

West Virginia University at Parkersburg Board of Governors

POLICY A-44
POLICY AND PROCEDURES REGARDING
HARASSMENT AND DISCRIMINATION

Section 1. General

1.1. Purpose and Relevant Scope:

1.1.1. The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in educational or employment activities. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When a person reports an alleged violation of this anti-discrimination policy, the allegations are subject to resolution using West Virginia University Parkersburg's "Process A" or "Process B," as determined by the Title VI/Title IX/Section 504 Coordinator, and as detailed below.

1.1.2. When the Respondent is a member of the West Virginia University Parkersburg community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of West Virginia University Parkersburg community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, and volunteers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

1.2. **Rationale:** West Virginia University Parkersburg is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and State civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, West Virginia University Parkersburg has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. West Virginia University Parkersburg values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process.

1.3. **Authority:** [W. Va. Code § 18B-1-6](#); [135 C.S.R. 40](#); [34 CFR 106](#) and other relevant State and federal civil rights laws and regulations.

1.4. **Effective Date:** September 19, 2023
(Replaces version dated September 29, 2020)

1.5. **Policy History:** This policy and attached procedures replace Policy A-44, "Sexual Misconduct and Other Forms of Discrimination and Harassment," dated June 5, 2014. The prior version of Policy A-44, "Sexual Harassment," dated June 2, 2006, was transferred from WVU Board of Governors on July 1, 2008. Prior to this version, the last update was September 29, 2020.

Section 2. Definitions

- 2.1. **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- 2.2. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class or retaliation for engaging in a protected activity.
- 2.3. **Complaint (formal)** means a document submitted or signed by a Complainant or signed by the Title VI/Title IX/Section 504 Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that West Virginia University Parkersburg investigate the allegation.
- 2.4. **Confidential Resource** means an employee who is not a Mandated Reporter of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- 2.5. **Day** means a business day when West Virginia University Parkersburg is in normal operation.
- 2.6. **Directly Related Evidence** means evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- 2.7. **Education program or activity** means locations, events, or circumstances where West Virginia University Parkersburg exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by West Virginia University Parkersburg.
- 2.8. **Final Determination** means a conclusion by the preponderance of the evidence standard of proof (more likely than not) that the alleged conduct did or did not violate policy.
- 2.9. **Finding** means a conclusion by the preponderance of the evidence standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- 2.10. **Formal Grievance Process** means a method of formal resolution designated by West Virginia University Parkersburg to address conduct prohibited by this policy and which complies with the requirements of the Title VI/Title IX/Section 504 regulations (34 CFR §106.45). This process is known as “Process A” and is more fully described in Appendix 2 to this policy.
- 2.11. **Grievance Process Pool** includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- 2.12. **Hearing Decision-maker or Panel** refers to those who have decision-making and sanctioning authority within West Virginia University Parkersburg’s Formal Grievance process.
- 2.13. **Investigator** means the person or persons charged by West Virginia University Parkersburg with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

- 2.14. **Mandated Reporter** means an employee of West Virginia University Parkersburg who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the designated official who serves as the institution's Title VI/Title IX/Section 504 Coordinator.
- 2.15. **Notice** means that an employee, student, or third-party informs the Title VI/Title IX/Section 504 Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- 2.16. **Official with Authority** (OWA) means an employee of West Virginia University Parkersburg explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of West Virginia University Parkersburg.
- 2.17. **Parties** include the Complainant(s) and Respondent(s), collectively.
- 2.18. **Process A** means the Formal Grievance Process detailed in [Appendix 1](#).
- 2.19. **Process B** means the administrative resolution procedures detailed in [Appendix 2](#) that apply only when Process A does not, as determined by the Title VI/Title IX/Section 504-Coordinator.
- 2.20. **Protected Activity** means, in the context of this policy, actions taken by students, employees, or third parties to assert their rights for protection against harassment, discrimination, and/or retaliation pursuant to civil rights laws or rules applicable to West Virginia University Parkersburg.
- 2.21. **Recipient** means a postsecondary education program that is the recipient of federal funding.
- 2.22. **Relevant Evidence** is evidence that tends to prove or disprove an alleged fact in the complaint.
- 2.23. **Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to West Virginia University Parkersburg's educational program(s).
- 2.24. **Respondent** means an individual who a Complainant, Mandated Reporter, or third party has reported to the College be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class or retaliation for engaging in a protected activity.
- 2.25. **Resolution** means the result of an informal or Formal Grievance Process.
- 2.26. **Retaliation** means any adverse action taken against a person because he or she complained about harassment or discrimination, supported a complainant alleging harassment or discrimination, or participated in the investigation of a claim of harassment or discrimination.
- 2.27. **Sanction** means a consequence imposed by West Virginia University Parkersburg on a Respondent who is found to have violated this policy.
- 2.28. **Sexual Act**, as specifically defined by federal regulations under forcible sexual offenses (see Section 16 of this policy) includes one or more of the following:
- 2.28.1. **Forcible Rape**: penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person without the consent of the Complainant.

- 2.28.2. **Forcible Sodomy:** oral or anal sexual intercourse with another person, forcibly and/or against that person's will (i.e., non-consensually) or not forcibly or against the person's will in instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- 2.28.3. **Sexual Assault with an Object:** the use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person forcibly and/or against that person's will (i.e., non-consensually) or not forcibly or against the person's will in instances in which the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- 2.28.4. **Forcible Fondling:** the touching of the private body parts (buttocks, groin, breasts) of another person for the purpose of sexual gratification forcibly and/or against that person's will (i.e., non-consensually) or not forcibly or against the person's will in instances in which the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- 2.29. **Sexual Harassment** means unwelcome, gender-based, verbal or physical conduct that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the College's educational programs or activities. It can be based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation. Examples of sexual harassment include, but are not limited to, an attempt to coerce an unwilling person into a sexual relationship; repeatedly subjecting a person to egregious, unwelcome sexual attention; punishing a refusal to comply with a sexual based request; conditioning a benefit on submitting to sexual advances; sexual violence; intimate partner violence; stalking; or gender-based bullying. See Subsection 16.4 for greater detail.
- 2.30. **Student** means any individual who is registered or enrolled for credit or non-credit bearing coursework on a full- or part-time basis at West Virginia University Parkersburg.
- 2.31. **Title VI/Title IX/Section 504 Coordinator** is the official designated by West Virginia University Parkersburg to ensure compliance with Title VI/Title IX/Section 504 and West Virginia University Parkersburg's Title VI/Title IX/Section 504 program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- 2.32. **Title VI/Title IX/Section 504 Team** refers to the Title VI/Title IX/Section 504 Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

Section 3. Title VI/Title IX/Section 504 Coordinator

- 3.1. The Chief Human Resources Officer reports directly to the President and serves as the Title VI/Title IX/Section 504 Coordinator and ADA/504 Coordinator. The Chief Human Resources Officer oversees implementation of West Virginia University Parkersburg's nondiscrimination and equal opportunity program, disability compliance, and West Virginia University Parkersburg's policy regarding harassment and discrimination. Pursuant to Title VI/Title IX/Section 504 regulations, the Title VI/Title IX/Section 504 Coordinator has the primary responsibility for coordinating West Virginia University Parkersburg's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

Section 4. Independence and Conflict-of-Interest

- 4.1. Pursuant to Title VI/Title IX/Section 504 regulations, the Title VI/Title IX/Section 504 Coordinator acts with independence and authority free from bias and conflicts of interest. The Title VI/Title IX/Section 504 Coordinator oversees all resolutions under this policy and these procedures. The College vets and trains all members of the Title VI/Title IX/Section 504 Team to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents generally.
- 4.2. The parties or any interested person shall direct to the Deputy Title VI/Title IX/Section 504 Coordinator any concern involving bias or conflict of interest or reports of misconduct or discrimination by the Title VI/Title IX/Section 504 Coordinator. The parties or any interested person shall direct concerns about bias or a potential conflict of interest or reports of misconduct or discrimination by any other Title VI/Title IX/Section 504 Team member to the Title VI/Title IX/Section 504 Coordinator.

Section 5. Administrative Contact Information

- 5.1. Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Title VI/Title IX/Section 504 Coordinator
Executive Director of Human Resources & Compliance
Room 1017
300 Campus Drive
Parkersburg, WV 26104
(304) 424-8290
Email: hr@wvup.edu
Web: www.wvup.edu/harassment-and-discrimination/

Deputy Title VI/Title IX/Section 504 / Coordinator
Executive Director of Student Support Services
Room 1019A
300 Campus Drive
Parkersburg, WV 26104
(304) 424-8388
Email: student.services@wvup.edu

Deputy Title VI/Title IX/Section 504 Coordinator
Vice President of Academic Affairs
Room 1211
300 Campus Drive
Parkersburg, WV 26104
(304) 424-8242
Email: provost@wvup.edu

- 5.2. The following administrators are Officials with Authority at West Virginia University Parkersburg to address and correct harassment, discrimination, and/or retaliation. In addition to the Title VI/Title IX/Section 504 Team members listed above, reports or allegations addressed to these Officials with Authority will put West Virginia University Parkersburg "on notice" to take appropriate action steps pursuant to this policy:

- President
- Vice President, Academic Affairs
- Executive Vice President, Finance and Administration
- Vice President, Institutional Advancement

5.3. All employees of West Virginia University Parkersburg are Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. (See [Policy B-62, Mandatory Reporters.](#))

5.4. Inquiries may be made externally to:

For Students:

U.S. Department of Education Office of Civil Rights
 The Wanamaker Building
 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: www2.ed.gov/about/offices/list/ocr/index.html

For Employees:

The West Virginia Human Rights Commission
 1321 Plaza East, Room 108A
 Charleston, WV 25301
 Telephone: 304-558-2616
 Toll Free: 888-676-5546
 Facsimile: 304-558-0085
 Website: www.wvf.state.wv.us/wvhrc/

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: www.eeoc.gov/

Section 6. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

6.1. Complainants, Mandatory Reporters, and any other individual may provide notice or complaints of discrimination, harassment, and/or retaliation using any of the following options:

- 6.1.1. File a complaint with, or give verbal notice to, the Title VI/Title IX/Section 504 Coordinator, Deputy Title VI/Title IX/Section 504 Coordinator, a Mandatory Reporter, or an Official with Authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address listed for the Title VI/Title IX/Section 504 Coordinator or any other official listed.

- 6.1.2. Report online, using the reporting form posted at www.wvup.edu/harassment-and-discrimination/. The College will accept anonymous reports, which may give rise to a need to investigate.
- 6.2. Complainants, Mandatory Reporters, and any other individual may file a complaint with the Title VI/Title IX/Section 504 Coordinator in person, by mail, or by electronic mail, by using the contact information in the section above or as described in section 6.1 above.
- 6.3. If anyone provides notice in a form other than the Reporting Form linked above in subsection 6.1.2, the Title VI/Title IX/Section 504 Coordinator may contact the reporter to ensure that the Title VI/Title IX/Section 504 Team has sufficient information to initiate the response process.

Section 7. Supportive Measures

- 7.1. West Virginia University Parkersburg will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation. The ultimate determination of what is reasonable is reserved for the institution, taking into consideration the party's wishes and the particular circumstances.
- 7.2. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to West Virginia University Parkersburg's education program(s) or activity(ies), including measures designed to protect the safety of all parties or the institution's educational environment, and/or to deter harassment, discrimination, and/or retaliation.
- 7.3. The Title VI/Title IX/Section 504 Coordinator shall promptly make supportive measures available to the parties upon receiving notice or a complaint. The Coordinator shall also inform the Complainant, in writing, that he or she may file a formal complaint with West Virginia University Parkersburg either at that time or in the future, if he or she has not done so already. The Title VI/Title IX/Section 504 Coordinator shall work with the Complainant to ensure that his or her wishes are taken into account with respect to the proffered supportive measures.
- 7.4. West Virginia University Parkersburg shall maintain the privacy and confidentiality of the supportive measures, as long as that privacy and confidentiality do not impair the institution's ability to provide the supportive measures. West Virginia University Parkersburg shall ensure as minimal an academic or workplace impact on the parties as possible and shall implement the supportive measures in a way that does not unreasonably burden the other party.
- 7.5. Supportive measures may include, but are not limited to:
- 7.5.1. Referral to counseling, medical, and/or other healthcare services;
 - 7.5.2. Referral to the Employee Assistance Program;
 - 7.5.3. Referral to community-based service providers;
 - 7.5.4. Visa and immigration assistance;
 - 7.5.5. Student financial aid counseling;
 - 7.5.6. Education to the institutional community or community subgroup(s);
 - 7.5.7. Altering work arrangements for employees or student-employees;

- 7.5.8. Safety planning;
- 7.5.9. Providing campus safety escorts;
- 7.5.10. Implementing contact limitations (no contact orders) between the parties;
- 7.5.11. Academic support, extensions of deadlines, or other course/program-related adjustments;
- 7.5.12. Timely warnings;
- 7.5.13. Class schedule modifications, withdrawals, or leaves of absence;
- 7.5.14. Increased security and monitoring of certain areas of the campus; and
- 7.5.15. Any other actions deemed appropriate by the Title VI/Title IX/Section 504 Coordinator.

7.6. The Coordinator shall refer violations of no contact orders to appropriate student or employee conduct processes for enforcement.

Section 8. Emergency Removal

8.1. West Virginia University Parkersburg may act to remove a Respondent entirely or partially from an education program, workplace, or activity on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any other individual justifies removal. The Coordinator and the institution's Threat Assessment Team conduct this risk analysis using standard objective violence risk assessment procedures.

8.2. In all cases in which the institution imposes emergency removal, the Coordinator will give the Respondent notice of the action and the option to request to meet with the Title VI/Title IX/Section 504 Coordinator prior to the removal, or as soon thereafter as reasonably possible, to show cause why the College should not implement the removal or should otherwise modify the proposed sanction.

8.2.1. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine only the appropriateness of the proposed emergency removal. If the Respondent does not request this meeting in a defined timely manner, the institution shall consider any possible objections to the emergency removal waived.

8.2.2. The Coordinator may allow the Complainant and the Complainant's Advisor to participate in this meeting if the Title VI/Title IX/Section 504 Coordinator determines it is equitable to do so.

8.3.3. A Respondent may be accompanied by an Advisor of his or her choice when meeting with the Title VI/Title IX/Section 504 Coordinator for the show cause meeting. The Coordinator will give the Respondent access to a written summary of the basis for the proposed emergency removal prior to the meeting to allow for adequate preparation.

8.3.4. The Coordinator's decision regarding emergency removal is not appealable.

8.3. The Title VI/Title IX/Section 504 Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine its conditions and duration. Violation of an emergency removal under this policy is grounds for discipline, which may include expulsion or termination.

- 8.4. West Virginia University Parkersburg shall implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title VI/Title IX/Section 504 Coordinator, these actions could include, but are not limited to: temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, or suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intramural sports.
- 8.5. At the discretion of the Title VI/Title IX/Section 504 Coordinator, the Complainant or the Respondent may pursue alternative coursework options to ensure as minimal an academic impact as possible on the parties.
- 8.6. Where the Respondent is an employee, any other existing provisions for interim action are applicable.

Section 9. Promptness

- 9.1. West Virginia University Parkersburg shall act promptly on all allegations once it receives notice or a formal complaint and shall act with diligence in its resolution of complaints to avoid all undue delays within its control.
- 9.2. The Title VI/Title IX/Section 504 Coordinator shall provide timely written notice to the parties of the timeframes involved in each step of the resolution process, as further outlined in Appendix 2 of this policy.

Section 10. Privacy

- 10.1. West Virginia University Parkersburg shall take all necessary steps to preserve the privacy of reports.¹ West Virginia University Parkersburg shall not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; to carry out the requirements of Title VI/Title IX/Section 504, including conducting any investigation, hearing, or grievance proceeding arising under these policies and procedures; or as otherwise required by State or federal law.
- 10.2. West Virginia University Parkersburg reserves the right to determine which West Virginia University Parkersburg officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).
- 10.3. The Coordinator shall inform officials who need to know about the complaint, including but not limited to: Title VI/Title IX/Section 504 Coordinator, Deputy Title VI/Title IX/Section 504 Coordinator(s), specific individuals in Academic or Student Affairs, Campus Police, and/or the Threat Assessment Team. The Coordinator also may share information, as necessary, with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The Coordinator shall inform the smallest number of people who need to know the information to preserve the parties' rights and privacy.

¹ For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of WVU at Parkersburg employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in WVU at Parkersburg's FERPA procedures. The privacy of employee records will be protected in accordance with State law and Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. WVU at Parkersburg has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see Section 18.

Section 11. Jurisdiction of West Virginia University Parkersburg

- 11.1. This policy applies to the educational programs and activities of West Virginia University Parkersburg, to conduct that takes place on the campus or on property owned or controlled by West Virginia University Parkersburg, at college-sponsored events, or in buildings owned or controlled by any West Virginia University Parkersburg recognized student organizations. The Respondent must be a member of West Virginia University Parkersburg's community (for example, a student, employee or other person over whom the institution has jurisdiction to take disciplinary action) in order for its policies to apply.
- 11.2. This policy may also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to West Virginia University Parkersburg's educational programs or activities. West Virginia University Parkersburg may also extend jurisdiction to off campus and/or to online conduct when the Title VI/Title IX/Section 504 Coordinator determines that the conduct affects a substantial West Virginia University Parkersburg interest.
- 11.3. Regardless of where the conduct occurred, West Virginia University Parkersburg shall address notices and complaints to determine whether the conduct occurred in the context of employment or educational programs or activities and/or has continuing effects on campus or in an off campus program or activity sponsored by the institution. A substantial West Virginia University Parkersburg interest includes:
 - 11.3.1. Any action that constitutes a criminal offense as defined by law, including, but not limited to, single or repeat violations of any local, State, or federal law;
 - 11.3.2. Any situation in which the Coordinator determines that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
 - 11.3.3. Any situation that significantly infringes upon the rights, property, or achievements of others or significantly breaches the peace and/or causes social disorder; and/or
 - 11.3.4. Any situation that is detrimental to the educational interests or mission of West Virginia University Parkersburg.
- 11.4. If the Respondent is unknown or is not a member of West Virginia University Parkersburg community, the Title VI/Title IX/Section 504 Coordinator shall assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the Complainant would like to file a police report.
- 11.5. Even if the Respondent is not a member of West Virginia University Parkersburg's community, the Coordinator may offer supportive measures, remedies, and resources to the Complainant upon request.
- 11.6. West Virginia University Parkersburg may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from West Virginia University Parkersburg property and/or events.
- 11.7. All vendors and contractors serving West Virginia University Parkersburg are subject to these policies and procedures.
- 11.8. When the Respondent is enrolled in or employed by another institution, the Title VI/Title IX/Section 504 Coordinator may assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to file a complaint with that institution and follow its policies and procedures.

- 11.9. The Title VI/Title IX/Section 504 Coordinator may assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to West Virginia University Parkersburg where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization give recourse to the Complainant.

Section 12. Time Limits on Reporting

- 12.1. There is no time limitation on providing notice to or filing complaints with the Title VI/Title IX/Section 504 Coordinator. However, if the Respondent is no longer subject to West Virginia University Parkersburg's jurisdiction and/or significant time has passed, the College's ability to investigate, respond, and/or provide remedies may be limited or impossible.
- 12.2. The Coordinator has the sole discretion to act on notice or complaints that may be significantly impacted by the passage of time or the rescission or revision of any applicable policy. In such instances, the Coordinator may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.
- 12.3. When a notice or complaint is after significant time has passed, West Virginia University Parkersburg shall apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice or complaint.

Section 13. Online Harassment and Misconduct

- 13.1. The policies of West Virginia University Parkersburg are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on West Virginia University Parkersburg's education programs and activities or use West Virginia University Parkersburg networks, technology, or equipment.
- 13.2. Although West Virginia University Parkersburg may not control websites, social media, and other venues in which people engage in harassing communications, when an affected person reports such communications to West Virginia University Parkersburg, it shall take appropriate steps to address and mitigate the effects.
- 13.3. Members of the community shall be good digital citizens and refrain from online misconduct, such as sharing illegal content online or via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the internet or other technology to harass or harm another member of West Virginia University Parkersburg community.
- 13.4. Online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of West Virginia University Parkersburg's control (e.g., not on West Virginia University Parkersburg networks, websites, or using West Virginia University Parkersburg email accounts) may be subject to this policy when such online conduct causes a substantial in-program disruption or infringement on the rights of others. The College may offer supportive measures to a member of the campus community who has been or is being subject to online harassment or misconduct, regardless of whether such behavior is actionable by West Virginia University Parkersburg.
- 13.5. West Virginia University Parkersburg may take disciplinary action against employees for speech (whether oral, written, or online) or behavior that takes place outside work hours when such speech or behavior is made in an employee's official or work-related capacity or it undermines the institution's efforts to create an efficient, orderly, safe, healthy, and unbiased working environment.

Section 14. Policy on Nondiscrimination

- 14.1. West Virginia University Parkersburg adheres to all federal and State civil rights laws and regulations prohibiting discrimination in public institutions of higher education.
- 14.2. West Virginia University Parkersburg does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of age, disability, national origin, color, ancestry, race, religion, sex, gender identity, pregnancy, sexual orientation, veteran status, genetic information, or any other protected category under applicable local, State, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission or West Virginia Human Rights Commission, or any other agency, entity, or judicial body that has jurisdiction over such matters.
- 14.3. This policy prohibits discrimination in both employment and access to educational opportunities. Therefore, any member of the West Virginia University Parkersburg community whose acts or failures to act deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any other member of the West Virginia University Parkersburg community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of this policy and subject to appropriate disciplinary action.
- 14.4. West Virginia University Parkersburg shall promptly address and remediate any such discrimination in accordance with the appropriate grievance process described below.
- 14.5. West Virginia University Parkersburg is an Equal Opportunity nondiscriminatory institution and will provide auxiliary aids and services upon request to individuals with disabilities.
- 14.6. West Virginia University Parkersburg shall ensure that an applicant's lack of English language skills will not be a barrier to admission to or employment with West Virginia University Parkersburg.

Section 15. Policy on Disability Discrimination and Accommodation

- 15.1. West Virginia University Parkersburg is committed to full 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 and regulations prohibiting discrimination against individuals with disabilities.
- 15.2. Under the ADA and its amendments, a "person with a disability" is a person who (a) has a physical or mental impairment that substantially limits a major life activity; or (b) has a history or record of such an impairment; or (c) is perceived by others as having such an impairment. Only a person with a disability is eligible for reasonable accommodation(s).
- 15.3. The ADA defines "substantial impairment" is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning, or working.
- 15.4. The Chief Human Resources Officer is West Virginia University Parkersburg's ADA/504 Coordinator responsible for overseeing the institution's compliance with laws pertaining to disability discrimination, responding to grievances, and conducting investigations of any allegation of noncompliance or discrimination based on disability.

15.5. West Virginia University Parkersburg will address grievances related to disability status and/or requests for reasonable accommodations using the procedures below. For details relating to disability accommodations at West Virginia University Parkersburg, see [Policy A-43, Disability Accommodations](#).

15.6. Students with Disabilities

15.6.1. West Virginia University Parkersburg shall provide qualified students with disabilities academic adjustments, auxiliary aids, and other reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of West Virginia University Parkersburg.

15.6.2. All accommodations are made on an individualized basis. To request reasonable accommodation(s), students shall contact the ADA Coordinator, who shall coordinate such accommodation(s) in accordance with West Virginia University Parkersburg's applicable procedures.

15.6.3. West Virginia University Parkersburg shall provide academic adjustments or auxiliary aids to qualified students with disabilities when necessary to ensure that they have equal opportunity to complete academic requirements. The college's programs and activities shall be accessible to all individuals, including both physical access and access to electronic media, such as software and web-based applications, in accordance with Section 508 of the Federal Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act (ADA); and the Americans with Disabilities Amendments Act of 2008 (ADAAA).

15.7. Employees with Disabilities

15.7.1. Pursuant to the ADA, West Virginia University Parkersburg shall provide reasonable accommodation(s) to all qualified applicants and employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive, would result in undue administrative or financial hardship to West Virginia University Parkersburg, or would fundamentally alter the College's application processes, programs, or services and/or would change the essential functions of the job.

15.7.2. An applicant or employee with a disability is responsible for submitting a request for an accommodation and providing necessary documentation to the Chief Human Resources Officer, in accordance with [Policy A-43, Disability Accommodations](#), and applicable institutional [procedures](#).

15.7.3. The Chief Human Resources Officer shall work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with West Virginia University Parkersburg's applicable [procedures](#).

16. Policy on Discriminatory Harassment

16.1. Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. West Virginia University Parkersburg's harassment policy does not inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom or free speech rights guaranteed by the First Amendment to the U.S. Constitution or Article 3 § 7 of the West Virginia Constitution.

16.2. The sections below describe the specific forms of harassment that are prohibited by this policy. All prohibitions encompass actual and/or attempted offenses.

16.3. Discriminatory Harassment

- 16.3.1. Discriminatory harassment is a form of discrimination prohibited by this policy. Discriminatory harassment is defined as unwelcome, typically repeated, offensive conduct that is directed at an individual because of his or her actual or perceived membership in a legally protected class. Examples of discriminatory harassment include, but are not limited to, epithets, slurs, jokes, negative stereotyping, threats, intimidation, or other hostile acts that relate to a person's race, color, religion, gender, national origin, age, disability, or any other factor or characteristic that includes a person in a legally protected class.
- 16.3.2. West Virginia University Parkersburg does not tolerate discriminatory harassment of any employee, student, visitor, or guest. West Virginia University Parkersburg will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."
- 16.3.3. A hostile work environment occurs when unwelcome conduct based on a person's inclusion in a protected class occurs that is severe or pervasive enough to create a work or learning environment that a reasonable person would consider intimidating, hostile, or abusive or when enduring such offensive conduct becomes a condition of continued employment or participation in an educational program or activity.² The conduct must be both severe or pervasive **and** objectively offensive.
- 16.3.4. When discriminatory harassment rises to the level of creating a hostile environment, West Virginia University Parkersburg will impose sanctions on the Respondent through application of the appropriate grievance resolution process or any other applicable disciplinary process outlined in West Virginia University Parkersburg policies, procedures, or codes of conduct.
- 16.3.5. West Virginia University Parkersburg will address offensive conduct and/or harassment that does not rise to the level of creating a hostile environment or that is of a generic nature and not based on a protected status by application of any other relevant West Virginia University Parkersburg policy, procedure, or code of conduct.
- 16.3.6. Employees shall report discriminatory harassment to the Chief Human Resources Officer, and students shall report such incidents to the Executive Director of Student Support Services.

16.4. Sexual Harassment

- 16.4.1. The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of West Virginia regard sexual harassment as an unlawful discriminatory practice.
- 16.4.2. Any person may commit an act of sexual harassment upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.
- 16.4.3. Sexual Harassment includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as conduct on the basis of sex or gender or that is sexual constitutes one or more of the following:

² <https://www.eeoc.gov/harassment> <https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue01.html>

³ Implicitly or explicitly.

- 16.4.3.a. **Quid Pro Quo:** when an employee of West Virginia University Parkersburg conditions the provision of an aid, benefit, or service of West Virginia University Parkersburg on an individual's participation in unwelcome sexual conduct.
- 16.4.3.b. **Sexual Harassment:** unwelcome conduct as determined by a reasonable person to be so severe and pervasive and objectively offensive that it effectively denies a person equal access to West Virginia University Parkersburg's education programs or activities.³
- 16.4.3.c. **Sexual Assault:** includes any of the following:
 - 16.4.4.c.1. **Sex Offenses, Forcible:** any sexual act directed against another person⁴ without the consent of that person, including instances in which the person is incapable of giving consent;
 - 16.4.4.c.2. **Sex Offenses, Non-Forcible,** including
 - 16.4.4.c.2.A. **Incest:** non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by West Virginia law; or
 - 16.4.4.c.2.B. **Statutory Rape:** non-forcible sexual intercourse with a person who is less than 16 years of age, the statutory age for consent in West Virginia.
- 16.4.3.d. **Dating Violence:** violence on the basis of sex committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The institution will determine the existence of such a relationship based on the Complainant's statement and considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence set forth below.
- 16.4.3.e. **Domestic Violence:** violence on the basis of sex committed by a current or former spouse or intimate partner of the Complainant by (i) a person with whom the Complainant shares a child in common; or (ii) by a person with whom the Complainant is cohabitating or has cohabited as a spouse or intimate partner; or (iii) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of West Virginia; or (iv) by any other person against an adult or minor Complainant who is protected from that person's acts under the domestic or family violence laws of West Virginia. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living

³ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

⁴ This would include having another person touch you sexually, forcibly, or without their consent.

together as roommates; the people cohabiting must be current or former spouses or have or have had an intimate relationship.

- 16.4.3.f. **Stalking:** engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. For the purposes of this definition, “course of conduct” means two or more acts including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person’s property; “reasonable person” means a reasonable person under similar circumstances and with similar identities to the Complainant; “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- 16.5. Force, Coercion, Consent,⁵ and Incapacitation. – As used in the offenses above, the following definitions and understandings apply:

16.5.1. **Force** is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and/or coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”). Sexual activity that is forced is, by definition, non-consensual, but all non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

16.5.2. **Coercion** is the application of unreasonable pressure to take part in sexual activity. A person can exert unreasonable pressure through physical or emotional force, intimidation, misuse or abuse of authority, or overt or implied threats. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure or ignoring or dismissing any objections to such activity beyond that point can be coercive.

16.5.3. **Consent** is knowing, voluntary, and clear permission by word or action to engage in sexual activity.

16.5.3.a. Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

16.5.3.b. If a party does not clearly consent prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

16.5.3.c. For consent to be valid, there must be a clear expression in words or actions that the other individual assents to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

⁵ The state definition of consent, which is applicable to criminal prosecutions for sex offenses in West Virginia, is found in [§61-8B-2](#) and may differ from the definition used on campus to address policy violations.

- 16.5.3.d. A party may withdraw consent once given, as long as the withdrawal is reasonably and clearly communicated. If a party withdraws consent, that sexual activity must cease.
 - 16.5.3.e. 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 intimate relationship is not sufficient to constitute consent.
 - 16.5.3.f. Neither party is required to prove consent, non-consent, or withdrawal of consent during the College's investigation of an incident. Instead, the burden remains on West Virginia University Parkersburg to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and evidence of any similar, previous patterns of conduct.
- 16.5.4. **Incapacitation:** 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 by alcohol or other drugs. The incapacity may be the result of a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs. As stated above, a Respondent violates this policy if he or she engages in sexual activity with someone who is incapable of giving consent.
- 16.5.4.a. It is a defense to an allegation of sexual assault as a violation of this policy that the Respondent neither knew nor should have known the Complainant was physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that means a person of reasonable prudence and competence would ascertain the physical or mental capacity of the other person.
 - 16.5.4.b. Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the who, what, when, where, why, or how of their sexual interaction).
 - 16.5.4.c. Incapacitation is determined by the college through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

16.6. Requirements Regarding Consensual Relationships

- 16.6.1. Even if both parties consent or initially consented to romantic or sexual involvement, subsequent behavior by one or both of the parties may constitute a violation of this policy. Relationships in which power differentials are inherent (e.g., faculty-student, staff-student, supervisor-employee) may violate this policy and may also violate standards of professionalism and/or professional ethics.
- 16.6.3. A person with direct supervisory or otherwise evaluative responsibilities who is or becomes involved in a consensual romantic or sexual relationship with a person he or she supervises or over whom he or she exercises an evaluative role shall immediately bring the relationship to the attention of his or her supervisor and/or the Title VI/Title IX/Section 504 Coordinator. The existence of the relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When such a relationship existed prior to adoption of this policy, the parties

are still required to notify the appropriate supervisor and/or the Title VI/Title IX/Section 504 Coordinator.

- 16.6.4. Failure to timely self-report relationships as required in subdivision 16.3.3 may result in disciplinary action against an employee. The Title VI/Title IX/Section 504 Coordinator determines whether to refer violations of this provision to Human Resources for resolution or to pursue resolution under this policy based on the circumstances of the allegation.
- 16.6.5. Violation of the requirements of this Subsection 16.6 is an employee relations matter the parties shall address in consultation with the Human Resources Department, unless the relationship or behavior within the relationship meets this policy's definition of harassment or discrimination, in which case the Chief Human Resources Officer or his or her designee shall refer the matter to the Coordinator for resolution in accordance with this policy.
- 16.7. Other Civil Rights Offenses. – In addition to the forms of sexual harassment described above, which are covered by Title VI/Title IX/Section 504, West Virginia University Parkersburg additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title VI/Title IX/Section 504 when the act is based upon the Complainant's actual or perceived membership in a protected class. Such offenses may include, but are not limited to, the following:
 - 16.7.1. Sexual Exploitation: taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited where such conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
 - 16.7.1.a. Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts without the consent of the person being observed);
 - 16.7.1.b. Invasion of sexual privacy;
 - 16.7.1.c. Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity, when there is a reasonable expectation of privacy during the 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), including making or posting revenge pornography;
 - 16.7.1.d. Prostituting another person;
 - 16.7.1.e. Engaging in sexual activity with another person while knowingly infected with the human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI) without informing the other person of the infection;
 - 16.7.1.f. Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity or for the purpose of making that person vulnerable to non-consensual sexual activity;
 - 16.7.1.g. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;

- 16.7.1.h. Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
- 16.7.1.i. Knowingly soliciting a minor for sexual activity;
- 16.7.1.j. Engaging in sex trafficking; and
- 16.7.1.k. Creation, possession, or dissemination of child pornography.
- 16.7.2. Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
- 16.7.3. Discrimination, defined as actions that deprive, limit, or deny other members of the community educational or employment access, benefits, or opportunities;
- 16.7.4. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- 16.7.5. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the West Virginia University Parkersburg community when related to the admission, initiation, pledging, joining, or any other group-affiliation activity as defined further in the institution's policy prohibiting hazing;
- 16.7.6. Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person physically and/or mentally, which behavior is not speech or conduct otherwise protected by the First Amendment to the U.S. Constitution; and
- 16.7.7. Violation of any other West Virginia University Parkersburg policies when such violation is motivated by actual or perceived membership in a protected class and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.
- 16.7.8. Sanctions for the above-listed Civil Rights Offenses range from verbal or written reprimand through expulsion from the institution or termination of employment.

Section 17. Retaliation

- 17.1. Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.
- 17.2. Members of the campus community who become aware of acts of alleged retaliation shall report them immediately to the Title VI/Title IX/Section 504 Coordinator, who shall promptly investigate them. West Virginia University Parkersburg will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.
- 17.3. West Virginia University Parkersburg and any member of the institution's community are prohibited from taking or attempting to take adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

- 17.4. Filing a complaint within Process B may be considered retaliatory if those charges could be applicable under Process A. Therefore, West Virginia University Parkersburg vets all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.
- 17.5. The College charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation; *Provided*, that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Section 18. Mandated Reporting and Confidential Resources

- 18.1. All West Virginia University Parkersburg employees (faculty, staff, administrators), except for designated confidential resources, shall report actual or suspected discrimination or harassment pursuant to [Policy B-62, Mandatory Reporters](#). In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources.
- 18.2. At West Virginia University Parkersburg, the college counselor located in the Center for Student Support Services, may maintain confidentiality and is not required to report actual or suspected discrimination or harassment; however, the counselor shall timely submit to the Vice President for Academic Affairs anonymous statistical information for Clery Act purposes. The counselor may maintain confidentiality when acting under the scope of his or her licensure, professional ethics, and/or professional credentials, except in extreme cases involving a threat of danger or abuse of a minor, or when required to disclose by law or court order. The counselor may offer options and resources without any obligation to inform campus officials unless a Complainant has requested the information be shared. The campus counselor is available to help students free of charge and may be consulted on an emergency basis during normal business hours.
- 18.3. The Employee Assistance Program provides external counseling resources for employees, who may find information about it in the office of Human Resources.
- 18.4. If a Complainant expects the College to take formal action in response to his or her allegations, he or she may report to any Mandated Reporter who can connect him or her with resources to report crimes and/or policy violations. Mandatory Reporters shall immediately pass reports to the Title VI/Title IX/Section 504 Coordinator (and/or police, if desired by the Complainant) to initiate the appropriate response process.

Section 19. When a Complainant Does Not Wish to Proceed

- 19.1. The Complainant may request that the Title VI/Title IX/Section 504 Coordinator not share his or her name or may advise the Coordinator that he or she does not want the College to conduct an investigation or pursue a formal complaint. The Coordinator shall evaluate the request in light of the College's duty to ensure the safety of the campus and to comply with State or federal law.
- 19.2. The Title VI/Title IX/Section 504 Coordinator has ultimate discretion over whether West Virginia University Parkersburg proceeds when the Complainant does not wish to do so, and the Title VI/Title IX/Section 504 Coordinator may sign a formal complaint to initiate a grievance process after the Threat Assessment Team completes a violence risk assessment.
- 19.6. The Title VI/Title IX/Section 504 Coordinator does not become the Complainant by executing the written complaint. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

- 19.7. When West Virginia University Parkersburg proceeds with an investigation, the Complainant may have as much or as little involvement in the process as he or she wishes. The Complainant retains all rights of a Complainant under this policy irrespective of his or her level of participation. When the Complainant chooses not to participate, the Title VI/Title IX/Section 504 Coordinator may appoint an Advisor as proxy for the Complainant throughout the process, who shall act to ensure and protect the rights of the Complainant.
- 19.9. In cases in which the Complainant requests confidentiality or no formal action and the circumstances allow West Virginia University Parkersburg to honor that request, West Virginia University Parkersburg will offer informal resolution options (see, Appendix 2 to this policy), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.
- 19.10. The Complainant can change his or her initial decision not to take action and later decide to pursue a formal complaint.

Section 20. Federal Timely Warning Obligations

- 20.1. Pursuant to the Clery Act, West Virginia University Parkersburg shall issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.
- 20.2. In accordance with the Clery Act, West Virginia University Parkersburg will not disclose a Complainant's name or other identifying information, while still providing enough information for community members to make safety decisions in light of the potential danger.

Section 21. False Allegations and Evidence

- 21.1. Deliberately false and/or malicious accusations of violations of this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination that a Respondent violated this policy.
- 21.2. Witnesses and parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation are subject to discipline under West Virginia University Parkersburg policy.

Section 22. Amnesty for Student Complainants and Witnesses

- 22.3. To encourage reporting and participation in the process, West Virginia University Parkersburg may offer student parties and witnesses amnesty from minor policy violations related to the incident, such as underage consumption of alcohol or the use of illicit drugs.
- 22.4. Amnesty is not available to students involved in more serious misconduct, such as physical abuse of another or illicit drug distribution.

Section 24. Revision of this Policy and Associated Procedures

- 24.1. This Policy and the associated procedures provided in Appendices 1 and 2 supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title VI/Title IX/Section 504 and will be reviewed and updated annually by the Title VI/Title IX/Section 504 Coordinator.
- 24.2. During the resolution process, the Title VI/Title IX/Section 504 Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title VI/Title IX/Section 504 Coordinator may also vary procedures materially in consultation with the President and with notice to all parties involved upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.
- 24.3. If relevant laws or regulations change, or court decisions alter, the requirements of this policy, this document will be construed to comply with the most recent laws, regulations, or holdings. This policy does not create legally enforceable protections beyond the protections of the background State and federal laws which frame it.