having external jurisdiction to investigate.

Section 6 Reporting of Clergy Crimes

- 6.1 Under the Clergy Act, college employees are mandatory reporters for a broad array of serious crimes, including the following:
 - a. Murder & Non-Negligent Manslaughter
 - b. Negligent Manslaughter
 - c. Robbery
 - d. Aggravated Assault
 - e. Burglary
 - f. Motor Vehicle Theft

- g. Arson
 - h. Weapon Law Violations
 - i. Drug Abuse Violations
 - j. Liquor Law Violations
 - k. Hate Crimes
 - l. Sex Offenses, including forcible and nonforcible, incest, statutory rape
 - m. Dating violence
 - n. Domestic violence.
 - o. Stalking
- 6.2 Employees are expected to report crimes covered by the Clery Act (not including sexual misconduct crimes or hate crimes) to Campus Police and Security without delay.
- 6.3 The Clery Act requires the reporting of crimes that occur: (1) on campus, (2) on public property within or immediately adjacent to the campus, and (3) in or on noncampus buildings or property that WVU at Parkersburg owns or controls. The definitions for these geographic categories are defined by the Clery Act as follows [[34 CFR 668.46\(a\)](#)]:
- 6.3.1 On Campus
 "Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor)."
- 6.3.2 Public Property
 "All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus."
- 6.3.3 Noncampus Buildings or Property
 "Any building or property owned or controlled by a student organization that is officially recognized by the institution; or Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution."
- 6.4 All concerning and disruptive behaviors must be timely reported to the Threat Assessment Team using the online incident [reporting form](#).
- 6.5 When reporting Clery Act crimes, employees may choose -- but are not required -- to provide personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, specific location, etc.) unless a clear threat to health or safety is present, as determined by Campus Police.
- 6.6 The Clery Act does not establish an obligation for Campus Police to conduct an investigation of the reported crime, only to report the crime as a statistic following Clery Act guidelines. In some cases, Campus Police may also be required to release a timely warning to the community about a threat to the community. In such cases, an initial investigation or determination of the nature of the threat may be conducted, after which a warning will be issued immediately.