



SEX/GENDER-BASED DISCRIMINATION, HARASSMENT, & SEXUAL MISCONDUCT POLICY

I. INTRODUCTION

West Virginia Wesleyan College is committed to maintaining a healthy and safe living, learning, and working environment in which no one is unlawfully excluded from participation of, denied the benefits of, or subjected to discrimination in any College program or activity. Members of our campus community have the right to be free from all forms of sex/gender based discrimination, harassment, domestic violence, dating violence, and stalking. In pursuit of these goals, the College will not tolerate acts of sex/gender-based misconduct against or by any employee or student, as such behavior undermines the College's effectiveness as an educational institution and a workplace.

Therefore, when an allegation is brought to an appropriate administrator's attention, protective or other remedial measures may be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and/or community are remedied, including serious sanctions when a responding party is found to have violated this policy. This policy has been developed with the intention of defining community expectations, reaffirming the College's principles, and providing recourse to those whose rights have been violated.

Each member of the College's community shares in a common responsibility to maintain an environment free from sexual misconduct. Accordingly, the College urges an individual to make a formal report if that individual is the victim of sexual misconduct, has knowledge of another person being the victim of sexual misconduct, or believes in good faith that he/she has witnessed a possible warning sign or act of sexual misconduct. A report of sexual misconduct will be dealt with promptly and privately. Confidential reports can be made to the appropriately designated employees.

The university's sex/gender harassment, discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern.

The College uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. [In campus resolution proceedings, legal terms like "guilt", "innocence", and "burdens of proof" are not applicable, but the College never

assumes a responding party to be in violation of policy, and the campus resolution procedures are conducted to take into account the totality of all evidence available, from all relevant sources.]

West Virginia Wesleyan College does not discriminate on the basis of race, sex, color, national or ethnic origin, creed, ancestry, marital/family status, veteran status, sexual orientation, gender, gender identity, gender expression, pregnancy, religion, age, or disability in the administration of its admission policies, scholarship, and loan programs, educational programs, employment, athletic programs, co-curricular activities or other College-administered programs. While the College will not tolerate any acts of discrimination as stated within our non-discrimination statement above, the purpose of this policy is to specifically address discrimination based upon sex and gender.

All members of the College's community, including but not limited to students, faculty (including adjunct faculty), staff, volunteers, and independent contractors are subject to this policy.

Violators will be subject to disciplinary action that may include termination, expulsion, suspension, removal from campus, cancellation of contract, other appropriate institutional sanctions or any other means necessary to address the behavior. Prosecution by civil authorities may also occur.

Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.

This policy is applicable regardless of the sexual orientation and/or gender identity of individuals engaging in sexual activity.

To the extent possible, the College policy conforms with all US, state, and local laws and ordinances. However, there is an important crime versus policy distinction, as our institutional procedures are separate and independent of that of a criminal investigation. West Virginia Wesleyan College's policy definitions may vary from state criminal definitions. For reference to the pertinent state statutes on sex offenses, please see:

<http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=61&art=8B>

II. POLICY SCOPE & JURISDICTION

This policy applies to all West Virginia Wesleyan College students, faculty, staff, volunteers, visitors, and other members of the College community, as well as to contractors, vendors, or other third parties doing business or providing services to the College.

This policy applies not only in the educational, residential, and working environments of campus, but also to all other work-related, student life, and educational settings, such as business

trips and social functions, field trips, athletic trips, and internship placements. Students, staff, faculty, and third parties are protected under this policy in connection to all the College's programs and activities. Further, the College may respond to reports of policy violations that arise from events occurring off College property or outside a College program or activity if both parties are members of the College community. In determining the response to off campus events, the College will consider the effects and impact of the off-campus conduct on the campus community as a whole, and the ability of the involved individual to participate in College activities or programs.

While the College strongly encourages timely reporting in order to preserve evidence for either a potential legal or College resolution proceeding, there is no period of time after an incident is alleged to have occurred during which a report must be made. Delays in reporting may limit the College's ability to respond fully to the report. If the alleged perpetrator is no longer a student or employee, the College may not be able to take disciplinary action, but it will still seek to meet its obligation to provide support, end the harassment, prevent its recurrence, and address its effects.

III. TITLE IX COORDINATOR

The College's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Coordinator reports to the President of the College, and is housed in the Office of Campus Life. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the Title IX Coordinator:

Meghan Kroll
Title IX Coordinator
Office of Campus Life
(304) 473-8104
titleix@wvwc.edu

Additional information about reporting options on and off campus can be found in Section V.

Individuals experiencing harassment or discrimination also have the right to file a formal grievance with government authorities:

Office for Civil Rights (OCR)
Mid-Atlantic Regional Office
U.S. Department of Health and Human Services
150 S. Independence Mall West
Suite 372, Public Ledger Building

Philadelphia, PA 19106-9111
Fax: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov
Customer Service Hotline #: (800) 421-3481
Web: <http://www.ed.gov/ocr>

IV. PROHIBITED CONDUCT & DEFINITIONS

A. SEXUAL MISCONDUCT

This policy defines sexual misconduct as the threat or the commission of behavior used to obtain sexual gratification against another's will or at the expense of another. Sexual misconduct includes unwanted sexual acts or actions, whether by an acquaintance, a person in the position of authority, or a stranger that occurs without indication of consent of both individuals or under threat or coercion. Sexual misconduct can occur either forcibly and/or against a person's will, or when a person is incapable of giving consent. The victim of sexual misconduct may be anyone, including but not limited to, adults, adolescents, minors, the developmentally disabled, and vulnerable individuals regardless of age.

SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:

- ***Sexual Harassment***
- ***Non-Consensual Sexual Contact (or attempts to commit same)***
- ***Non-Consensual Sexual Intercourse (or attempts to commit same)***
- ***Sexual Exploitation***

1. Sexual Harassment is:

- a. unwelcome,
- b. sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct or advances.

Remedies, education and/or training will be provided in response to reported incidents. Sexual harassment may be disciplined when it creates a hostile environment, takes the form of quid pro quo harassment, or is retaliatory in nature.

A hostile environment is created when sexual harassment is:

- sufficiently severe, or
- persistent or pervasive, and
- objectively offensive that it:

- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's educational and/or employment, social and/or residential programs.

Quid Pro Quo Harassment is:

- unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature,
- by a person having power or authority over another constitutes sexual harassment when:
 - submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance.
 - This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.

Sexual harassment includes: attempts to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; dating and domestic violence, stalking; gender-based bullying.

2. Non-Consensual Contact is:

- a. any intentional sexual touching,
- b. however slight,
- c. with any object,
- d. by a person upon another person,
- e. that is without consent and/or by force.

Sexual Contact includes: intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner.

3. Non-Consensual Sexual Intercourse is:

- a. any sexual intercourse,
- b. however slight,
- c. with any object,
- d. by a person upon another person,
- e. that is without consent and/or by force.

Intercourse includes: vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

Note: The above definitions of non-consensual sexual contact and intercourse will be utilized in determining whether an incident of sexual violence in violation of this Policy by the preponderance of the evidence standard has occurred (and not to determine whether a crime has been committed). The above definitions will also be utilized when reporting instances of sexual assault by the College for Clery Act Reporting purposes.

4. Sexual Exploitation

Sexual Exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent;
- Knowingly exposing someone to or transmitting an STI or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

B. OTHER MISCONDUCT OFFENSES (MAY ONLY FALL UNDER THIS POLICY WHEN SEX OR GENDER-BASED)

- 1. Threatening** or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person.
- 2. Discrimination**, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender.
- 3. Intimidation**, defined as implied threats or acts that cause an unreasonable fear of harm in another.
- 4. Hazing**, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation,

pledging, joining, or any other group-affiliation activity (as defined further in the Student Handbook).

5. Bullying, defined as:

- a. Repeated and/or severe,
- b. aggressive behavior,
- c. likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally.

6. Dating Violence, defined as violence committed by a person:

- a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. where the existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors:
 - i. the length of the relationship;
 - ii. the type of relationship; and
 - iii. the frequency of interaction between the persons involved.

7. Domestic Violence, defined as a felony or misdemeanor committed by:

- a. a current or former spouse or intimate partner of the victim;
- b. a person with whom the victim shares a child in common;
- c. a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- d. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- e. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

8. Stalking, is the repetitive and menacing pursuit, following, harassing, and/or interfering with the peace and/or safety of another. The College also considers Stalking to include the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

C. RETALIATION

West Virginia Wesleyan College prohibits retaliation against any individual who in good faith reports an incident of sexual misconduct or the possible witnessing of the warning signs of sexual misconduct. Retaliation or intimidation against any individual who cooperates with an investigation regarding any matter addressed within this policy will not be tolerated and is a violation of College policy.

D. ADDITIONAL APPLICABLE DEFINITIONS

1. Consent is:

- a. clear, and
- b. knowing, and
- c. voluntary,
- d. words or actions,
- e. that give permission for specific sexual activity.

Additional Clarification on Consent:

- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated. Once consent is withdrawn, sexual activity must stop reasonably immediately.
- In order to give consent, one must be of legal age.
- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.

2. **Incapacitation:** a state beyond intoxication, where decision-making faculties are dysfunctional. in which someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).

Physical indicators of incapacitation may include slurred speech, unsteady gait or stumbling, vomiting, unfocused or bloodshot eyes, disorientation, unresponsiveness or outrageous or unusual behavior. The most obvious form of incapacity is sleep or unconsciousness.

- Incapacitation can occur mentally or physically from developmental disability or medical conditions, or by alcohol or other drug use.
 - The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party - sober and exercising good judgment - would have known about the condition of the reporting party.
 - This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs.
3. **Force:** the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcomes free will or resistance, or that produces consent.
 4. **Coercion:** unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance.

5. **Preponderance of the Evidence:** the required standard for determining a policy violation. Administrators charged with rendering a decision of policy violation must be convinced, based on the information made available, that a policy violation was more likely to have occurred than to not have occurred to find a respondent responsible for violating a policy.
6. **Protected Persons:** include minors, developmentally disabled individuals regardless of age and vulnerable individuals regardless of age. Vulnerable individuals include those who are mentally incapacitated, whether temporarily or permanently, for any cause including but not limited to intoxication, drugs, or mental incompetence. Sexual misconduct with respect to a protected person includes the intent to arouse or satisfy the sexual desires of either the protected person or the perpetrator.
7. **Minors:** those individuals who have not yet reached the age of majority and are not enrolled as students at the College.

V. PRIVACY AND REPORTING

A. CONFIDENTIALITY OF INFORMATION

West Virginia Wesleyan College will make every effort reasonably possible to preserve the privacy of an individual who makes a report under this policy and to protect the confidentiality of the information reported. The degree to which confidentiality can be protected, however, depends upon the College's legal duty to respond to the information reported, the professional role of the person being consulted and the College's duty to protect the safety of its community. The professional being consulted should make these limits clear before the disclosure of any facts.

As required by law, all disclosures to any College employee of an on-campus act of sexual misconduct are tabulated for statistical purposes without personal identifying information. Further information regarding disclosure can be found in the section titled "Additional Reporting Obligations" on page 14.

All College faculty, staff, and administrators are expected to immediately report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – *meaning they are not required to report actual or suspected discrimination or harassment to appropriate College officials* - thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them.

B. REPORTING RESOURCES

The following describes the two reporting options at the College:

1. Confidential Reporting Options

If a reporting party would like the details of an incident to be kept *confidential*, the reporting party may speak with:

On-Campus

- Licensed professional counselors and staff
 - Health & Counseling Center
 - 304-473-8100

- Health service providers and staff
 - Health & Counseling Center
 - 304-473-8100
- Chaplain/Director of Spiritual & Religious Life
 - Chapel Office, Martin Religious Center
 - 304-473-8007

Off-Campus

- Licensed professional counselors
- Pastoral counselors recognized by a religion or denomination
- Local rape crisis counselors/domestic violence resources
 - Women’s Aid in Crisis
 - 304-636-8433

All of the above employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit annual anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

2. Formal Reporting Options

These can be made via email, phone or in person at the contact information below, or via the reporting form found at www.wvwc.edu/titleix :

On-Campus

- Title IX Coordinator: Meghan Kroll
 - Office of Campus Life
 - 304-473-8104
 - titleix@wvwc.edu
- Campus Security
 - Rockefeller Center
 - 304-473-8011

Off-Campus

- Buckhannon City Police
 - 304-472-5723
- WVWC 24/7 Campus Conduct Hotline
 - 866-943-5787

Note: The Campus Conduct Hotline is a service utilized by the College that allows students to anonymously report concerns that may affect the campus community to a trained specialist.

These calls are handled with support and sensitivity and are reported to the College's administration.

3. Anonymous Reporting Options

The option of making an anonymous report by victims and/or third parties is available using the online reporting form posted at www.wvwc.edu/titleix or the reporting Campus Conduct hotline at **866-943-5787**. Note that these anonymous reports may prompt a need for the institution to investigate.

C. INTERACTION WITH LAW ENFORCEMENT

Victims have the right to file criminal complaints. If a person who is a victim of sexual misconduct would like to file a criminal complaint, the College can assist them in doing so.

The College's grievance procedures and the legal system work independently from one another and the College will proceed with its process, regardless of action or inaction by outside authorities, except if outside authorities request that the College suspend its process while they gather evidence. Should this happen, the College will notify all parties and suspend its process temporarily. Once outside authorities have completed their evidence gathering, the College's grievance process shall resume.

Victims may also decide they do not want to contact authorities. In certain instances, the College may need to report conduct to law enforcement authorities even when a victim of the conduct has not decided to do so. Such circumstances include incidents that warrant the undertaking of additional safety and security measures for the protection of the victim and the campus community or other situations in which there is clear and imminent danger.

D. EMPLOYEE DUTY TO REPORT

1. Responsible Employees

All College employees, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an obligation to report incidents of Sexual and Gender-Based Misconduct, and are therefore referred to by this policy as Responsible Employees. Any Responsible Employee who receives a disclosure of a sexual assault or becomes aware of information that would lead a reasonable person to believe that a sexual assault may have occurred, involving anyone covered under this policy, are expected to report. This reporting designation extends to students employed and trained as Resident Assistants or Resident Directors, but not to any other subset of student employee.

Individuals making a report may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator and/or Deputy Coordinator(s). Employees must share all details of the reports they receive.

If a victim does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator or Deputy Coordinator(s), who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the College to honor that request, the College will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved through the institution's grievance procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including, but not limited to, administrators within the following areas: Human Resources, Campus Security, Student Development, Early Alert Response Team, Campus Life, and Academic Affairs. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

Failure of a Responsible Employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of College policy and can be subject to disciplinary action for failure to comply with College policies.

NOTE: Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees. Remedial actions may result without formal action.

E. ADDITIONAL REPORTING OBLIGATIONS

1. Federal Statistical Reporting

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information regarding the type of incident and its generalized location must be submitted for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: Student Development staff, Campus Safety & Security, local police, Athletic Director, Campus Life staff, Resident Assistants, Human Resources, and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

2. Timely Warning Notifications

Victims of sexual misconduct should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of danger.

VI. ADDITIONAL POLICY PROVISIONS

A. ATTEMPTED VIOLATIONS

In most circumstances, we will address attempts to commit any of the violations included in this policy as if those attempts had been completed.

B. FALSE INFORMATION & MALICIOUS ACCUSATIONS

West Virginia Wesleyan College will not tolerate intentional false reporting of incidents, knowingly provides false information, or intentionally misleads College officials involved in the investigation or resolution of a report may be subject to disciplinary action or other sanctions up to and including termination or dismissal. Complaints that do not rise to the level of policy violation and erroneous reports or statements that are made in good faith are exempted from this provision.

C. AMNESTY FOR VICTIMS & WITNESSES

The campus community encourages the reporting of misconduct and crimes by victims and witnesses. We recognize that victims or witnesses may be hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report, and that witnesses come forward to share what they know. To encourage reporting, we offer victims of misconduct and witnesses amnesty from minor policy violations related to the incident.

Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, as student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Police). The College pursues a policy of amnesty for students who offer help to others in need. [While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need.

D. PARENTAL NOTIFICATION

Wesleyan may supply certain information to parents of legally dependent children (those who receive at least one half of their financial support from their parents, regardless of age). This information includes notifications of disciplinary action for cases of disciplinary probation, suspension, and dismissal. Other information is kept confidential unless the student's life or wellbeing is in danger.

VII. OPTIONS FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

A member of the College's community who is the victim of sexual misconduct, has knowledge of another person being the victim of sexual misconduct, or believes in good faith that he/she has witnessed a possible warning sign of sexual misconduct as defined by this policy is urged to make a formal report to the police and/or the Title IX Coordinator.

Whether or not the individual makes a formal report, all victims of sexual misconduct are urged to seek appropriate help, which may include a medical evaluation and obtaining information, support, and counseling, either on or off campus. Victims should use the resources listed in this policy to assist them in accessing the full range of services available.

It is extremely important to preserve all evidence of a sexual assault if a criminal prosecution is to be considered. ***Individuals who have suffered a sexual assault should do the following:***

- If you do not feel safe, call a friend, family member, Resident Assistant, employee, or someone else you trust and ask them to escort you to an area where you feel safe. If the

assault occurred in the room you are in, do not allow anyone else to enter. Once they arrive, go to a safe area.

- If you are in a secure environment, lock the door, call local police by dialing 911, and wait for the police to arrive.
- Do not disturb the area where the offense was committed.
- Preserve all physical evidence. Do not bathe, shower, douche or brush your teeth. Do not wash or discard any articles of clothing worn at the time of the assault.
- Try to remember any helpful details that might assist in identifying the person responsible, such as scars, marks, jewelry, dress, language, etc.
- Seek medical attention.

A. MEDICAL TREATMENT

A person who is the victim of sexual misconduct is urged to seek appropriate medical evaluation as promptly as possible. Even if you do not think that you have any physical injuries, you may want to have a medical examination and discuss with a health care provider the risk of exposure to sexually transmitted diseases and the possibility of pregnancy resulting from the sexual assault. If you suspect that you may have been given a rape drug, ask the medical provider to take a urine sample.

For emergencies or life-threatening situations, call 911
St. Joseph's Hospital (304) 473-2000
United Hospital Center (681) 342-1000
Women's Aid in Crisis (304) 473-0106

B. MEDICAL-LEGAL EVIDENCE COLLECTION

A person who is the victim of sexual misconduct (particularly non-consensual sexual intercourse) is encouraged to request collection of medical-legal evidence. Collection of evidence is not recorded on insurance and is free of charge for victims. Collection of evidence may entail interaction with police and a police report at the discretion of the victim. Prompt collection of physical evidence is essential should a person later decide to pursue criminal prosecution and/or a civil action.

United Hospital Center: Emergency Department (681)-342-1100.
327 Medical Park Drive, Bridgeport, WV 26330

VIII. COLLEGE RESPONSE & RESOLUTION PROCESS

A. REPORTING & RESPONDING PARTIES' BILL OF RIGHTS

At West Virginia Wesleyan College, following a report or complaint of sexual or gender-based discrimination, harassment, or misconduct, individuals are afforded certain rights in order to achieve a prompt and equitable resolution. The College is committed to take appropriate steps to end the misconduct, prevent any further misconduct and retaliation, remedy the effects of misconduct, and eliminate any hostile environment that has been created. To that end, individuals' rights under this policy are as follows:

- To be entitled to a prompt, fair and impartial investigation of the complaint;
- To file a civil or criminal complaint in addition to any complaint filed as part of the institution's process;
- To be informed, in writing, of counseling and other support services available to them, both on campus and in the community;
- To be offered interim remedial measures during an investigation to protect from further prohibited conduct;
- To have your privacy respected to the extent permissible (the College has certain legal obligations to address this conduct, and as a result cannot guarantee confidentiality to a complainant);
- To have an advisor or support person of their choice present during all meetings and interviews related to the investigative process
- To submit evidence and/or bring forth any witnesses relevant to the investigation;
- To pursue an informal process of resolution, when applicable in cases of non-violence;
- To have findings or responsibility or nonresponsibility determined using a preponderance of the evidence standard;
- To be notified of the outcome of the investigation and any sanctions as they relate to you;
- To appeal the results of an investigation, if any, to the extent permitted within the policy.

1. Interim Measures

The College may take whatever measures deemed necessary in response to an allegation in order to protect an individual's rights and personal safety and the safety of the College's community. Such measures include, but are not limited to, an interim suspension (immediate, temporary suspension pending the outcome of the grievance process), a no-contact directive, and/or appropriate changes in housing, academic schedule, or work location, or any other steps that may be necessary based on the circumstances. Interim measures also may include reporting the matter to the local police. Reporting to the police will be decided on a case-by-case basis. Failure to adhere to the parameters of any interim measure is a policy violation and may lead to

additional disciplinary action.

2. Advisors & Support Persons

Each party may each have a support person or advisor present with them at all meetings and any hearing associated with a complaint and in which the respective individual is participating.

For all types of complaints, the advisor or support person may not be any individual with a real or potential conflict of interest and/or an individual with a role in adjudicating the pending matter. For all types of complaints and resolutions, the advisor may attend, but shall not participate in, meetings or the hearing. In such cases, an advisor or support person will only be permitted in a non-participatory advisory role and any costs incurred in retaining such advisor or support person shall be the responsibility of the individual.

B. POLICY ENFORCEMENT

All reported alleged incidents of sexual misconduct will be reviewed and investigated. If the Title IX Coordinator or Deputy Coordinator determine that a policy violation may have occurred, it would trigger either an informal resolution (in cases of non-violence only) or a formal investigation to take place. Trained faculty and/or staff investigators would then be assigned to the case and complete interviews of all involved parties. Throughout the process, both the victim and the accused person will be entitled to present witnesses and evidence. Following a fact-finding investigation, a recommendation of a finding will be made via the investigative report submitted to the Title IX Coordinator. The Coordinator and an additional trained, unbiased hearing officer will make the final determination of finding, along with any sanctions that apply.

1. Sanctioning Decisions

For determined violations of this policy, possible sanctions may include, but are not limited to, expulsion, suspension, removal from campus, cancellation of contract and/or termination. Other members of the College's community who are not subject to an explicit judicial procedure, upon a finding of a violation, shall be subject to adverse actions such as removal from campus, cancellation of contract or any other means necessary to address the behavior.

The appropriate sanctions may be imposed upon any member of the community found to have violated the Sex/Gender-Based Harassment, Discrimination and Sexual Misconduct Policy. Sanctions may be imposed upon employees, students, organizations singly or in combination.

Typical Sanctions for Sexual Misconduct Violations:

- Any person found responsible for violating the Non-Consensual Sexual Contact policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations.
- Any person found responsible for violating the Non-Consensual Sexual Intercourse policy will likely face a recommended sanction of suspension or expulsion (student) or suspension or termination (employee).
- Any person found responsible for violating the Sexual Exploitation, Sexual Harassment, and Retaliation policies will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.

NOTE: The decision-making body reserves the right to broaden or lessen any range of recommended sanctions.

The College does not permit a student Respondent to formally withdraw from the College if a complaint is pending against the Respondent. Should a student decide to leave the College and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to West Virginia Wesleyan College unless all sanctions have been satisfied. A hold may be placed on the student's account to prohibit re-enrollment and the release of transcripts.

Decisions made or sanctions imposed through these grievance procedures are not subject to change because criminal or civil charges that may arise from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.

2. Remedial Action:

In addition to disciplinary sanctions, the Title IX Coordinator may take actions to remedy a hostile environment. Such remedies may be imposed to protect a victim and/or the College community and are considered separate from, and in addition to, any sanctions or interim measures that may have been provided prior to the conclusion of the College's resolution procedures.

Examples of Remedial Action that may be enacted at the discretion of the Title IX Coordinator may include, but are not limited to:

- Providing escort services by Campus Security;
- Ensuring classes or extracurricular activities are not shared by Reported Victim and Respondent(s);
- Moving either party to a different residence hall;

- Providing comprehensive, holistic victim services;
- Arranging academic allowances for the Reported Victim: tutoring, extra time to complete assignment(s), re-taking a class or withdrawal from a class without penalty;
- Reviewing any disciplinary actions taken against the Reporting Victim to identify any connections warranting the lessening or removing sanctioning.

3. Appeals

Either party is able to request an appeal within three (3) days following the receipt of the written notice of a finding. Appeals may be granted by the Title IX Coordinator based on the following:

- a. A procedural or substantive error occurred that affected the outcome of the case.
- b. There is new, relevant information that was not available at the time of the investigation that, if available, could have significantly affected the outcome of the case. This does not include statements from a Reporting or Responding party who chose not to participate in the investigation. A great degree of deference is given to the original decision.
- c. Sanctioning is believed to be disproportionate to the findings, in which case, the only factor being appealed in this sense is the sanctions themselves, not the findings.

4. Timing

The College will attempt to resolve all complaints of sexual misconduct within 60 days of the initial complaint. In certain circumstances, it may require additional time to resolve matters. If there is a delay in the process, all parties to the complaint will be contacted.

IX. EDUCATION AND PREVENTION

A. EDUCATIONAL PROGRAMS

West Virginia Wesleyan College provides resources for education about and the prevention of sexual misconduct. All incoming students are required to complete assigned training modules regarding Title IX, sexual assault prevention, and bystander intervention. Newly hired faculty and staff are provided information regarding Title IX, Reporting, as well as their role as Responsible Employee upon hire. Additional ongoing training is provided via Faculty Assembly and Staff Council. Members of the College community are urged to take advantage of the additional on-campus prevention and educational resources.

B. BACKGROUND CHECKS

West Virginia Wesleyan College performs pre-employment background checks on all new employees as a condition of employment.

West Virginia Wesleyan College performs background checks on adjunct faculty as soon as possible after they have been appointed and before they commence working.

Background checks are not required on current employees with the exception of those employees changing positions. For current employees changing positions, including those filling interim positions, a background check is only required when the new position increases the impact of the perceptible risk factor (contact with protected persons).

Background checks include, but are not limited to, the following:

- a search for sex-related offenses in an individual's counties of residence for the past seven years;
- a search of the state registry of sex offenders;
- a database search for criminal activity in the individual's states of residence for the past seven years; and
- a review of public and private databases for information associated with the social security number provided by the individual.

C. RISK REDUCTION TIPS

Only those who commit sexual violence are responsible for those actions. We offer the tips below with no intention to victim-blame, with recognition that these suggestions may nevertheless help reduce your risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Give thought before sharing intimate content, pictures, images, or videos with others, even those you may trust. If you do choose to share, clarify your expectations as to how or if those images may be used, shared, or disseminated.

- Take of your friends, ask that they take care of you. A real friend will challenge you if you are not making sound judgments. Respect them when they do.
- Take care of any member of our campus community - if you see something that causes you concern, do not ignore it.

If you find yourself in the position of initiating sexual behavior, you owe your potential partner respect. These suggestions may help you reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DO NOT MAKE ASSUMPTIONS about consent; about someone's sexual availability; about their attraction to you; about how far you can go or whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there is ANY question or ambiguity, then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or other substances.
- Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your physical presence. Don't abuse that power.
- Do not share intimate content, pictures, images, and/or videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

D. TRAINING

Sexual misconduct often takes place when there is a power imbalance. A sound sexual misconduct prevention training program prioritizes awareness directly tied to prevention, along with strategies for a proactive response once a warning sign emerges. Sexual misconduct prevention training is offered for members of the College's campus community according to the following schedule:

- New faculty and staff, within six months of hire;
- All incoming freshmen, transfer, and graduate students;
- Current students, annually; and
- Responsible Employees, annually.

X. FREQUENTLY ASKED QUESTIONS

Here are some of the most commonly asked questions regarding the College’s sexual misconduct policy and procedures.

Does information about a report remain private?

The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it interferes with the College’s obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. The College will not disseminate information and/or written materials to persons not involved in the resolution process without the consent of both parties. Witnesses are also required to maintain the privacy of information shared with them during interviews and/or hearings. Violations of the privacy of the reporting party or the responding party may lead to conduct action by the College, though both parties are allowed to share their perspectives and experiences. All parties, including witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information and/or written materials.

In all resolutions of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain College administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the College, VP of Student Development, Director of Security). [If there is a report of an act of alleged sexual misconduct to a conduct officer of the College and there is evidence that a felony has occurred, local police will be notified. This does not mean charges will be automatically filed or that a victim must speak with the police, but the institution is legally required to notify law enforcement authorities]. The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an “Annual Security Report” of campus crime statistics. This statistical report does not include personally identifiable information.

Will my parents be told?

No, not unless you tell them. Whether you are the reporting party or the responding party, the College's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. College officials will directly inform parents when requested to do so by a student, in a life-threatening situation, [or if an individual has signed the permission form at registration which allows such communication].

Will the responding party know my identity?

Yes, if the College determines there is reasonable cause to believe a violation has occurred and investigates the matter. The responding party has the right to know the identity of the reporting party. If there is a hearing, the College does provide options for questioning without confrontation, including closed-circuit testimony, Skype, using a room divider or using separate hearing rooms.

Do I have to name the responding party?

Yes, if you want formal disciplinary action to be taken against the responding party. You can report the incident without the identity of the responding party, but doing so may limit the institution's ability to respond comprehensively.

What do I do if I am accused of sexual misconduct?

DO NOT contact the reporting party. You may immediately want to contact someone who can act as an advisor [or advocate]; anyone may serve as your advisor [or advocate]. You may also contact the Title IX Coordinator, who can explain the College's procedures for addressing sexual misconduct reports. You may also want to talk to a confidential counselor at the counseling center or seek other community assistance. See below regarding legal representation.

Will I (as a victim) have to pay for counseling/or medical care?

Not typically, as the institution provides much of these services already. There is no cost for a forensic medical exam. Licensed medical facilities only charge for any medical treatment you may receive.

What about legal advice?

Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution because representation will be handled by the District Attorney's office. You may want to retain an attorney if you are considering filing a civil action or are the responding party. The responding party may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus investigation. Both the responding party and the reporting party may also use an attorney as their advisor or support persons during the campus' resolution process. Attorneys are subject to the same restrictions as other advisors or support persons as described in this policy.

How is a report of sexual misconduct decided?

The College investigates allegations of sex/gender based harassment, discrimination or misconduct to determine whether there is evidence to indicate a policy violation is "more likely than not." This standard, called the preponderance of the evidence, corresponds to an amount of evidence indicating a policy violation is more than 50% likely. Investigators may take into consider all collected evidence, interview statements, as well as credibility and demeanor of witnesses and parties.

What about changing residence hall rooms?

You may request a room change if you want to move. Room changes under these circumstances are considered emergencies. It is typically institutional policy that in emergency room changes, the student is moved to the first available suitable room. If you prefer that the responding party be moved to another residence hall, that request will be evaluated by the Title IX Coordinator or deputy to determine if it can be honored.

What should I do about preserving evidence of a sexual assault?

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the Hospital Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital (United Hospital Center in Bridgeport, WV) is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligate him or her

to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise that right.

For the Victim: the hospital staff will collect evidence, check for injuries, and address concerns of pregnancy and possible exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Try not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?

No. The seriousness of sexual misconduct is a major concern and the College does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. We provide amnesty from any consequences for minor policy violations that occur during or come to light as the result of a victim's report of sexual misconduct.

Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct resolution?

The use of alcohol and/or drugs by either party will not diminish the responding party's responsibility. On the other hand, alcohol and/or drug use is likely to affect the reporting party's memory and, therefore, may affect the resolution of the reported misconduct. A reporting party must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to support that policy was violated. If the reporting party does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the responding party without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a responding party.

Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present matter.

What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of this policy, you should contact either the Title IX Coordinator (not confidential) or the Counseling Center (confidential). You can also contact Women's Aid in Crisis, who can assist you in talking through options.