

West Virginia University at Parkersburg Board of Governors

**POLICY A-44**  
**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 – June 5, 2014  
(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:

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### **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
- 3.2.5 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.
- 3.3 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.
- 3.5 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.
- 3.6 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 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/](http://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](mailto:OCR_Philadelphia@ed.gov)  
Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

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/>

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.