

WEST VIRGINIA UNIVERSITY AT PARKERSBURG BOARD OF GOVERNORS

**MAY 21, 2014
AGENDA**

Members

Joe Campbell
Cheryl Donohoe
Gerard El Chaar, Board Chair
Matthew Santer
Karen Facemyer
Tyler Ohrn

Jamie Six
Violet Mosser
Curtis Miller
Jeff Matheny
Sam Winans

Marie Foster Gnage
President



SCHEDULE

West Virginia University at Parkersburg Board of Governors

Wednesday, May 21, 2014

2:00 p.m.	Tour of Property	Ravenswood
3:00 p.m.	Executive Committee	Room 115
4:00 p.m.	Administrative Services Committee	Room 115
4:00 p.m.	Academic and Student Services Committee	Room 113
5:00 p.m.	Dinner	Student Lobby (North End)
5:45 p.m.	Board Meeting	Student Lobby (South End)
	Possible Executive Session	Room 115

WEST VIRGINIA UNIVERSITY AT PARKERSBURG BOARD OF GOVERNORS
 Meeting of May 21, 2014
 Jackson County Center – Ripley, WV
 5:45 p.m.

1.	Call to Order	Board Chair, Gerard El Chaar	
2.	Roll Call	Brady Whipkey Executive Assistant to the President	
3.	Board Chair Report	Chairman El Chaar	
	• Selection of Nominating Committee		
4.	President’s Report	Dr. Marie Foster Gnage, President	
5.	Approval of Minutes		
	• Regular Meeting –April 9, 2014	5
6.	Committee Reports		
	• Executive Committee	Chairman El Chaar	
	• Audit Review Committee	Jamie Six	
	• Administrative Services Committee	Curtis Miller	
	• Academic and Student Services Committee	Jeff Matheny	
	• Campus Development/Readiness Center Committee	Joe Campbell/Curtis Miller	
7.	Possible Executive Session under the authority of WV Code §6-9A-4-2A Personnel Property		
8.	Action Items		
	• Interim President	Chairman El Chaar.....	8
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	• Approval of Tuition for Early Enrollment Courses for High School Students	President Gnage.....	10
	• Salary Increases	President Gnage.....	11
	• Base Salaries and Performance Based Increases for Instructional Specialist	President Gnage.....	12
9.	Consent Agenda		
	• Approval of Honorary Degree	President Gnage.....	13
	• Revision of Policy A-44 Sexual Harassment	Debbie Richards.....	14
	• Revision of Policy D-46, Code of Student Conduct	Anthony Underwood.....	32
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10. Information Items

- 2014-15 Holiday Schedule
- Fiscal Update for 2013-2014

President Gnage.....42
Jeannine Ratliffe

11. Board Comments/Announcements

12. Next Meeting
June 18, 2014

13. Adjournment

MINUTES
WEST VIRGINIA UNIVERSITY AT PARKERSBURG
BOARD OF GOVERNORS
April 9, 2014

A regular meeting of the West Virginia University at Parkersburg Board of Governors was held on Wednesday April 9, 2014 in the Caperton Center at the WVU Parkersburg campus beginning at 5:45 p.m. Board members present were: Joe Campbell, Jamie Six, Violet Mosser, Curtis Miller, Jeff Matheny, Sam Winans, Cheryl Donohoe, Gerard El Chaar, Matthew Santer, and Tyler Ohrn. Others present included Dr. Marie Foster Gnage and Brady Whipkey.

Guests present included administrators, faculty, and staff.

1. Call to Order

Mr. El Chaar, Chair of the WVU at Parkersburg Board of Governors, called the meeting to order.

2. Roll Call

Roll Call was taken by Brady Whipkey, Executive Assistant to the President, noting that a quorum was present.

3. Board Chair Report

Chairman El Chaar thanked members for attending the meeting and for also attending the retreat. Chairman El Chaar reported on the retreat and discussed how beneficial it is to have.

Next, Chairman El Chaar reported on attending the Annual AACC Convention in Washington D.C. April 5-8.

4. President's Report

President Gnage thanked members for attending the retreat and for their support.

President Gnage distributed the Empowering Community Colleges To Build the Nation's Future booklet that was put together by the 21st Century Commission of the AACC. President Gnage reported on serving on the 21st Century Commission and provided an overview of what booklet consist of.

President Gnage then thanked Elizabeth Godfrey for all she has done while Katie Wootton is on medical leave. She also thanked Jeannine Ratliffe for being Interim CFO while that position search is being conducted.

5. Approval of Minutes

The minutes of the Regular Board meeting of February 19, 2014, were approved upon a motion by Mr. Winans, seconded by Ms. Donohoe.

The minutes of the Executive Session meeting of March 5, 2014, were approved upon a

motion by Mr. Ohrn, seconded by Ms. Mosser.

6. Committee Reports

Executive Committee:

Chairman El Chaar reported that the Executive Committee met prior to the Board Retreat to discuss enrollment, HLC visit, property, and challenges faced by all Community Colleges.

Audit Review Committee:

There was no meeting held.

Administrative Services Committee:

There was no meeting held.

Academic and Student Services Committee:

There was no meeting held.

Campus Development and Readiness Center Committee:

There was no meeting held.

7. Executive Session under the authority of WV Code §6-9A-4-2A

Chairman El Chaar asked for a motion to move into Executive Session. Mr. Miller moved to adjourn to Executive Session. Mr. Winans seconded the motion. The motion passed and the Board moved into Executive Session at approximately 5:30 p.m. The Board Chair requested that President Gnage join Executive Session. At approximately 6:40 p.m. Chairman El Chaar announced that the Board would return to the regular meeting. Ms. Donohoe moved to return to regular session. Mr. Winans seconded the motion. Motion passed.

8. Action Items

- Approval of Interim President:

Chairman El Chaar asked for a motion to table the approval of an Interim President until the May meeting. Ms. Donohoe motioned to approve. Mr. Winans seconded the motion. Motion passed.

- Tuition and Fees:

President Gnage provided an overview of proposed tuition and fees recommendations for 2014-2015 academic year. Members received a copy of the proposed changes for review. Mr. Winans motioned to approve the proposed changes. Mr. Ohrn seconded the motion. Motion passed.

9. Consent Agenda

Mr. Miller moved to approve the following Consent Agenda Items:

- Policy B-62, Mandatory Reporters
- Revision of Policy A-44, Sexual Harassment

Ms. Donohoe seconded the motion. Motion passed.

10. Information Items

- Faculty and Staff Salary Compensation:
President Gnage reported on meetings with the Staff and Faculty Salary Review Task Groups. The adjustments will be brought to the May meeting for approval. President Gnage thanked Mr. Winans, Mr. Santer, and Ms. Mosser for representing the board, faculty and staff. President Gnage also informed the Board what the Governor has included for increases in the State budget.
- Cooperative and Career Education Update:
Dr. Tracy introduced Jennifer Randolph, Coordinator of Career Services and Cooperative Education. Ms. Randolph distributed information on the Career Services and Cooperative Education program and provided an overview of events held to help the students.
- Fiscal update:
President Gnage provided an overview of Fiscal update. Jeannine Ratliffe, Interim CFO answered questions.

11. Board Comments/Announcements

Mr. Miller introduced Senta Goudy, Director of Development, WVU at Parkersburg Foundation to the Board.

12. Next Meeting

The next Board of Governors meeting will be held May 14, 2014 at the Jackson County Center.

13. Adjournment

With no further business to be discussed, Mr. Campbell moved that the meeting adjourn. Mr. Miller seconded the motion. Motion passed. The next meeting will be May 14, 2014

Respectfully submitted,

Brady Whipkey
Executive Assistant to the President

Gerard El Chaar, Chairman

Cheryl Donohoe, Secretary

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Approval of Interim President

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia University at Parkersburg Board of Governors will approve the appointment of an Interim President.

STAFF MEMBER: Gerard El Chaar, Board Chair

BACKGROUND:

West Virginia University at Parkersburg President, Marie Foster Gnage, is serving under a three-year contract that concludes on June 30, 2014. She has informed the Board that she will not be seeking a contract renewal. The Board of Governors will approve the appointment of an Interim President effective July 1, 2014, while a search is conducted for a new president.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Approval of Presidential Search Services

RECOMMENDED RESOLUTION: *Resolved,* That the West Virginia University at Parkersburg Board of Governors will approve the hiring of a firm to assist the Board in the Presidential search.

STAFF MEMBER: Marie Foster Gnage, President

BACKGROUND:

West Virginia University at Parkersburg President, Marie Foster Gnage, is serving under a three-year contract that concludes on June 30, 2014. She has informed the Board that she will not be seeking a contract renewal. The Board of Governors will approve the appointment of an Interim President effective July 1, 2014, while a search is conducted for a new president.

After reviewing selected search firms, the Board of Governors will approve the hiring of a firm to assist the Board in the search for the next president of West Virginia University at Parkersburg.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Approval of Tuition Series 19: Early Enrollment Courses for High School Students

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia University at Parkersburg Board of Governors approves tuition of \$25 per credit hour for early enrollment courses for high school students, subsidizing the cost with tuition waivers, in accordance with W.Va. C.S.R. § 135-19.

STAFF MEMBER: Marie Foster Gnage, President

BACKGROUND:

West Virginia University at Parkersburg requests approval to implement the special tuition rate of \$25 per credit hour for early enrollment courses for high school students, subsidizing the cost of tuition with waivers in accordance with [W.Va. C.S.R. § 135-19](#).

This will allow West Virginia University at Parkersburg to provide affordable and accessible higher education to more high school students. Students will obtain college credit prior to high school graduation. Early enrollment opportunities will expand access to college, increase the college-going rate, increase student success in college and enhance college affordability.

Guidelines for the Offering of Early Enrollment Courses for High School Students, §135-19.7.2, states that special tuition for high school students established by any West Virginia public higher education institution must be set, at a minimum at \$25.00 per credit hour. All high school students must be charged the special tuition or the regular tuition/fees approved for the institution granting the credit. The credit-granting institution may use tuition/fee waivers or third party sponsors to support the student's cost of the course.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Approval of Salary Increases for 2014-15

RECOMMENDED RESOLUTION: *Resolved, That the West Virginia University at Parkersburg Board of Governors will approve the salary increases for 2014-15 as presented.*

STAFF MEMBER: Marie Foster Gnage, President

Background:

West Virginia University at Parkersburg requests approval of salary increases and schedules as allocated in the Governor's budget.

The Governor's budget includes \$103,508 for salary increases based on \$504 per full-time state employee. Not all employees are counted as state employees; some are funded by grants and others by tuition. Colleges did not receive a formal directive regarding allocation of the funding to be received for salary increases.

West Virginia University at Parkersburg Board of Governors Policy B-29 (Sections 3.2, 4.2, and 5.2) delineates how salary increases are to be given.

3.2 Annual salary increases shall be contingent upon available funding. Increases shall be based on annual performance evaluation according to institutional procedures and shall be consistent with the rules and directives of the W. Va. Council for Community and Technical College Education and provisions of State Code."

4.2 Annual salary increases shall be contingent upon available funding. Increases after June 30, 2011 may be based on annual performance evaluation outcomes according to institutional procedures and consistent with the rules and directives of the W. Va. Council for Community and Technical College Education and provisions of State Code.

5.2 Annual salary increases shall be contingent upon available funding. Increases shall be based on annual performance evaluation outcomes according to institutional procedures and shall be consistent with the rules and directives of the W. Va. Council for Community and Technical College Education and provisions of State Code.

College administration requests that an exception to the policy be made this year to allow for salary increases as follows to be effective July 1, 2014:

Classified Staff: Apply funding as per the Mercer Schedule with no individual receiving less than \$504 minus percentage cost of benefits. Employees with greater than 15 years will receive \$504 minus percentage cost of benefits.

Non-Classified Staff: Employees will receive \$504 minus percentage cost of benefits.

Faculty: The Board will have options for consideration and the option approved will be recorded in the minutes.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Base Salaries and Performance-Based Increases for Instructional Specialists

RECOMMENDED RESOLUTION: *Resolved,* That the West Virginia University at Parkersburg Board of Governors approves the establishment of base salaries for Instructional Specialists

STAFF MEMBER: Marie Foster Gnage, President

BACKGROUND:

Degree Equivalent	Instructional Specialist 1	Instructional Specialist 2	Instructional Specialist 3
Associate's	\$33,570		
Bachelor's	\$35,570	39,127	43,039
Bachelor's and 10+ years of industry experience	36,000	39,600	43,560
Master's	36,570	40,227	44,249

Appointments will be made at the Instructional Specialist I Level. However, exceptions can be made in cases where a candidate has greater than 10 years of experience in industry, with approval of the President.

Criteria will be developed for faculty progression on this schedule.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Approval of Honorary Degree Candidate

RECOMMENDED RESOLUTION: *Resolved,* That the West Virginia University at Parkersburg Board of Governors approves the granting of Honorary Degree from West Virginia University at Parkersburg, as named by President Gnage and announced publicly at the May 17 Commencement.

STAFF MEMBER: Marie Foster Gnage, President

BACKGROUND:

West Virginia University at Parkersburg requests formal approval of individual for honorary degree. This recommendation is presented to the Board of Governors with the endorsement of the Honorary Degree Screening Committee and the Executive Committee of the Faculty Senate.

Information about the nominee will be presented by Dr. Marie Foster Gnage.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Replacement of Policy A-44, titled *Sexual Harassment*

RECOMMENDED RESOLUTION: *Resolved, That the West Virginia University at Parkersburg Board of Governors approves the revision of Policy A-44, Sexual Misconduct and Other Forms of Discrimination and Harassment as presented.*

STAFF MEMBER: Debbie Richards
Special Assistant to the President
for Policy and Social Justice

BACKGROUND:

The 2013 reauthorization of the Violence Against Women Act included the Campus Sexual Violence Elimination Act (Campus SaVE), which amended the Jeanne Clery Act. The Campus SaVe Act affords additional rights to campus victims of sexual violence, dating violence, domestic violence, and stalking. The Act establishes requirements for policies regarding sexual misconduct as well as for prevention and awareness programs for postsecondary education institutions.

At its meeting of February 19, 2014, the Board of Governors authorized a notice of proposed rulemaking for the adoption of a new version of Policy A-44 to be titled, *Sexual Misconduct and Other Forms of Discrimination and Harassment*. A notice of proposed rulemaking was issued on February 21, 2014, for a comment period ending on March 26, 2014. No formal comments were received during the 30-day comment period, however, revisions were recommended upon further legal review.

A second notice of proposed rulemaking was issued on April 10, 2014, regarding the revision of this policy proposal for an additional ten-day comment period ending on April 20, 2014. One comment was received during the comment period and is attached.

Approval of the policy revision is recommended as presented.

COMMENTS RECEIVED

Policy A-44, Sexual Misconduct and Other Forms of Discrimination and Harassment
Second Public Comment Period: April 10-20, 2014

Date Received	Comments	Revisions to policy proposal
4/10/14	I am somewhat concerned by the proposed revisions given that, among the stricken sections of the policy, some of it is removing the policy requiring that the respondent who has been reported for alleged misconduct is given no notifications of having been accused, what the allegations are, that he'll have the opportunity to submit a written statement, or that he will have the ability to appeal the findings of an investigation to the president. Why are these parts of the policy being stricken? Isn't it important that people who are accused of misconduct be able to read this policy and see that they have rights as well and that they have the ability to defend themselves against false allegations?	None (Steps addressing investigation, due process and appeals will be covered by written procedures in accordance with Section 11.1.)

West Virginia University at Parkersburg Board of Governors

Proposed Replacement of **POLICY A-44** regarding Sexual Harassment
SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION AND HARASSMENT

Section 1. General

- 1.1 Scope - This rule sets forth the policy of the West Virginia University at Parkersburg Board of Governors, which prohibits sexual misconduct and other forms of discrimination and harassment.
- 1.2 Authority - [W. Va. Code § 18B-1-6](#); [W. Va. C.S.R. § 135-4](#)
- 1.3 Effective Date -
(Replaces version titled, "Sexual Harassment," dated June 2, 2006, as transferred from WVU Board of Governors on July 1, 2008.)

Section 2. Definitions

- 2.1 "ADA Coordinator" means the Special Assistant to the President who is responsible for ensuring compliance with the Americans with Disabilities Act.
- 2.2 "Bullying" means repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a Protected Category.
- 2.3 "Complainant" means any current employee, student or applicant to WVU at Parkersburg (regardless of whether he or she is applying for employment or for admission as a student), vendor or contractor representative, or visitor, who reports an alleged violation under this policy. The complainant is not required to be the person who allegedly suffered the discriminatory or harassing treatment; rather, he or she could be a witness to the events or an employee with a reporting obligation.
- 2.4 "Consent" means informed, knowing, voluntary and clear permission, through mutually understandable word or action, to engage in mutually agreed upon sexual activity. Pursuant to [W. Va. Code § 61-8B-2](#), a lack of consent results from: (1) forcible compulsion; (2) incapacity to consent; or (3) if the complaint charges sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct. A person is deemed incapable of consent when such person is: (1) less than sixteen years old; (2) mentally defective; (3) mentally incapacitated; or (4) physically helpless. Consent is discussed in more detail in Section 10.2 of this policy.
- 2.5 "Discrimination" means actions that deprive others of educational or employment access, benefits or

- opportunities on the basis of their actual or perceived membership in a Protected Category.
- 2.6 “Domestic Violence/Intimate Partner Violence/Abuse” means the occurrence of any of the following acts/conditions between those in or having previously been in an intimate relationship to each other, including dating, domestic and/or any other intimate relationship.
- 2.6.1 Attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;
- 2.6.2 Placing another in reasonable apprehension of physical harm;
- 2.6.3 Creating fear of physical harm by harassment, stalking, psychological abuse or threatening acts;
- 2.6.4 Committing sexual assault, sexual abuse, domestic battery or domestic assault as those terms are defined under West Virginia criminal law;
- 2.6.5 Holding, confining, detaining or abducting another person against that person's will.
- 2.7 “Hazing” means acts likely to cause physical or psychological harm or social ostracism to any person within the WVU at Parkersburg community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity on the basis of actual or perceived membership in a Protected Category.
- 2.8 “Hostile Environment” means an environment created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent, or pervasive and objectively offensive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities.
- 2.9 “Incapacitated” means a state where a person cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how of his or her sexual interaction”).
- 2.10 “Intimidation” means implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a Protected Category.
- 2.11 “Minor” means under the statutory age of consent. An individual under the age of 16 years is considered a minor in the context of this policy.
- 2.12 “Non-Consensual Sexual Contact” means any intentional Sexual Touching, however slight, including with any object, by a person upon another person that is without consent and/or by force.
- 2.13 “Non-Consensual Sexual Intercourse” means any Sexual Penetration or intercourse (anal, oral or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force.

- 2.14 “Protected Category” means a category under which an individual falls or is perceived to fall that is protected under federal, state, or local anti-discrimination laws, or rules of governing bodies with jurisdiction over WVU at Parkersburg relating to race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age, marital status, veteran or military status, disability, or genetic information.
- 2.15 “Respondent” means the accused employee, student, or campus visitor who allegedly perpetrated acts of discrimination, harassment, or sexual misconduct.
- 2.16 “Retaliation” means any adverse action taken against a person because he or she complained about harassment, supported a complainant involving harassment, or who participated in the investigation of a claim of harassment.
- 2.17 “Sexual Exploitation” means a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. The term includes, but is not limited to, the following situations:
- 2.17.1 Sexual voyeurism, such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed;
- 2.17.2 Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent, such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent;
- 2.17.3 Prostitution;
- 2.17.4 Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection; and
- 2.17.5 Administering alcohol or drugs (such as date rape drugs) to another person without his or her knowledge or consent for the purpose of engaging in sexually-related activity with that person.
- 2.18 “Sexual Harassment” means any unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual/gendered nature. A form of sexual harassment occurs when submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic status, submission to or rejection of such conduct by an individual is used as the basis of employment or academic decisions affecting such individual, or such conduct creates a Hostile Environment.
- 2.19 “Sexual Penetration” means vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.
- 2.20 “Sexual Touching” means any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice

of another individual, or any other bodily contact in a sexual manner.

- 2.21 "Social Justice Officer (SJO)" means the Special Assistant to the President. The Social Justice Officer is the institution's Equal Employment Opportunity/Affirmative Action Coordinator, Section 504/ Americans with Disabilities Act Coordinator, and Title IX Coordinator, and oversees implementation of WVU at Parkersburg's Affirmative Action and Equal Opportunity plan, disability compliance, Title IX compliance, and the college's policy on discrimination and harassment.
- 2.22 "Stalking" means a course of conduct (i.e., repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of another) directed at a specific person that is unwelcome and would cause a reasonable person to feel fear.
- 2.23 "Title IX" means Title IX of the Educational Amendments of 1972, as enforced by the U.S. Department of Education Office for Civil Rights. Title IX is the landmark legislation that bans sex discrimination in schools, whether it be in academics or athletics: "No person in the U.S. shall, on the basis of sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal aid."
- 2.24 "Title IX Coordinator" means the Special Assistant to the President:

Debra L. Richards, M.L.S.
Special Assistant to the President
for Policy and Social Justice
President's Office Complex, Room 1105
West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
E-mail: Social.Justice@wvup.edu
Telephone: (304) 424-8201
FAX: (304) 424-8204

Section 3. General Provisions

- 3.1 WVU at Parkersburg is committed to promoting the goals of fairness and equity in all aspects of the educational enterprise.
- 3.2 This policy applies to behaviors that take place on campus, at college-sponsored events, and may also apply off-campus and to actions online when the Social Justice Officer/Title IX Coordinator determines that the off-campus conduct affects a substantial college interest. A substantial college interest includes, but is not limited to, the following:
- 3.2.1 Any action that constitutes a criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where WVU Parkersburg is located;
- 3.2.2 Any situation where it appears that the accused individual may present a danger or threat to the

health or safety of him/herself or others;

3.2.3 Any situation that significantly impinges upon the rights, property or achievements of others or significantly breaches the peace and/or causes social disorder; or

3.2.4 Any situation that is detrimental to the educational interests of WVU at Parkersburg; or

~~3.3~~ 3.2.5 Any online postings or other electronic communication, including cyber-bullying, cyber-stalking, cyber-harassment, occurring within WVU Parkersburg's control (e.g. college networks, websites or between college email accounts). Any online postings or other electronic communication, including cyber-bullying, cyber-stalking, cyber-harassment, occurring outside of WVU Parkersburg's immediate jurisdiction will be investigated when those online behaviors may have the effect of creating a Hostile Environment.

~~3.2.5~~ 3.3 The provision of this rule apply equally to and against vendors, contractors, suppliers and any other outsiders who may interact with WVU at Parkersburg or its students or employees.

3.4 3.5 Inquiries about this policy may be made internally to the Special Assistant to the President who serves as the institution's Social Justice Officer (EEO/AA, 504/ADA, and Title IX Coordinator) and whose contact information is provided in Section 2.24.

3.5 3.6 All new students, newly hired employees and existing employees will be trained in primary prevention and awareness programs relating to sexual misconduct, domestic violence and related offenses. At a minimum, that training will inform on the nature of prohibited conduct, the definitions of various prohibited behaviors, the definition of "consent" as applied by the institution, safe and positive options for bystander intervention in risky situations, means of recognizing signs of domestic violence and abusive behavior and on-going prevention and awareness of related issues. In addition, that training will inform attendees of the relevant provisions of this policy for purposes of recognizing and reporting instances of prohibited conduct.

Section 4. Affirmative Action

4.1 As more fully described in [Policy A-34](#), WVU at Parkersburg subscribes to the principles and regulations pertaining to equal opportunity and affirmative action.

4.2 In compliance with these regulations, WVU Parkersburg shall maintain an Affirmative Action Plan.

Section 5. Nondiscrimination

5.1 As stated in [Policy A-34](#), WVU at Parkersburg will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age, marital status, veteran or military status, disability, or genetic information.

5.2 This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the college community, guest or visitor who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the college community on the basis of their actual or perceived membership in a Protected

Category is in violation of this policy.

Section 6. Accommodation of Disabilities

- 6.1 WVU at Parkersburg is committed to compliance with the Americans with Disabilities Act of 1990 (“ADA”) as amended and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.
- 6.2 The SJO/ADA Coordinator is responsible for coordinating efforts to comply with the disability laws set forth in Section 6.1, including investigation of any employee or student complaint alleging noncompliance.
- 6.3 Students with Disabilities
 - 6.3.1 Pursuant to the ADA, WVU at Parkersburg will provide reasonable accommodations and support to all students who have a qualifying disability to ensure equal access to the programs and activities of WVU Parkersburg.
 - 6.3.2 All accommodations are made on a case-by-case basis by the Director of Disability Services. Students requesting any accommodation should contact the Disability Services Office, who will review documentation provided by the student and in consultation with the student and other appropriate resources, determine which accommodation, if any, is appropriate to the student’s particular needs and programs. Accommodations for student examinations must also be made through the Office of Disability Services.
- 6.4 Employees with Disabilities
 - 6.4.1 Pursuant to the ADA, WVU at Parkersburg will provide reasonable accommodations to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.
 - 6.4.2 An employee with a disability is responsible for requesting an accommodation in writing from his or her supervisor, who will consult with the individual and the Human

Resources Director to identify which essential functions are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

- 6.4.3 Employees requesting accommodation may be required to provide medical certification from the employee's health care provider that includes: (1) identification of the health care provider; (2) the health care provider's diagnosis of the disabling condition; (3) specific limitations and/or suggested restrictions and their relation to the disability; and (4) suggested accommodations.

Section 7. Discriminatory Harassment

7.1 WVU Parkersburg is committed to providing a work and educational environment free of discriminatory harassment. The college will take steps to prevent the recurrence of any harassment/discrimination. This harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters.

7.2 The following forms of harassment are prohibited under this policy:

7.2.1 Discriminatory and Bias-Related Harassment

- a. Harassment constitutes a form of discrimination that is prohibited by law. This policy explicitly prohibits any form of harassment on the basis of actual or perceived membership in a Protected Category by any member or group of the community, which creates a Hostile Environment, both objectively and subjectively. Merely offensive conduct and/or harassment of a generic institutional nature not on the basis of an actual or perceived membership in a Protected Category is not prohibited by this policy, and should be addressed with civil confrontation or effective conflict resolution mechanisms. For assistance with conflict resolution, employees may contact the Office of Human Resources or students may contact the Office of Counseling Services. Harassment that does not rise to the level of creating a Hostile Environment is still a concern to WVU Parkersburg and should be reported so that appropriate intervention and remedies can be implemented, if needed.
- b. WVU Parkersburg will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of his or her actual or perceived membership in a Protected Category.

7.2.2 Sexual Harassment, which applies to employer and employees and students, is a form of sex/gender discrimination, is an unlawful discriminatory practice, and is a violation of this policy.

Section 8. Additional Misconduct Offenses

8.1 Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a Protected Category;

- 8.2 Intimidation;
- 8.3 Hazing;
- 8.4 Bullying;
- 8.5 Domestic Violence/Intimate Partner Violence/Abuse;
- 8.6 Stalking; and
- 8.7 Violating any other college policies or procedures, when such violation is motivated by the actual or perceived membership of the victim in a Protected Category.

Section 9. Consensual Relationships

- 9.1 There are inherent risks in any romantic or intimate relationship between individuals in unequal positions. Thus, except as otherwise provided in Section 9.2, any romantic or intimate relationships in which power differentials are inherent are prohibited, which include, but are not limited to, the following:
 - 9.1.1 Relationships between students or applicants for admission and administrators, faculty, preceptors, coaches, athletic trainers or any other WVU Parkersburg employee where a direct power differential exists between the student or applicant for admission and the employee;
 - 9.1.2 Relationships between a WVU Parkersburg employee holding a direct or indirect supervisory and/or evaluative role over the other person in the relationship; or
 - 9.1.3 Any other romantic or intimate relationship between students or applicants for admission and employees or between employees where any employment-related power differential exists between the persons in the relationship.
- 9.2 Notwithstanding the prohibitions in Section 9.1, any romantic or intimate relationship prohibited in Section ~~6.1~~9.1 that exists prior to the creation of a power differential between the individuals involved in the romantic or intimate relationship shall not violate this policy if (a) the individuals in the relationship report the existence of the relationship as required in Section 9.4 upon the creation of the power differential and (b) the individuals consent to the removal of any potential power differential that could exist. This may require appropriate administrative action, including but not limited to shifting or otherwise relocating an employee within a separate department or reporting capacity from the other individual involved in the relationship or the shifting of grading or other decision-making responsibilities of a faculty member which affect a particular student in the case of a pre-existing relationship with that student.
- 9.3 Issues may also arise in the educational setting or workplace from romantic or intimate relationships between students or applicants for admission and WVU Parkersburg employees or between WVU Parkersburg employees where a direct or indirect supervisory and/or evaluative role or other power differential does not exist between the persons in the relationship. Thus, while not prohibited, such relationships are highly discouraged.

- 9.4 If a relationship develops that falls under Sections 9.2 or 9.3, the student, applicant for admission, or employee and the faculty member or supervisor involved in the relationship must timely report the existence and termination, if any, of such relationship as follows: applicants for admission, ~~and~~ students, and faculty shall report to the Senior Vice President for Academic Affairs, and employees and supervisor shall report to the Director of Human Resources.
- 9.5 Once a relationship is reported under Section 9.4, the Senior Vice President for Academic Affairs and the Director of Human Resources, respectively, shall inform the persons involved in the relationship of WVU Parkersburg's standards concerning consensual relationships, may set parameters while the persons are on campus, and may take other steps as appropriate.
- 9.6 Persons who engage in any relationship prohibited by Section 9.1 or who engage in any relationship listed in Sections 9.2 and 9.3 and who fail to timely report shall be subject to administrative action, up to and including termination of employment or dismissal from WVU Parkersburg, as applicable.

Section 10. Sexual Misconduct

- 10.1 Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. The following acts of sexual misconduct are prohibited:
- 10.1.1 Sexual Harassment, as set forth in Section 7.2.2 of this policy;
 - 10.1.2 Non-Consensual Sexual Intercourse;
 - 10.1.3 Non-Consensual Sexual Contact; and
 - 10.1.4 Sexual Exploitation.
- 10.2 Consent
- 10.2.1 Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the sexual activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual activity.
- 10.2.2 A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the individual initiating or furthering the sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

- 10.2.3 This policy also covers a person whose incapacity results from mental disability, age, involuntary physical restraint, and/or from the taking of incapacitating drugs.
- 10.2.4 Consent to some sexual contact, such as kissing or fondling, cannot be presumed to be consent for other sexual activity, such as intercourse. A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.
- 10.2.5 In the State of West Virginia, a minor cannot consent to sexual activity. Thus, sexual contact by an adult with a person younger than 16 years old is a crime as well as a violation of this policy, even if the minor wanted to engage in the act.

Section 11. Complaints

- 11.1 The President or President's designee (upon approval by the President) may establish administrative procedures to implement this policy including but not limited to, establishing procedures for the investigation and disposition of complaints. The procedures shall insure that both parties are afforded due process during the investigation of the complaints. Upon completion of an investigation, complaints may be referred to the appropriate campus official for final disposition and/or a hearing if applicable, pursuant to applicable college procedures.
- 11.2 The Complaint Form and an information packet for Complainants and Respondents may be obtained from the SJO/Title IX Coordinator in the Office of the President, or from a Deputy SJO/Title IX Coordinator (Director of Human Resources for Parkersburg campuses and Director of the Jackson County Center for the Ripley campus), or on the college website at <http://www.wvup.edu/about/social-justice/discrimination/>. The SJO/Title IX Coordinator will provide assistance in completing the form.
- 11.3 Anonymous complaints will be accepted, however, the college may be limited in its options in investigating and/or resolving anonymous complaints because of the unique challenges they present. There is no way to assess the author's veracity and no ability to obtain additional information from the complainant if the complaint is unclear or confusing. However, if the anonymous complaint contains sufficiently detailed information which, if true, would constitute: (a) a crime, then the complaint will be forwarded to the appropriate law enforcement agency for appropriate action; or (b) a violation of this policy, the complaint will be investigated to the best of the SJO/Title IX Coordinator's ability given the anonymous nature of the complaint. A record will be kept of all anonymous complaints.

- 11.4 Knowingly providing false information in a complaint or during the investigation of a complaint or during a disciplinary proceeding or hearing by anyone is prohibited and is considered misconduct subject to disciplinary action up to and including termination of employment and/or expulsion. The Title SJO/Title IX Coordinator is responsible for investigating reports of filing false information.
- 11.5 The SJO/Title IX Coordinator is empowered to investigate allegations of, and to recommend sanctions for, any conduct that violates this policy *and/or* violations of any other standards of conduct directly related to the alleged violation of this policy. Such related misconduct may include, without limitation, unprofessional conduct, violations of interim directive(s), filing a false claim, and/or any other misconduct that occurred in the course of the alleged discrimination, harassment, act of domestic violence or abuse, filing a false claim, sexual misconduct or retaliation even if the underlying allegations are not substantiated.
- 11.6 WVU at Parkersburg will ensure that any person designated to conduct an investigation into allegations raised under this policy is fully and adequately trained in the conduct of such investigations, the dynamics of domestic and sexual violence and other matters significant to an understanding of the issues underlying the investigation. The college will also ensure that the conduct of such investigations is done in such a manner as to protect the safety of victims and to promote accountability.
- 11.7 Violators of this policy, including those who fail to report a witnessed incident of sexual harassment or sex discrimination to the appropriate authority or authorities, may be subject to disciplinary sanctions. Appropriate disciplinary actions for students may include but are not limited to counseling, educational sanctions, disciplinary probation, suspension or expulsion. Employees who violate this policy may be subject to disciplinary action up to and including suspension without pay and employment termination. All other violators will be sanctioned as appropriate and in a manner not inconsistent with this policy and/or other West Virginia University at Parkersburg policy.
- 11.8 The SJO/Title IX Coordinator shall conduct or oversee a prompt, thorough, reliable, and impartial investigation of all complaints. Interim corrective measures may be taken during the investigation process. Parties will be informed, on an ongoing basis, of the status of the investigation.
- 11.9 The standard of evidence to be applied in the investigation of a complaint is that of a preponderance of the evidence. In other words, to substantiate a complaint filed under this rule the evidence collected and considered during the investigation must demonstrate that it is more likely than not that the alleged conduct constituted a violation of this policy.
- 11.10 Upon the completion of the investigation, the complainant and the respondent shall be concurrently notified in writing of the disposition of the complaint and the process for appeal.
- 11.11 If the Title IX Coordinator finds a student responsible for sexual misconduct and recommends the sanction of expulsion, the matter will be referred to a sexual misconduct board for a hearing on the merits of the charges. The Title IX Coordinator will notify the complainant and the accused student that the matter has been referred to the board for a hearing on the merits and will provide each with a copy of the investigation report.
- 11.12 WVU Parkersburg may institute remedial, community-based efforts such as educational initiatives and/or trainings regardless of whether a policy violation is substantiated.

Section 12. Receipt of Notice

12.1 Regardless of whether a complaint is filed, if an employee of WVU Parkersburg receives notice concerning alleged sexual misconduct or other violation of this policy, then that employee shall report to the SJO/Title IX Coordinator as much of the information as that employee is permitted to report under applicable confidentiality laws or that has not been requested by the victim to be specifically withheld, unless an immediate threat of harm exists to self or others. Additional guidance regarding employee reporting responsibilities is provided in Policy B-62, Mandatory Reporters. Upon receipt of the notice, the SJO/Title IX Coordinator shall investigate the information contained in the notice, determine what sexual misconduct or other violation of this policy occurred, if any, and respond appropriately. The SJO/Title IX Coordinator's response may vary, depending on the information contained in the particular notice, including initiation of the formal investigation process.

Section 13. Reporting of Violations

13.1 Reports of violations of this policy should be made promptly as follows:

13.1.1 Reports of discrimination, harassment, sexual misconduct, hostile environment, retaliation, or other violations of this policy should be made to the Special Assistant to the President who serves as the institution's Social Justice Officer/Title IX Coordinator;

13.1.2 Reports of violations of this policy involving the SJO/Title IX Coordinator should be made to the Director of Human Resources who serves as Deputy SJO/Title IX Coordinator.

13.1.3 Reports of violations of this policy involving the President of WVU Parkersburg should be made to the Chair of the WVU at Parkersburg Board of Governors; and

13.1.4 Reports of violations of this policy involving the Chair of the WVU at Parkersburg Board of Governors should be made to the Chancellor of the West Virginia Council for Community and Technical College Education.

13.2 If a reporting individual believes that an immediate threat of harm exists to self or others or that an individual has violated federal, state, or local law, the reporting individual should immediately contact law enforcement.

13.3 Upon receiving a report of an alleged violation of this policy, the appropriate administrator listed in Section 13.1 shall promptly investigate the alleged violation contained in the report.

13.4 Individuals responsible for receiving and investigating complaints made under this rule shall ensure victims are notified of their option to seek—or not to seek—assistance from law enforcement and/or campus authorities and the potential consequences of any such election. In addition, victims shall be provided with contact information for the local domestic violence shelter and magistrate court for purposes of determining whether to seek civil relief from the complained-of conduct.

Section 14. Criminal Conduct

- 14.1 Alleged conduct reported under this policy including but not limited to, hazing, sex discrimination and/or acts of sexual violence, sexual assault and other sexual misconduct, may also constitute criminal conduct. Any individual may report an incident alleging criminal conduct by calling 9-1-1 in an emergency or by contacting the SJO/Title IX Coordinator who will notify Campus Police and Security if a complaint contains allegations of criminal conduct. (See Policy B-62, Mandatory Reporters.)
- 14.2 The administrative investigation of complaints filed pursuant to this policy is different from a law enforcement investigation. The technical rules of evidence and procedure do not apply. A law enforcement investigation will not take the place of an investigation or disposition of a complaint filed under this policy and the results of a law enforcement investigation or adjudication are not determinative of whether an individual is responsible for violating college policy. An investigation conducted pursuant to this policy may be carried out prior to, simultaneously with, or following a law enforcement investigation and/or civil or criminal proceedings. The college will cooperate fully with law enforcement and other external agencies in the enforcement of criminal law on campus or that affects the campus community, and such cooperation may require the institution to temporarily suspend the fact-finding aspect of the administrative investigation while the law enforcement agency is in the process of gathering information. Suspensions of investigations typically last from three to ten days but may be extended depending upon the circumstances of each case. The college will promptly resume its administrative investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process.

Section 15. Retaliation

- 15.1 Retaliation against an individual for alleging harassment, supporting a complainant or for participating in the investigation of information relevant to a claim of harassment is a serious violation of this policy, will be treated as another possible instance of harassment or discrimination, and should be reported immediately as set forth in Section 11. WVU at Parkersburg will take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Section 16. Remedial Action

- 16.1 WVU at Parkersburg will implement initial remedial and responsive actions upon notice of alleged harassment, retaliation, or discrimination, and will take additional prompt remedial and/or disciplinary action with respect to any member of the college community, guest, or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. The nature of the remedial action will necessarily depend on the nature of the conduct,

Section 17. Confidentiality of Reported Information

- 17.1 Individuals wishing to report violations of this policy must be aware that WVU at Parkersburg administrators, depending on their roles, have varying reporting responsibilities and abilities to maintain the confidentiality of the individual making the report. Prior to reporting a violation of this policy to a particular administrator, an individual should inquire as to whether that administrator is bound by certain confidentiality and mandatory reporting requirements. Some college resources may be able to maintain confidentiality, offering options and advice without any obligation to inform an

outside agency or individual unless the reporting person requests information to be shared or the information indicates an immediate threat of harm to self or others. An information packet for complainants and respondents is available on the WVU at Parkersburg website at www.wvup.edu/about/ under the "[Social Justice](#)" link. Additional information regarding Title IX can also be found on the "[Current Students](#)" link or "[Faculty/Staff](#)" link.

- 17.2 The accused has a due process right to know his/her accuser. If the complainant requests confidentiality, the college will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation taking into consideration and consistent with the college's state and federal obligations including but not limited to Title IX. The college will also consider its responsibility to protect the safety and welfare of the campus community.
- 17.3 If a complainant insists that his or her name or other identifiable information not be disclosed to the accused or asks that the complaint not be investigated, the college will respond to the complaint consistent with its state and federal obligations including but not limited to its Title IX obligations. The college's ability to respond, however, may be limited.
- 17.4 The college will evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The college may weigh the request for confidentiality against the following factors: the seriousness of the alleged conduct; whether there have been other harassment complaints about the same individual; the college's responsibility to provide a safe working and learning environment and the accused's right to receive information about the allegations if the information is maintained by the school as an "education record" under FERPA.
- 17.5 The college cannot ensure confidentiality or that a complaint will not be investigated because of the complainant's confidentiality request.

Section 18. Federal Timely Warning Obligations

- 18.1 Victims of sexual misconduct should be aware that WVU at Parkersburg administrators must issue timely warnings to the college community for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. No such warning will identify a victim or contain information that could do so unless permitted by the victim.

Section 19. Violations of Policy

19.1 Any employee or student who is found to have violated this policy will be subject to administrative action, up to and including termination of employment or dismissal from WVU at Parkersburg, as applicable.

19.2 Except as provided in Section 15 of this policy concerning sexual misconduct or other violations of this policy falling under Title IX, violations of this policy shall be addressed as follows:

20.2.1 Violations by students shall be addressed according to [Policy D-46](#), Code of Student Conduct.

20.2.2 Violations by employees shall be addressed through the West Virginia Council for Community and Technical College Education rules and procedures and WVU at Parkersburg policies and procedures on employee conduct.

Section 20. Implementation of Policy

20.1 This policy will be implemented using applicable West Virginia Council for Community and Technical College Education rules and procedures and WVU Parkersburg policies and procedures. Other policies notwithstanding, the President or designee is responsible for implementing this policy which includes but is not limited to establishing complaint procedures. In the event the individual, name, title, or contact information changes for any of the individuals listed in this policy, the President of WVU Parkersburg may revise such information within this policy without re-submittal of this policy through the rulemaking process.

20.2 Additional information regarding the enforcement of State and Federal anti-discrimination/harassment/retaliation laws and complaint procedures may be obtained from the following agencies:

Office of Civil Rights
U.S. Department of Education
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
FAX: 215-656-8605; TDD: 877-521-2172
Email: OCR.Philadelphia@ed.gov

The West Virginia Human Rights Commission
1321 Plaza East – Room 108A
Charleston, WV 25301
Telephone: 304-558-2616
Toll Free: 888-676-5546
FAX: 304-558-0085

Website: <http://www.wvf.state.wv.us/wvhrc/>

Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

Employees only:

United States Equal Employment Opportunity Commission
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: 866-408-8075
Fax: 215-440-2606
TTY: 800-669-6820

Website: <http://www.eeoc.gov/>

- 20.3 Individuals are at all times free to pursue a complaint with the Equal Employment Opportunity Commission, the West Virginia Human Rights Commission, the United States Department of Education Office for Civil Rights (responsible for enforcing Title IX), the United States Department of Labor (Office of Federal Contract Compliance Programs), the West Virginia Public Employees Grievance Board, or by consulting an attorney at her or his own expense.

21. Application/Authority and Amendments

- 21.1 This policy defines and prohibits discrimination, harassment, retaliation, sexual harassment and sex discrimination including acts of sexual violence on the basis of federal and state law as interpreted by the courts and the agencies responsible for enforcing the laws. To assure continued compliance with Title IX and/or any other state or federal anti-discrimination/harassment/retaliation laws, if state or federal statutory provisions, regulatory guidance, or court interpretations or guidance provided by any authorized regulating agency change, or conflict with College policy and/or procedure, the college's policy and/or procedure will be deemed amended as of the time of the decision, ruling, legislative enactment or guidance. These procedures may be modified to protect the due process rights of the parties.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Revision of Policy D-46, *Code of Student Conduct*

RECOMMENDED RESOLUTION: *Resolved, That the West Virginia University at Parkersburg Board of Governors authorizes a notice of proposed rulemaking for revision of Policy D-46, Code of Student Conduct, and hereby authorizes adoption of said revised policy without further action by the Board if no comments are received.*

STAFF MEMBER: Anthony Underwood
Vice President for Student Services

BACKGROUND:

This proposed revision to Policy D-46, Code of Student Conduct, recommends the addition of Section 3.2 to assure continued compliance with Title IX and/or any other state or federal anti-discrimination/harassment/retaliation laws and amendment of Section 4.1.2 for compliance with revised Policy F-60, Tobacco Free Environment, to become effective July 1, 2014. Section 7 has been updated to reflect that appointments to the Disciplinary Hearing Board are made by the President. Other non-substantive updates in titles are noted at the top of the document.

A notice of proposed rulemaking will be issued proposing the adoption of this policy. If no comments are received during the 30-day comment period, this policy proposal will be considered approved following the comment period without further action by the Board of Governors.

West Virginia University at Parkersburg Board of Governors

**POLICY D-46
CODE OF STUDENT CONDUCT**

NOTE: All instances of “Dean of Students” have been replaced with “Vice President for Student Services.” One instance of “Executive Dean of Academic Affairs” was changed to “Senior Vice President for Academic Affairs.” All instances of “Campus President” have been replaced with “President.” References to “University” have been replaced with “college.”

Section 1. General:

1.1 Scope: The Policy sets forth the West Virginia University at Parkersburg Board of Governor’s policy regarding Student Conduct for WVU at Parkersburg.

1.2 Authority: W. Va. Code: W.V. Code §18B-1-6; §18B-2A-4.

1.3 Effective Date:
(Replaces version dated December 15, 2006 and transferred from WVU Board of Governors on July 1, 2008.)

1.4 Rationale for the WVU at Parkersburg Code of Student Conduct

West Virginia University at Parkersburg expects that every member of its academic community share its historic and traditional commitment to honesty, integrity, and the search for truth. In addition, West Virginia University at Parkersburg is concerned with the living and learning environment of all its students. It is expected that each person will grow to have greater respect for self, others, and property.

Students and student organizations are required to engage in responsible social conduct that reflects credit upon the college community and to model good citizenship in any community.

It is further expected that every member of the academic community will respect the democratic process, a society based on law, and the basic tenets on which our country was founded. All students at West Virginia University at Parkersburg are citizens of the larger community, and as such are free to exercise their fundamental and constitutional rights. Rights and responsibilities under local, state, and national law are neither abridged nor extended because of student status, and each student must be mindful of his/her responsibility in this regard.

The college will not request special consideration for students charged with violations of a city, county, or state law on the basis of their status as students, nor will prosecution by federal, state, or local authorities necessarily preclude disciplinary action by the college.

Students charged with violations of the conduct code will be provided substantive and procedural due process and the right of appeal. Their right to be treated with respect and dignity will be protected.

When a student is charged with a specific violation, the college will employ procedures for determining if the charge is fair and accurate. This document enumerates and explains specific procedures used in determining the fairness and accuracy of such charges and the sanctions which might be imposed if the charges are found to be true.

Opportunities for participation in the process and equality of treatment are afforded all students, irrespective of race, religion, age, sex, handicap, or national origin. To ensure this, state and federal regulations and the guidelines and requirements of Title VI of the Civil Rights Act and Title IX of the Higher Education Act of 1972 are followed.

The mission of West Virginia University at Parkersburg, as further elaborated in its mission statement, is to, among other things, educate its members and prepare them for responsible and full participation in society. In implementing this Code, the college is not seeking to be punitive or adversarial. The collegiate nature of the educational mission requires that all members of the college community unite to administer and support this Code and to suggest change and improvement as necessary.

Section 2. Definition of Student

- 2.1 Any person who has been admitted to West Virginia University at Parkersburg to pursue a course of study, research, or service, who is currently engaged in an institutionally sponsored activity, and who has some right or privilege to be on the campus or in the facilities of the institution, or to use the same, in connection with study, research, or service, or who yet has some right or privilege to receive some benefit or recognition or certification from the institution, under rules, regulations, or policies of the West Virginia University at Parkersburg Board of Governors or the institution.

Section 3. Jurisdiction of the Code of Student Conduct

- 3.1 The Code of Student Conduct shall apply to conduct that occurs on WVU at Parkersburg premises, at WVU at Parkersburg sponsored activities, and to off-campus conduct that adversely affects the WVU Parkersburg community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Code of Student Conduct shall apply to a student's conduct, while a student, as defined in this Code, even if the student withdraws from school while a disciplinary matter is pending. The Vice President for Student Services or his/her designee shall decide whether the Code of Student Conduct shall be applied to conduct occurring off campus, on a case by case basis.

- 3.2 To assure continued compliance with Title IX and/or any other state or federal anti-discrimination/harassment/retaliation laws, if state or federal statutory provisions, regulatory guidance, or court interpretations or guidance provided by any authorized regulating agency change, or conflict with college policy and/or procedure including but not limited to the hearing procedures set forth in this Code of Student Conduct, the college's policy and/or procedure will be deemed amended as of the time of the decision, ruling, legislative enactment or guidance. Further, the procedures set forth in this policy may be modified or changed to protect the due process rights of the parties and/or to comply with Title IX and/or any other state or federal anti-discrimination/harassment/retaliation laws or regulations. Also see Policy A-44, Sexual Misconduct and Other Forms of Discrimination and Harassment.

Section 4. Standards of Conduct

- 4.1 The following are instances of misconduct, subject to disciplinary and other appropriate action hereunder:
- 4.1.1 Unauthorized possession or duplication of keys to college-owned or college-controlled property.
 - 4.1.2 ~~Smoking in areas which are indicated as restricted or "non-smoking" areas.~~ Use of any tobacco product, as defined by college policy, on campus property.
 - 4.1.3 Disruption or obstruction of, or leading or inciting others to disrupt or obstruct, teaching, research, administration, disciplinary proceedings, other college activities, including its public-service functions on or off campus, or other authorized non-college activities when the act occurs on college premises.

- 4.1.4 Unauthorized occupancy of college buildings.
- 4.1.5 Attempted or actual theft, malicious destruction or alteration of college, faculty, staff or student property or equipment.
- 4.1.6 Possession, use or distribution of alcohol or any illicit drugs or controlled substances, except as permitted by law; public intoxication.
- 4.1.7 Intentional false reporting of a fire or bomb or other explosive device that allegedly has been placed on school property. Intentionally activating a false fire alarm or tampering with any type of safety equipment, including fire alarms, fire extinguishers, and smoke detectors.
- 4.1.8 Dishonesty including fraud, forgery or knowingly furnishing false statements. (Charges of academic dishonesty, such as cheating and plagiarism, are addressed in, and governed by, WVU at Parkersburg Board of Governors Policy No.D-47, "Student Academic Rights and Responsibilities at WVU at Parkersburg.")
- 4.1.9 Disorderly, lewd, indecent or obscene conduct on college-owned or controlled property or at college-sponsored or supervised functions; breach of the peace.
- 4.1.10 Illegal or unauthorized possession or use of firearms, guns, knives, other weapons, explosives, dangerous chemicals, fireworks or other items with potential to cause harm, or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
- 4.1.11 Physical or verbal abuse, intimidation, threats, or harassment of any kind to another person or group of persons, or action which threatens or endangers the health, wellbeing or safety of any person.
- 4.1.12 Abuse of the Code of Student Conduct and hearing procedures; violation of prior disciplinary rulings or sanctions.
- 4.1.13 Hazing, which means to recklessly or intentionally cause any action or situation which endangers the mental or physical health or safety of another person or causes another person to destroy or remove public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a team, a group or student organization. The express or implied consent of the victim will not be a defense. Knowingly witnessing or acquiescing in the presence of hazing are not neutral acts; they are violations of this rule. See "Prohibition of Hazing," found in WVU at Parkersburg Answer Book [#VI-3C](#).
- 4.1.14 Sexual Offenses, including, but not limited to:
 - a. Sexual intercourse with, and/or sexual intrusion against, a person capable of giving consent, without such person's consent, or a person incapable of giving consent;
 - b. Sexual assault or abuse, statutory or acquaintance rape, sexual harassment. (See WVU Board of Governors Policy A-44, Sexual Harassment.)
- 4.1.15 Misuse of the college computer system as defined in "Appropriate Use of Computer Resources" (found in WVU at Parkersburg Answer Book [#VII-1](#)), including, but not limited to, the following:
 - a. disruption or interference with the normal use of the computers, computer-related equipment, data, or programs of individuals, the Network or the college;
 - b. use of this equipment, data, or programs in performance of any act listed as prohibited in this document;

- c. attempts to breach security in any manner;
 - d. use of a computer account for other than the purpose for which assigned.
- 4.1.16. Failure to comply with the lawful directions of any college official, staff member or student employee who is acting in the performance of their duties or who has responsibility in the absence of a particular official.
- 4.1.17 Violation of federal, state or local law.
- 4.1.18 Violation of any published college policies, rules or regulations published in hard copy or available electronically on the college website.
- 4.1.19 Inciting others to commit any of the acts listed above; involvement as an accessory to any of these acts; assisting or encouraging others to engage in violation.

Section 5. Disciplinary Action

- 5.1 Violation of these standards may result in the initiation of a disciplinary complaint against the student by another student, by a faculty or staff member, or by any academic or administrative officer of the college and subsequent disciplinary action by the college.
- 5.1.1 Submit complaints to the Vice President for Student Services in writing. Any charge should be submitted as soon as possible after the event takes place or the discovery of the same, but in no event later than ninety (90) days after the event takes place or the discovery of the same.
- 5.1.2 The Vice President for Student Services shall conduct a preliminary investigation for the purpose of ascertaining whether the charges may be disposed of informally. If charges cannot be resolved informally, or if the sanction of suspension or expulsion is likely to be sought, a time shall be set for a hearing not fewer than five or more than thirty working days after the student has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the Vice President for Student Services, where adherence to such limits would be impracticable.
- 5.2 The possible disciplinary actions of the college are listed and defined as follows:
- 5.2.1 An **official warning** indicates that the behavior of the student does not meet the expectations of the college and notifies the student that his/her conduct should be more appropriate in the future.
- 5.2.2 **Activity restriction/loss of privileges** means that college privileges may be restricted, and participation in extra-curricular activities may be limited or denied.
- 5.2.3 **Probation** indicates that additional misconduct may result in suspension or expulsion as determined in a second disciplinary action. While on probation, college privileges may be restricted, and participation in extra-curricular activities may be limited or denied.
- 5.2.4 **Fines.** Previously established and published fines may be imposed.
- 5.2.5 **Restitution.** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- 5.2.6 **Discretionary Sanctions.** Work assignments, service to the College or other related assignments, determined at the discretion of the Vice President for Student Services.

- 5.2.7 **Interim Suspension.** In certain circumstances, the Vice President for Student Services or his/her designee may impose a college suspension prior to the hearing before the Disciplinary Hearing Board. Interim suspension may be imposed only: a) to ensure the safety and wellbeing of members of the college community or preservation of college property; b) to ensure the student's own physical or emotional safety and wellbeing; or c) if the student poses a definite threat of disruption of or interference with the normal operations of the college. During the interim suspension, student shall be denied access to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the Vice President for Student Services or his/her designee may determine to be appropriate. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a hearing with the Disciplinary Hearing Board, if required.
- 5.2.8 **Suspension** means separation of the student from the college for a definite period of time not to exceed one year, after which the student is eligible to return. Conditions for readmission may be specified.
- 5.2.9 **Expulsion** means permanent separation from institution, including termination of any remaining right or privilege to receive some benefit or recognition or certification.
- 5.3 The following sanctions may be imposed upon team, group, or student organization:
- Those sanctions listed above under 5.2.1, 5.2.2, 5.2.3, 5.2.4, 5.2.5, and 5.2.6.
 - Loss of selected rights and privileges for a specified period of time.
 - Deactivation. Loss of all privileges, including college recognition, for a specified period of time.
- 5.4 In cases which would not result in suspension or expulsion for the Accused, the Vice President for Student Services may determine whether to impose disciplinary action which may be in the form of activity restrictions, loss of privileges, probation or other corrective measures.
- 5.5 In the event that the Vice President for Student Services makes such a determination, each of the Complainant and the Accused shall have the right, but not the obligation, to appeal the decision, or the sanction imposed as a result thereof, to the Disciplinary Hearing Board.
- 5.6 If the Complainant or the Accused desires to appeal such decision or sanction, the Vice President for Student Services must be notified in writing within five working days following notice of the decision or sanction.
- 5.7 If no appeal is made as contemplated herein, then the proceeding is closed. Any decision and sanction imposed becomes part of the record of the Accused and may be distributed to others, as, and to the extent, allowed by law.
- 5.8 All cases that could result in suspension or expulsion must be submitted to the Disciplinary Hearing Board for a formal hearing.

Section 6. Student Rights

- 6.1 Any student involved in a hearing or the appeal process will be afforded proper due process. This includes, but may not be limited to, a written statement of the charges, a fair hearing, and the opportunity to present relevant evidence.
- 6.2 Each of the Complainant and the Accused shall have the right to bring an advisor (who, except as otherwise provided herein, shall be a member of the college community) to the hearing, only in an advisory role. In cases where expulsion is likely to be sought, the advisor may be an attorney who may directly participate in the hearing. Students retain attorneys in such cases at their own expense and must notify the Hearing Panel at least forty-eight hours prior to the hearing if an attorney will be present at the proceedings.

Section 7. Disciplinary Hearing Board Composition

- 7.1 If applicable, a Hearing Panel shall be selected by the Accused and the Complainant from the membership of the Disciplinary Hearing Board.
- 7.2 The Disciplinary Hearing Board is constituted of eleven members including faculty, administrative staff, support staff and student representatives. Each member is appointed by the ~~Dean of Students~~ President at the beginning of the academic year for a one-year term from nominations from various segments of the college community. The membership includes the following:
- 7.2.1 Two Administrative Representatives ~~nominated by the President~~.
- 7.2.2 Three Student Representatives nominated by Student Government.
- 7.2.3 Three Faculty Representatives nominated by Faculty Senate.
- 7.2.4 Three Staff Representatives nominated by Staff Council.
- 7.3 If no nominations are made within two weeks of the request, the ~~Dean of Students~~ President shall appoint members as needed. Vacancies on the Board are filled by the ~~Dean of Students~~ President in the same manner as the original appointment.
- 7.4 Each proceeding before the Board shall be heard by a Hearing Panel consisting of five members. There shall be one administrative, one faculty, one staff, and two student members on the Panel. The Hearing Panel shall be chosen by the parties to the proceeding, each striking names in turn with the Accused striking first. If either party to the proceeding is a member of the Hearing Board, he or she shall strike his or her name on the first round.

Section 8. Disciplinary Hearing and Appeal Procedure

- 8.1 Hearings and appeals regarding disciplinary complaints brought hereunder are dealt with in accordance with the following procedures:
- 8.1.1 The Vice President for Student Services shall meet with the Accused and the Complainant for selection of the Hearing Panel within five (5)* working days following receipt of the notice of intent to appeal, or the formal determination that suspension or expulsion is likely to be sought or that a hearing is otherwise warranted. If the Vice President for Student Services is a party to the proceeding, the Senior Vice President for Academic Affairs shall effect this step and step 2 below.
- 8.1.2 The Vice President for Student Services shall notify the selected members of the Disciplinary Hearing Board of their selection for the Hearing Panel. The Vice President for Student Services shall schedule the first meeting within fifteen (15)* working days following selection of the Panel. All members of the Disciplinary Hearing Panel and the parties to the proceeding shall be sent a written notice of the meeting time at least ten working days prior to the meeting.
- 8.1.3 At least five (5)* working days prior to the hearing, each member of the Panel is furnished a written summary statement from all parties involved.
- 8.1.4 At the hearing, witnesses may be called by the Panel or by the parties to the proceeding.
- 8.1.5 All hearings are private.

- 8.1.6 There shall be a complete and accurate record of the hearing. The record shall be the property of the college. Access thereto shall be provided only in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. 1232g), and in accordance with any other applicable terms set forth by the college.
- 8.1.7 The proceedings hereunder shall not be subject to federal, state or local rules of process, procedure and evidence, such as are applied in criminal or civil court. The college shall have the authority to develop guidelines related to such proceedings, to the extent not inconsistent with this Code. Similarly, the chairperson of the Hearing Panel shall have the authority to determine questions of process, procedure and evidence at a hearing, in a manner not inconsistent with the rules and guidelines referenced above.
- 8.1.8 Within three (3)* working days after the hearing, the Hearing Panel shall issue its determination on the charges and sanctions, if any. In cases where the sanction of expulsion is likely to be sought, the Hearing Panel's determination shall be made on the basis of whether there is clear and convincing evidence that the Accused violated the Code of Student Conduct. For all other cases, such determination shall be made on the basis of whether it is more likely than not that the Accused violated the Code of Student Conduct. Pertinent records, exhibits, written statements, and any other relevant information may be accepted as evidence for consideration by the Disciplinary Hearing Panel at the discretion of the chairperson. The decision of the Hearing Panel shall be provided in writing to the parties and to the Vice President for Student Services. All hearing records shall be submitted to the Vice President for Student Services.
- 8.1.9 The decision of the Hearing Panel is final in all cases where it serves as an appellate venue to a determination made by the Vice President for Student Services hereunder. In all other cases, the Hearing Panel's decision and/or sanctions may be appealed by the Accused or the Complainant to the President within five (5)* working days of the decision. Such appeals shall be in writing and shall be delivered to the Vice President for Student Services, who will deliver the notice of appeal and the hearing records to the President for review.
- 8.1.10 Except as required to explain the basis of new evidence, an appeal to the President, as contemplated herein, shall be limited to review of the record of the initial hearing and supporting documents for one or more of the following purposes:
- a. To determine whether jurisdiction as established in the Code of Student Conduct was properly asserted.
 - b. To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and present evidence that the Student Code was violated, and giving the accused student a reasonable opportunity to prepare and to present a rebuttal of those allegations.
 - c. To determine whether the decision reached regarding the accused student was based on substantial evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Student Code occurred.
 - d. To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code which the student was found to have committed.
 - e. To consider new evidence, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.
- 8.1.11 The President shall respond to the appeal and deliver his/her decision thereon within thirty (30) days of his/her receipt of such appeal, except where adherence to such time period would be impracticable, in

which case such time period shall be extended as warranted by the particular circumstances. Review of the sanction by the President may not result in more severe sanction(s) for the accused student.

*Specified time intervals may be extended, at the discretion of the Vice President for Student Services, where adherence to such limits would be impracticable or if any members selected for the Hearing Panel are not available on campus during the specified period. The Vice President for Student Services shall notify all parties concerned in writing if such extensions are necessary.

Section 9. Confidentiality

- 9.1 Members of review boards play a sensitive role within the institutional governance structure. Thus, it is important that the members maintain high performance and ethical standards. The following is designed to safeguard the rights of students and to uphold the integrity of the disciplinary procedure as a whole:
 - 9.1.1 The name or status of students involved in disciplinary situations shall not be discussed with anyone outside the review board membership except as otherwise required by this Code, by law or court order.
 - 9.1.2 Even in the case of open hearings, hearing body members shall refrain from public comment on the proceedings, and in no instance shall the closed deliberations of the hearing body be discussed, nor shall confidential information be revealed except as otherwise required by this Code, law or court order.
 - 9.1.3 The votes cast by members of the hearing body shall be treated as confidential and shall not be shared outside the hearing room except as otherwise required by this Code, law or court order.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: Right of Way and Easement

RECOMMENDED RESOLUTION: *Resolved, That the West Virginia University at Parkersburg Board of Governors approves the City of Ripley's request to replace a sewer line on WVU at Parkersburg's property as part of a city-wide upgrade.*

STAFF MEMBER: John Gorrell, Director, Jackson County Center

BACKGROUND:

The City of Ripley is beginning a city-wide project to replace aged sewer lines. This requires the granting of a right of way and easement for access to remove the old lines and install the replacements. One such line is buried under the west end of the property owned by WVU at Parkersburg known as the Jackson County Center located at 105 and 107 Academy Drive in Ripley WV.

**West Virginia University at Parkersburg Board of Governors
Meeting of May 21, 2014**

ITEM: 2014-15 Holiday Schedule

RECOMMENDED RESOLUTION: Information Only

STAFF MEMBER: Marie Foster Gnage, President

BACKGROUND:

As authorized by Board of Governors Policy B-08, a holiday schedule for 2014-15 has been established and approved for West Virginia University at Parkersburg, a copy of which is attached. This holiday schedule has been aligned with the schedule of holidays observed by West Virginia University because of the payroll processing system of which WVU Parkersburg is a part. It has been announced campus wide and is posted in the online "Answer Book" for ongoing accessibility.

Title: #IV-4A. 2014-15 Holiday Schedule

Date: July 1, 2014

2014-15

July 4	Friday	Independence Day
September 1	Monday	Labor Day
November 4	Tuesday	Election Day
November 26	Wednesday	
November 27	Thursday	Thanksgiving Day
November 28	Friday	
December 24	Wednesday	
December 25	Thursday	Christmas Day
December 26	Friday	
January 1	Thursday	New Year's Day
January 2	Friday	
January 19	Monday	Martin Luther King, Jr. Day
April 3	Friday	
May 25	Monday	Memorial Day

In accordance with W.Va. C.S.R. § 135-14 and Board of Governors Policy No. B-8, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, and Martin Luther King Day, are holidays on which the college closes on the legal holiday dates. Additional holidays are observed by West Virginia University at Parkersburg each year by closing the college on dates that accommodate the academic calendar, as indicated above.

If an observed holiday occurs on a nonexempt staff member's regular, scheduled day off, the staff member shall be paid for the holiday.

If any additional holidays are proclaimed by the Governor, a revised holiday schedule will be announced.

Responsible Administrator: President, 304-424-8200