

**West Virginia University at Parkersburg
COMPLAINANT AND RESPONDENT INFORMATION PACKET**

Discrimination / Harassment / Sex Discrimination /
Sexual Harassment / Hostile Work Environment / Retaliation

General Information

**The individual filing the complaint is referred to as the “Complainant.”
The accused is referred to as the “Respondent.”**

The accompanying form is to be used by anyone filing a discrimination, harassment, sex discrimination, sexual harassment (including but not limited to acts of sexual violence and/or other sex offenses), hostile work environment or retaliation complaint.

Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964 (Title VII), The Pregnancy Discrimination Act of 1978, The Equal Pay Act of 1963 (EPA), The Age Discrimination in Employment Act of 1967 (ADEA), the Age Discrimination Act of 1975, The Older Workers Benefit Protection Act of 1990 (OWBPA), Title I of the Americans with Disabilities Act of 1990 (ADA), Sections 102 and 103 of the Civil Rights Act of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, the Genetic Information Act of 2008 (GINA) and the West Virginia Human Rights Act are Federal and State laws that protect fundamental rights of nondiscrimination and health information privacy. WVU at Parkersburg’s policies prohibiting discrimination, harassment and sexual harassment are set forth in Board of Governors Policies A-34 and A-44. WVUP is an Equal Opportunity/Affirmative Action Institution that does not discriminate on the basis of race, sex, age, disability, veteran status, religion, color, ancestry, marital status, gender identity, sexual orientation or national origin in the administration of any of its educational programs, activities, or with respect to admission or employment. WVUP also does not discriminate based upon genetic information in the areas of employment or employee health insurance benefits. WVUP is committed to providing an environment that is supportive and comfortable for you to discuss your concerns regarding individual treatment in the workplace, educational setting, equal employment opportunity, and diversity. All complaints (including sexual harassment, disability and retaliation) and responses to complaints are filed with the WVUP Social Justice Officer/Title IX Coordinator:

**Debra L. Richards, M.L.S.
Special Assistant to the President
for Policy and Social Justice, Room 1010
West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
E-mail: debbie.richards@wvup.edu
☎ (304) 424-8201
FAX: (304) 424-8302**

If the complaint is against the Social Justice Officer/Title IX Coordinator or if she cannot be reached, please file complaints in Parkersburg with Deputy SJO/Title IX Coordinator:

Scott Poe, Director of Human Resources, Room 1008
West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
E-mail: Scott.Poe@wvup.edu
☎ (304) 424-8212
FAX: (304) 424-8302

For incidents occurring at the Jackson County Center, initial reports may be made to Deputy SJO/Title IX Coordinator:

John Gorrell, Dean, Room 300A
Jackson County Center of WVU at Parkersburg
105 Academy Drive
Ripley, WV 25271
E-mail: John.Gorrell@wvup.edu
☎ (304) 372-6992
FAX: (304) 372-6948

Every effort will be made to ensure the fair and equal treatment of all involved parties during the complaint investigation process. WVUP requests that discrimination, harassment, and disability and any other complaints of unlawful discrimination be filed within 30 days from the date of the alleged incident(s).

Complaints may be filed after 30 days however, individuals are encouraged to report incidents as soon as possible because the passage of time may affect the institution's ability to investigate the incident and the final outcome.

The Social Justice Officer/Title IX Coordinator will:

- Explain the investigation process
- Assure you an adequate, reliable, and impartial investigation of complaints;
- Ask you to complete the complaint or response form or provide a signed, written statement about the incident (s);
- Provide an opportunity for both parties to identify witnesses or individuals who will support your claim or response to the claim;
- Investigate the allegations of the complaint (A typical investigation should be completed within sixty (60) calendar days but depending upon the circumstances, may extend beyond sixty (60) days);
- Assure that the parties have an equal opportunity to present relevant witnesses and other evidence. Both parties will be afforded similar and timely access to any information that will be used at any hearing if applicable;
- Keep you informed of the progress of the investigation
- Advise you of the outcome of the investigation in accordance with state and federal law and WVUP policy and procedures;
- Direct the findings of the investigation to appropriate WVUP personnel for review and appropriate action;
- Assure you that WVUP will take steps to prevent recurrence of any discrimination/harassment/retaliation and to correct its discriminatory effects on the complainant and others, if appropriate.
- If the complaint proceeds to a hearing, allow testimony by alternate means including but not limited to video conferencing from a separate room on campus
- Insure that due process rights are provided as required by law

During the investigation process, and in accordance with existing policies and laws, WVUP will make every reasonable effort to protect the privacy of all parties involved in the investigation, and to keep the information confidential to the extent required by law. However, WVUP cannot guarantee that any or all of the information will remain confidential.

Anyone accused of discrimination or harassment is presumed not responsible for the alleged conduct.

Generally, an investigation will result in a written report that, at a minimum, includes a statement of the allegations and issues, a summary of the information considered, findings of fact, and a determination by the investigator as to whether the institution's anti-discrimination/harassment/retaliation or any other WVUP policies have been violated. Investigations will result in one of three possible findings:

- a. **Substantiated:** It is more likely than not that a policy violation has occurred (preponderance of the evidence standard).
- b. **Unsubstantiated:** It is not possible to determine whether a policy violation has occurred. There is insufficient evidence to prove or disprove a policy violation.
- c. **Unfounded:** It is more likely than not that the allegation, while made in good faith, does not constitute a policy violation. A finding that the allegations are unfounded does not indicate that the complaint was improper or knowingly false.

The report, the complaint, the response and any other evidence obtained during the investigation of the complaint may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions.

The report also may contain a recommendation for actions to resolve the complaint, including but not limited to educational programs, counseling/coaching, mediation, remedies for the complainant, and a referral to institutional disciplinary procedures, as appropriate. The Social Justice Officer/Title IX Coordinator is authorized to make recommendations on whether the conduct set forth in the complaint violates any WVUP policy and to refer the complaint to the appropriate WVUP department for further disposition.

The complainant and the respondent shall be concurrently informed in writing of the completion of the investigation and the outcome of the investigation. The complainant shall be informed of the findings and of actions taken or recommended to resolve the complaint, if any, that are directly related to the complainant, such as a recommendation that the accused not contact the complainant. The complainant shall not be informed of the details of any recommended disciplinary action without the consent of the respondent unless disciplinary action is directly related to the complainant. The respondent shall be informed of the findings and of actions taken or recommended to resolve the complaint in accordance with all WVUP policies, state and federal laws.

You are permitted to have a representative of your choice including legal counsel (paid for at your own expense) at any stage of the process.

Cooperation with Investigation

It is expected that a Complainant will actively provide information that will support his/her complaint in the time and manner deemed necessary and appropriate by the college. A Respondent is likewise expected to actively provide information that will support his/her response in the time and manner deemed necessary and appropriate by the College. Failure to cooperate with the investigation process in a timely manner may impact the investigation and final outcome of a complaint as well as may affect the college's ability to address the claims alleged in the complaint.

Retaliation

Various state and federal laws and college policies, including but not limited to Title IX prohibit retaliation against any individual who files or participates in the investigation of a discrimination, harassment, sex discrimination or sexual harassment complaint.

Retaliation complaints and responses to retaliation complaints are filed with and investigated by the Social Justice Officer/Title IX Coordinator using the form in this packet.

Alcohol or Drug Use

Alcohol or drug use either by the accused and/or the complainant are not defenses to retaliation, discrimination, harassment, sex discrimination or sexual harassment (including acts of sexual violence). Use of drugs or alcohol may, however, affect the alleged victim's and/or accused's memory which may impact the investigation and final outcome of a complaint.

Confidentiality and Privacy

The institution will balance the needs of the parties for privacy with its responsibility of ensuring a safe educational environment and workplace. Confidentiality is an aspiration, but is not always possible or appropriate. An individual's requests regarding the confidentiality of reports of discrimination, or harassment including but not limited to sex offenses, will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the institution's legal obligation to ensure a working and learning environment that is free from discrimination, harassment and/or sexual misconduct and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation and to insure that the institution meets its obligations under Title IX and other state and federal laws. The institution may be limited in its response and investigation if confidentiality is requested.

Education records will be disclosed only in accordance with the Family Education Rights to Privacy Act (FERPA). WVU at Parkersburg will not discuss the investigation or disposition of complaints with individuals outside the campus community, including but not limited to parents, legal counsel and/or representatives, unless a written FERPA waiver is provided by the student. However, names and information may be released to others for the purpose of conducting the investigation and fulfilling the College's obligation to address the complaint.

Medical information, if applicable, will be protected pursuant to the Health Information Portability and Accountability Act whenever appropriate.

Criminal Conduct

Acts of retaliation, discrimination, harassment, sexual harassment and sex discrimination, including but not limited to acts of sexual violence, may also constitute acts of criminal conduct. Any individual may report an incident alleging criminal conduct by calling 9-1-1 (9-9-1-1 from a campus telephone) in an emergency or by contacting the WVUP Campus Police and Security Department at 304-424-8235. Crimes may also be reported to local law enforcement:

Parkersburg Police Department	304-424-8444
Vienna Police Department	304-295-8563
Williamstown Police Department	304-375-4935
Ripley Police Department	304-372-4711
Ravenswood Police Department	304-273-3500
Wood Co. Sheriff's Office	304-424-1834
Jackson County Sheriff's Office	304-373-2290
W. Va. State Police – Wood County	304-420-4600
W. Va. State Police – Jackson County	304-372-7850

Pursuant to the federal law known as the *Jeanne Clery Act* (20 USC § 1092(f)) (*Clery Act*), any campus security or law enforcement personnel or any WVUP employee who has significant responsibility for student and campus activities (including but not limited to faculty advisers to student groups, coaches and a student activities director) who has witnessed or been informed of an alleged incident that constitutes a crime for the

purpose of the *Clery Act* including but not limited to a forcible or nonforcible sex offense or a hate crime, whether a criminal or administrative complaint has been filed, must:

- a. follow WVUP procedures for making a report for the annual crime statistics report; and
- b. notify the Social Justice Officer/Title IX Coordinator so that any applicable administrative, investigative or other resolution procedures may be initiated in accordance with state and federal law.

Contact the WVU at Parkersburg Campus Police and Security Department for information on *Clery Act* crimes.

Employees may be obligated to report to law enforcement the fact that an alleged *Clery Act* Crime has been reported, but the name or other personally identifiable information about the complainant will be provided to law enforcement only with the consent of the complainant, except as may be required or otherwise permitted by law.

Differences Between Law Enforcement and Administrative Investigation

The administrative investigation of complaints filed with the Social Justice Officer/Title IX Coordinator using the complaint form 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 with the Social Justice Officer/Title IX Coordinator and the results of a law enforcement investigation or adjudication are not determinative of whether an individual is responsible for violating any WVU at Parkersburg policy. An administrative investigation may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. WVUP will cooperate fully with law enforcement and other 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. WVUP will promptly resume its administrative investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process.

Interim Measures

When the Social Justice Officer/Title IX Coordinator receives a report of harassment or discrimination, she will undertake an appropriate inquiry and take such prompt and effective action as is reasonably practicable under the circumstances to support and protect the complainant, the campus community and to avoid retaliation against the victim(s) before the final outcome of the investigation or full implementation of the complaint process. Interim measures may be implemented without prior notice to the accused whenever there is reason to believe, based on available facts, that the continued presence of the student poses a substantial threat to himself/herself, to others, to college property, or to the stability and continuance of normal college functions.

WVUP may at any point in the complaint process elect to place the respondent on investigative leave, reassign the individual, temporarily suspend from classes, issue a "no contact" order for the complainant and respondent or authorize other types of temporary measures while an investigation is pending and/or until the final disposition of the complaint.

If the allegation constitutes a sex offense as defined by the Clery Act, the college will change the victim's academic situation after an alleged Clery Act sex offense if those changes are requested by the victim and are reasonably available.

When taking steps to separate the complainant and the respondent, the Social Justice Officer/Title IX Coordinator will seek to minimize unnecessary or unreasonable burdens on either party. Every reasonable effort will be made to allow the parties to continue in their academic and/or campus employment arrangements. Violation(s) of the Social Justice Officer/Title IX Coordinator's directive and/or protective actions will be separate offenses that may lead to additional disciplinary action.

Interim measures that may be implemented include, but are not limited to:

- Temporary suspension of an employee's employment as well as denial of the employee's access to Institution facilities or property;
- Temporary suspension or limitation of an individual's eligibility to enjoy certain privileges, or participate in or attend certain events (or certain kinds of events) without the suspension of employment or enrollment. This action may prohibit an individual's presence on institution property or in certain facilities, or impose conditions that must be met in order for the individual to enjoy certain privileges, participate in activities, or attend events;
- Temporary suspension of a student's eligibility for enrollment or attendance, as well as denial of access to facilities or property;
- Implementation of a "no contact order"

Related Conduct

The Social Justice Officer/Title IX Coordinator is authorized to hear allegations of, and to recommend disciplinary action for, conduct that violates any institution rule, regulation or policy including but not limited to employee handbooks and/or any student conduct code directly related to the conduct alleged in the complaint. The Social Justice Officer/Title IX Coordinator may refer the complaint to other college departments for disposition pursuant to other disciplinary procedures if the conduct does not rise to the level of discrimination or harassment but does violate other institutional rules, regulations or policies.

Anonymous Complaints

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 Campus Police and Security Department for appropriate action; (b) or a violation of this policy, the complaint will be investigated to the best of the college's ability given the anonymous nature of the complaint. A record will be kept of all anonymous complaints.

Filing a False Complaint and/or Providing False Information

Knowingly providing false information in a complaint, response, during the investigation of a complaint, 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 from the college's education programs/activities.

Geographic Jurisdiction and Title IX

Title IX protects students from sexual harassment in a school's education programs and activities. This means that Title IX protects individuals in connection with all the academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's facilities, on a school bus or van, at a class or training program sponsored by the school at another location, or elsewhere. For example, Title IX protects a student or teacher who is sexually assaulted by a fellow student during a school-sponsored field trip.

The institution's complaint procedures apply to any allegation of a sex offense and/or act of sexual violence, regardless of where the alleged incident occurred. Common names for sex offenses include forcible rape, forcible sodomy, date rape, sexual assault with an object, forcible fondling, incest, and statutory rape. Although there is no geographical limitation to invoking these procedures for sexual harassment complaints, conduct that is alleged to have occurred at a significant distance from the College may be more difficult to investigate.

In addition, with respect to *any* complaint regardless of the basis: (a) by a person who is not a member of the college community; and (b) relating to non-college conduct, the college reserves the right to determine, in its sole discretion, whether the conduct described in the complaint constitutes a sufficient risk to the college community to warrant processing the complaint.

Sanctions

Sanctions for individuals found responsible for discrimination, harassment or retaliation include but are not limited to:

1. Employment termination or suspension without pay;
2. Suspension or expulsion from WVUP's educational programs/activities;
3. Disciplinary probation;
4. Any sanction set forth in the Student Conduct Code or other WVUP BOG Policy;
5. Employment position demotion;
6. Required participation in counseling and/or other education programs

One or any combination of sanctions may be implemented depending upon the circumstances of each case.

When recommending and/or implementing sanctions, the Social Justice Officer/Title IX Coordinator and/or any other appropriate disciplinary authority may take into consideration the severity of the offense and the prior disciplinary history of the accused.

Informal Resolution

WVUP encourages informal resolution options when the parties desire to resolve the situation cooperatively, or when inappropriate behavior does not rise to the level of discrimination, but nonetheless is adversely affecting the workplace or educational environment. Informal resolution may include an inquiry into the facts, but typically does not rise to the level of an investigation.

Informal resolution includes but is not limited to options such as referral to another campus office or program, mediation, separation of the parties, referral of the parties to counseling programs, or conducting targeted educational and training programs. Situations that are resolved through informal resolution are reduced to writing and are usually subject to follow-up after a period of time to assure that resolution has been implemented effectively. Steps taken by the Social Justice Officer/Title IX Coordinator to help the parties achieve informal resolution will be documented.

Either party may end the informal resolution process and request a full investigation of the complaint at any time during the informal resolution process.

Some reports of discrimination, harassment or sexual misconduct may not be appropriate for informal resolution, but may require a formal investigation at the discretion of the Social Justice Officer/Title IX Coordinator.

Medical Treatment and Counseling Information

For rape evidence collection, seek medical assistance within 72 hours of sexual assault. Medical assistance can be obtained by dialing 9-1-1 or visiting:

Camden Clark Medical Center Emergency Room
800 Garfield Avenue
Parkersburg, WV 26101
304-424-2111

Jackson General Hospital Emergency Room
122 Pinnell Street
Ripley WV 25271
304-372-2731

Wood County Health Department (Free, confidential testing for sexually transmitted diseases, incl. HIV)
304-485-7374

Counseling assistance can be obtained twenty-four hours a day, seven days a week from:

Family Crisis Intervention Center
Parkersburg, WV 26101
Hotline: 1-800-794-2335 or 304-428-2333
<http://fcichaven.org/>

Rape, Abuse and Incest National Network's Sexual Assault Hotline
1-800-656-HOPE (4673)
<http://www.rainn.org/>

Westbrook Health Services, Inc.
Crisis Hotline: 304-485-1725 (within Wood Co.) or 1-800-579-5844 (outside Wood Co.)
www.westbrookhealth.com

West Virginia State Domestic Violence Hotline
1-800-352-6513

National Domestic Violence Hotline
1-800-799-SAFE

The college also offers short-term preliminary counseling services on campus (Parkersburg and Ripley):

Kurt Klettner, Director of Student Support Services
Room 1019A, West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
(304) 424-8388
Kurt.Klettner@wvup.edu

You do not have to formally report an incident to seek medical attention or receive support services.

Application/Authority and Amendments

The College's policies prohibiting discrimination, harassment, retaliation, sexual harassment and sex discrimination, retaliation and hostile work environment define and prohibit 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. All policies and procedures may be modified to protect the due process rights of the parties.

Additional Information

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 for 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
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: <https://hrc.wv.gov/>

Employees Only:

United States Equal Employment Opportunity Commission
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: 800-660-4000 / 215-440-2601
Fax: 215-440-2606
TTY: 800-669-6820
Website: <http://www.eeoc.gov/>

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 a an attorney at her or his own expense.