

WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS

POLICY 32: SEXUAL HARASSMENT, SEXUAL DISCRIMINATION, AND OTHER UNLAWFUL CONDUCT

Section 1. Authority.

This policy derives its basis and authority from the following: Title IX of the Education Amendments of 1972; The Violence Against Women Act of 1994 (VAWA); the 1980 EEOC interpretive guidelines of Title VII of the Civil Rights Act of 1964; The Campus Security Act, part of the Higher Education Reauthorization Act of 1992.

Section 2. Definitions.

2.1 "Bullying" means repeated and/or significant aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally on the basis of actual or perceived membership in a Protected Category.

2.2 "Complainant" means any current employee, student, or applicant to West Liberty University (regardless of whether he or she is applying for employment or for admission as a student), vendor or contractor representative, or visitor who reports an alleged violation under this policy. The complainant need not be the person who allegedly suffered the discriminatory or harassing treatment. The complainant may be a witness to the events or a Mandatory Reporter.

2.3 "Consent" means informed, knowing, voluntary and clear permission, through mutually understandable word or action, to engage in mutually agreed upon sexual activity. Under West Virginia law, a lack of consent results from: (1) forcible compulsion; (2) incapacity to consent; or (3) if the complaint charges sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct. A person is deemed incapable of consent when such person is: (1) less than sixteen years old; (2) mentally defective; (3) mentally incapacitated; or (4) physically helpless. Consent is discussed in more detail in Section 7.2 of this policy.

2.4 "Discrimination" means actions that deprive others of educational or employment access, benefits, or opportunities on the basis of their actual or perceived membership in a Protected Category.

2.5 "Domestic Violence/Intimate Partner Violence" means the occurrence of one or more of the following acts between family or household members or between individuals in an intimate relationship to each other, including dating: (1) attempting to cause or intentionally, knowingly, or recklessly causing physical harm to another with or without dangerous or deadly weapons; (2) placing another in reasonable apprehension of physical harm; (3) creating fear of physical harm by harassment, stalking, psychological abuse, or threatening acts; (4) committing either sexual assault or sexual abuse as those terms are defined in Chapter 61 of the West Virginia Code; and (5) holding, confining, detaining, or abducting another person against that person's will.

2.6 "Hazing" means acts likely to cause physical or psychological harm or social ostracism to any person within the West Liberty University community, when related to the admission, initiation, pledging,

joining, or any other group-affiliation activity on the basis of actual or perceived membership in a Protected Category.

2.7 "Hostile Environment" means an environment created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent, or pervasive and objectively offensive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities.

2.8 "Incapacitation" means a state where a person cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (e.g. to understand the "who, what, when, where, why, or how of his or her sexual interaction").

2.9 "Intimidation" means implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a Protected Category.

2.10 "Mandatory Reporter" means all employees, both full-time and adjunct faculty and full-time and part-time staff of West Liberty University.

2.11 "Minor" means a person under the age of 16 years.

2.12 "Non-Consensual Sexual Contact" means any intentional sexual touching, however slight, including with any object, by a person upon another person, that is without consent and/or by force.

2.13 "Non-Consensual Sexual Intercourse" means any sexual penetration or intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force.

2.14 "Protected Category" means a category under which an individual falls or is perceived to fall that is protected under federal, state, or local anti-discrimination laws, including race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age, marital status, veteran or military status, disability, or genetic information.

2.15 "Respondent" means the accused employee, student, or campus visitor who is alleged to have perpetrated acts of discrimination, harassment, or sexual misconduct.

2.16 "Retaliation" means any adverse action taken against a person due to the fact that he or she complains about harassment, supports a complainant involving harassment, assists in providing information relevant to a claim of harassment, or otherwise participates in any way in the investigation of the complaint.

2.17 "Sexual Exploitation" means a situation in which a person takes non-consensual or abusive sexual advantage of another and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. The term includes, but is not limited to, the following situations:

2.17.1 Sexual voyeurism, such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed;

2.17.2 Taking pictures or video or audio recording another in a sexual act or in any other private activity without the consent of those involved in the activity, or exceeding the boundaries of consent, such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent;

2.17.3 Prostitution;

2.17.4 Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection; and

2.17.5 Administering alcohol or drugs (such as date rape drugs) to another person without his or her knowledge or consent for the purpose of engaging in sexually-related activity with that person.

2.18 "Sexual Harassment" means any unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual/gendered nature. A form of sexual harassment occurs when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status, submission to or rejection of such conduct by an individual is used as the basis of employment or academic decisions affecting such individual, or such conduct creates a hostile environment.

2.19 "Sexual Penetration" means vaginal or anal penetration by a penis, tongue, finger, or object or oral copulation by mouth-to-genital contact or genital-to-mouth contact.

2.20 "Sexual Touching" means any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual or any other bodily contact in a sexual manner.

2.21 "Stalking" means a course of conduct (i.e. repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of another) directed at a specific person that is unwelcome and would cause a reasonable person to feel fear.

2.22 "Title IX Coordinator" means the Vice President of Student Services/Registrar or other individual assigned by the VP of Human Resources to serve in this capacity.

Section 3. General Provisions.

3.1 West Liberty University is committed to promoting the goals of fairness and equity in all aspects of the educational enterprise. This policy applies with equal force to employees, students, vendors, contractors, and any other outsiders who may interact with West Liberty University or its students or employees.

3.2 This policy applies to behaviors that take place on campus and West Liberty-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial West Liberty University interest. A substantial West Liberty University interest includes, but is not limited to, the following:

3.2.1 Any action that constitutes a criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law committed in the municipality where West Liberty is located;

3.2.2 Any situation where it appears that the accused individual may present a danger or threat to the health or safety of himself/herself or others;

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

3.2.4 Any situation that is detrimental to the educational interests of West Liberty University; or

3.2.5 Any online postings, including cyber-bullying, cyber-stalking, or cyber-harassment on electronic communication systems operated by West Liberty University or on behalf of the University, e.g. Google Apps for Education. Any online postings (as described above) hosted on electronic systems external to the University (e.g. Facebook) will be investigated if they may create a hostile environment on campus.

3.3 Inquiries about this policy may be made internally to the Title IX coordinator, in person, via telephone or via e-mail at kate.billings@westliberty.edu. Contact information for this individuals is located on the West Liberty University website, at <http://www.westliberty.edu>.

Section 4. Discriminatory Harassment.

4.1 West Liberty University is committed to providing a work and educational environment free of discriminatory harassment. This harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters.

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

4.2.1 Discriminatory and Bias-Related Harassment

(i) Harassment constitutes a form of discrimination that is prohibited by law. This policy explicitly prohibits any form of harassment on the basis of actual or perceived membership in a protected category, by any member or group of the West Liberty University community, which creates a hostile environment, both objectively and subjectively. Merely offensive conduct and/or harassment of a generic nature not on the basis of an actual or perceived membership in a protected category is not prohibited by this policy and should be addressed with civil confrontation or effective conflict resolution mechanisms. Contact the West Liberty University Office of Human Resources or, if you are a student, the Office of Student Affairs for assistance with conflict resolution. Harassment that does not rise to the level of creating a hostile environment is a concern to West Liberty University and should be reported so that appropriate intervention and remedies can be implemented, if needed.

(ii) West Liberty University will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of his or her actual or perceived membership in a protected category.

4.2.2 Sexual Harassment

Sexual Harassment is a form of sex/gender discrimination, is an unlawful discriminatory practice, and is a violation of this policy.

Section 5. Additional Misconduct Offenses.

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

5.2 Intimidation, i.e. any administrator, faculty, or staff not authorized by this policy contacting or attempting to contact a complainant directly or indirectly in regard to allegations made, e.g. a coach contacting a female student who has alleged sexual assault by a male athlete;

5.3 Hazing (see West Liberty University's student handbook policy on hazing);

5.4 Bullying (including cyber-bullying);

5.5 Domestic Violence/Intimate Partner Violence;

5.6 Stalking (including cyber-stalking); and

5.7 Failure to comply with restrictions or sanctions during or after the investigation, including but not limited to no contact orders as defined in Section 11.

5.8 Violating any other West Liberty University policies or procedures when such violation is motivated by the actual or perceived membership of the victim in a protected category.

Section 6. Consensual Relationships.

6.1 There are inherent risks in any romantic or intimate relationship between individuals in unequal positions. Thus, except as otherwise provided in Section 6.2, any romantic or intimate relationships in which power differentials are inherent are prohibited, which include, but are not limited to, the following:

6.1.1 relationships between students or applicants for admission and administrators, faculty, coaches, athletic trainers, or any other West Liberty University employee where a direct power differential exists between the student or applicant for admission and the employee;

6.1.2 relationships between a West Liberty University employee holding a direct or indirect supervisory and/or evaluative role over the other person in the relationship; or

6.1.3 any other romantic or intimate relationship between students or applicants for admission and employees or between employees where any employment-related power differential exists between the persons in the relationship.

6.2 Notwithstanding the prohibitions in Section 6.1, any romantic or intimate relationship prohibited in Section 6.1 that exists prior to the creation of a power differential between the individuals involved in the romantic or intimate relationship shall not violate this policy if (i) the individuals in the relationship report the existence of the relationship as required in Section 6.4 upon the creation of the power differential and (ii) the individuals consent to the removal of any potential power differential that could exist. When a party reports the relationship, all involved parties will be contacted to verify the report, review the policy, and determine administrative action. Addressing such a situation may require appropriate administrative action, including but not limited to, shifting or otherwise relocating an employee to a separate department or reporting capacity from the other individual involved in the relationship or the shifting of grading or other decision-making responsibilities of a faculty member which affect a particular student in the case of a pre-existing relationship with that student.

6.3 Issues may also arise in the educational setting or workplace from romantic or intimate relationships between students or applicants for admission and West Liberty University employees or between West Liberty University employees where a direct or indirect supervisory and/or evaluative role or other power differential does not exist between the persons in the relationship. Thus, while not prohibited, such relationships are highly discouraged.

6.4 If a relationship develops that falls under Sections 6.2 or 6.3, the student, applicant for admission, or employee involved in the relationship must timely report the existence and termination, if any, of such relationship as follows: applicants for admission and students shall report to the Vice President of Student Services/Registrar and Academic Dean and employees shall report to the Vice President of Human Resources.

6.5 Once a relationship is reported under Section 6.4, the Vice President and Academic Dean and the Director of Human Resources, respectively, shall inform the persons involved in the relationship of West Liberty University's standards concerning consensual relationships, may set parameters while the persons are on campus, and make take other steps as appropriate.

6.6 Persons who engage in any relationship prohibited by Section 6.1 or who engage in any relationship listed in Sections 6.2 and 6.3 and who fail to timely report shall be subject to administrative action up to and including termination of employment or dismissal from West Liberty University, as applicable.

Section 7. Sexual Misconduct.

7.1 Any person, regardless of their sex, gender, sexual orientation, and/or gender identity may be the victim of sexual misconduct. The following acts of sexual misconduct are prohibited:

7.1.1 Sexual Harassment, as set forth in Section 7.2.2 of this policy;

7.1.2 Non-Consensual Sexual Intercourse;

7.1.3 Non-Consensual Sexual Contact; and

7.1.4 Sexual Exploitation.

7.2 Consent

7.2.1 Since individuals may perceive the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the sexual activity. For consent to be valid, it must be informed, knowing, and voluntary. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in that specific sexual activity. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent, and you are thus urged to seek consent in verbal form. Talking with sexual partners about desires and limits may seem awkward but serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

7.2.2 A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the individual initiating or furthering the sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

7.2.3 This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

7.2.4 Consent to some sexual contact, such as kissing or fondling, cannot be presumed to be consent for other sexual activity, such as intercourse. A current or previous dating or sexual relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

7.2.5 In the State of West Virginia, a minor cannot consent to sexual activity. Thus, sexual contact by an adult with a person younger than 16 years is a crime and must be reported as well as a violation of this policy.

7.3 Filing of Complaints

7.3.1 To file a complaint of sexual misconduct or other violation of this policy falling under Title IX, a sexual misconduct complaint form must be completed. Typically, the form will be completed by an employee, student, or applicant allegedly victimized. However, another individual shall complete the form if they believe a violation occurred. Forms may be obtained

from the Office of Student Affairs, the Office of Human Resources, or on the West Liberty University website. The Title IX Coordinator will provide assistance in completing the form.

7.3.2 Completed Sexual Misconduct Complaint Forms shall be submitted to the Title IX Coordinator as soon as possible after the incident. If a complaint is against the Title IX Coordinator, the Sexual Misconduct Complaint Form shall be filed with Vice President of Student Services/Registrar or Vice President of Human Resources, who will immediately designate a person to begin an investigation consistent with this policy.

7.3.3 As is addressed in more detail in Section 7.5, the Title IX Coordinator shall conduct a prompt, thorough, reliable, and impartial investigation of all complaints or shall appoint unbiased investigators to do so. Interim corrective measures may be taken during the investigation process, such as a ban from certain locations or events on campus, an adjustment to an academic schedule, and/or a temporary suspension or removal from campus. Parties will be informed, on an ongoing basis, of the status of the investigation, to the extent possible, appropriate, and practical, and provided that update does not interfere with the investigation. Parties requesting information on the status of the investigation should contact the Title IX Coordinator.

7.3.4 Upon completion of the investigation, the Title IX Coordinator shall provide a written report of investigation, which will provide an opinion of the complaint on the basis of the legal standard of "preponderance of the evidence." Parties will be notified simultaneously and in writing of the disposition of the complaint and the process for appeal.

7.4 Receipt of Notice

Regardless of whether a complaint is filed under Section 7.3, if a Mandatory Reporter (as defined herein) receives notice concerning alleged sexual misconduct or other violation of this policy falling under Title IX, then that Mandatory Reporter shall report to the Title IX Coordinator as much of the information as that employee is permitted to report under applicable confidentiality laws, unless an immediate threat of harm exists to self or others. Upon receipt of the notice, the Title IX Coordinator shall investigate the information contained in the notice, determine what sexual misconduct or other violation of this policy occurred, if any, and respond appropriately. The Title IX Coordinator's response may vary, depending on the information contained in the particular notice, including initiation of the formal investigation process set forth in Sections 7.3.3 and 7.3.4 above. The Title IX Coordinator shall immediately report allegations of criminal conduct to the appropriate law enforcement agency.

7.5 Investigation

7.5.1 Following the receipt of a report of sexual misconduct, the respondent will be notified that a report has been filed and will be given written notice of the allegations. The respondent will have the opportunity to submit a statement within five business days, whenever possible. The respondent and complainant will be given the opportunity to meet separately with the Title IX Coordinator (or designee) to review the policy and procedure.

7.5.2 A specially trained investigator(s) designated by the Title IX Coordinator will interview the complainant, respondent, and any witnesses. This investigator(s) will also gather any pertinent documentation materials. The investigator will not interview witnesses whose sole purpose is to provide character information. The investigator(s) will then prepare a report detailing the relevant content from the interviews and the documentation materials gathered.

7.5.3 Directly following the conclusion of the investigation, a determination of whether or not to proceed to the administrative resolution (see below) phase will be made. This determination will be based on whether reasonable cause exists to believe that a policy violation may have occurred. If reasonable cause does not exist, the procedure will be concluded at this point. However, West Liberty University may institute other forms of remedial, community-based efforts such as educational initiatives and/or trainings.

7.6 Administrative Resolution

7.6.1 If reasonable suspicion exists to move to the administrative resolution phase of the process, the respondent and complainant will have the opportunity to review the investigative report and the documentation from the investigation. Given the sensitive nature of the information provided in the investigative report, the review of the report must occur in the Title IX Coordinator's/Vice President of Human Resource or the Campus Judicial Coordinator's office. Ample time will be afforded to the complainant and respondent to review the report prior to responding to the allegations.

7.6.2 Following this review, the respondent will be given the opportunity to respond to the alleged violation of policy in the following ways: 1) No response; 2) Not Responsible; or 3) Responsible.

7.6.3 If the respondent is a student and accepts responsibility, the Title IX Coordinator will determine whether or not the case will proceed to a Campus Judicial Board or sanction based on the evidence provided in the investigative report and documentation. The Title IX Coordinator (or designee) will contact the respondent to inform him/her of the sanctioning outcome within five business days whenever possible.

7.6.4 The complainant and respondent will be made aware of the sanctioning decision. The Title IX Coordinator will contact the respondent to inform him/her of the sanctioning outcome within five business days whenever possible. The complainant will then have the opportunity to appeal the sanctioning decision by Vice President of Student Services/Registrar or his or her designee. The acceptance of responsibility, however, is not appealable (see Appeals Process.)

7.6.5 If the respondent is a student and declines responsibility or chooses not to respond, a Campus Judicial Board will be convened unless the student agrees to move to the sanctioning phase without need for a Campus Judicial Board.

7.6.6 If the respondent is an employee, the results of the investigation will be forwarded to the President for appropriate administrative resolution.

7.7 The Hearing Process

7.7.1 In matters involving only students, a Campus Judicial hearing will be convened within 25 calendar days of receipt of the final investigation report. The hearing will follow the process and procedures set out in West Liberty University's Student Handbook.

7.8 Refusal to Participate

7.8.1 In cases where a complainant and/or respondent is a student and refuses to participate in the investigative process and where it is determined that reasonable suspicion exists to believe a policy may have been violated, a Campus Judicial Board will convene and determine a finding based on the information available to it.

7.9 Appeal

7.9.1 Any party who wishes to appeal the recommendations contained in the report of investigation as they relate to sexual misconduct or other violations of this policy falling under Title IX shall appeal to the Campus Judicial Board. Appeals shall be in writing and shall be delivered to the Title IX Coordinator or his or her designee. A decision reached by the Campus Judicial Board or a sanction imposed may be appealed by the accused student(s) or complainant(s) to the Vice President of Student Services/Registrar within five (5) school days of the decision. However, the president may appoint a different administrator to hear an appeal, e.g. when the Vice President of Student Services/Registrar recuses herself/himself or when a conflict of interest exists.

7.9.2 Recommendations not related to a student's alleged sexual misconduct or other student violations of this policy falling under Title IX shall be addressed through applicable West Liberty University policies and procedures, including handbooks, concerning employee and student conduct, as set forth in Section 9.

7.9.3 All appeals and responses are then reviewed by the Appeals Officer to determine if the appeal request meets the limited grounds and is timely. The original recommendations and sanctions will stand if the appeal is not timely or does not fall within the grounds for appeal set forth below, and the decision is final. The original recommendations and sanctions will also remain in effect pending the outcome of any appeal. If the appeal has standing, the Appeals Officer will consider the appeal. The party requesting the appeal has the burden of proving the error, as the original recommendations and sanctions are presumed to have been decided reasonably and appropriately. The only grounds for appeal are as follows:

- (i) A procedural or substantive error occurred that significantly impacted the outcome of the investigation, such as substantiated bias or material deviation from established procedures;
- (ii) To consider new evidence, unavailable during the original investigation, that could substantially impact the original recommendations or sanctions (a detailed description of this new evidence and its potential impact must be included); or

(iii) The sanctions imposed are substantially disproportionate to the severity of the violation.

7.9.4 Within five (5) business days of receiving the response(s) to the appeal(s), if any, the Appeals Officer will provide to both parties a Memorandum of Decision.

7.9.5 If the Appeals Officer determines that a material procedural or substantive error occurred, the Appeals Officer may return the matter to the original investigators and/or judicial board with instructions to reconvene to cure the error. When the original investigators are unavailable, another specially trained investigator may be substituted by the Title IX Coordinator to review the appeal. The results of a reconvened investigation cannot be appealed. In rare cases where the procedural or substantive error cannot be cured by the original investigators, as in cases of substantiated bias, the Appeals Officer may order a new investigation on the complaint with new investigators. The results of a new investigation can be appealed once on the applicable grounds for appeals.

7.9.6 If the Appeals Officer determines that new evidence should be considered, the Appeals Officer will return the matter to the original investigators to reconsider in light of the new evidence only. The reconsideration of the original investigators is not appealable.

7.9.7 If the Appeals Officer determines that the sanctions imposed are disproportionate to the severity of the violation, the Appeals Officer will return the matter to the hearing board, which will modify the sanctions according to the directions of the Appeals Officer. The modified decision of the board is final.

7.9.8 Once an appeal is completed, the parties will be notified of the final determination and any changes that result.

Section 8. Reporting of Violations of this Policy.

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

8.1.1 Reports of discrimination, harassment, retaliation, or other violations of this policy should be made to the Title IX Coordinator;

8.1.2 Reports of violations of this policy involving the Vice President of Human Resources or the Title IX Coordinator shall be made to the President;

8.1.3 Reports of violations of this policy involving the Provost and Academic Dean shall be made to the President of West Liberty;

8.1.4 Reports of violations of this policy involving the President of West Liberty shall be made to the Chair of the West Liberty University Board of Governors; and

8.1.5 Reports of violations of this policy involving the Chair of the West Liberty University Board of Governors shall be made to the Chancellor of the West Virginia Higher Education Policy Commission.

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

8.3 Individuals responsible for receiving and investigating complaints made under this policy shall ensure that victims are notified of their option to seek assistance from law enforcement and/or campus authorities. In addition, victims shall be provided with contact information for the local domestic violence shelter and magistrate court for purposes of determining whether to seek additional relief from the alleged conduct.

8.4 Upon receiving a report of an alleged violation of this policy, the appropriate administrator listed in Section 8.1 shall promptly investigate the alleged violation contained in the report.

8.5 Although reports of violations of this policy should be and are expected to be made promptly, there is no time limitation on the filing of reports, as long as the accused individual remains subject to West Liberty University's jurisdiction.

Section 9. Violations of Policy.

9.1 Any employee or student who is found to have violated this policy will be subject to administrative action, up to and including termination of employment or dismissal from West Liberty University, as applicable.

9.2 Except as provided in Section 7 of this policy concerning sexual misconduct or other violations of this policy falling under Title IX, violations of this policy shall be addressed as follows:

9.2.1 Violations by students shall be addressed through West Liberty University policies and procedures in the Student Code of Conduct.

9.2.2 Violations by employees shall be addressed through the West Virginia Higher Education Policy Commission rules and procedures and the West Liberty University policies and procedures on employee conduct, including applicable faculty and staff handbooks.

Section 10. Retaliation.

10.1 Retaliation is a serious violation of this policy. No retaliation shall occur against any individual who participates in any way in an investigation of a claim of sexual misconduct or harassment, including but not limited to alleging sexual misconduct or harassment, supporting a complainant, or providing information relevant to a claim of sexual misconduct or harassment. Retaliation will be treated as another instance of harassment or discrimination and shall be reported immediately as set forth in Section 8.1. West Liberty University will take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Section 11. Campus No-Contact Orders.

11.1 A campus no-contact order is a directive issued by a campus authority that forbids contact between parties or from one party to another. Such an order may be issued through the formal reporting process

(i.e. Student Affairs, Human Resources, or under the direction of a Title IX Coordinator). This may apply to communications in-person, online, and other forms of contact, both on- and off-campus. This is different than a civil order which is issued by a court. Campus no-contact orders may be issued as a sanction or outcome and may also be issued on an interim basis while an incident is under investigation or adjudication. The burden of proof for a campus no-contact order is often less than that required for a court issued order, and the consequences for violating it are also limited to action that can be taken by West Liberty University, such as an additional student conduct charge of failure to comply with a university official.

Section 12. Remedial Action.

12.1 West Liberty University will implement initial remedial and responsive actions upon notice of alleged harassment, retaliation, or discrimination and will take additional prompt remedial and/or disciplinary action with respect to any member of the West Liberty community, guest, or visitor who has been found to engage in harassing or discriminatory behavior or retaliation.

12.2 Deliberately false and/or malicious accusations of harassment, as opposed to good faith complaints which ultimately turn out to be erroneous, are serious and will be subject to appropriate disciplinary action.

Section 13. Confidentiality of Reported Information.

13.1 Depending upon their roles, West Liberty University administrators have varying reporting responsibilities and abilities to maintain the confidentiality of the individual making the report. Prior to reporting a violation of this policy to a particular administrator, an individual may inquire as to whether that administrator is bound by certain confidentiality and mandatory reporting requirements. Some West Liberty University resources may be able to maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless the reporting person requested information to be shared or the information indicates an immediate threat of harm to self or others. This distinction—the obligation to report or not to report conduct to external agencies—is especially critical in regard to criminal conduct.

13.1.1 If one wishes to keep their identity and the details of an incident confidential, they may find it helpful to speak with the on-campus mental health counselor, campus health service provider, or off-campus rape crisis resources or clergy members who can maintain confidentiality. A campus counselor is available to help students free of charge. A complainant may wish to consider this option if he or she:

- (i) Would like to know about support and assistance but are not sure if they want to pursue formal action against the individual;
- (ii) Have questions or would like to process what happened with someone without involving police or campus disciplinary procedures; or
- (iii) Do not want the perpetrator to know that they are seeking help or support.

13.1.2 There are occasions when even confidential resources have some obligations to report, such as in situations of imminent danger and/or sexual abuse of a minor. Thus, West Liberty University cannot guarantee confidentiality to those who report incidents of sexual violence except where those reports are privileged communications with licensed health care professionals. In such instances, West Liberty University will investigate and take appropriate action, taking care to protect the identity of the complainant and any other reporter as best possible in accordance with this policy.

13.2 When a report of gender-based misconduct is filed, the complainant, the respondent, and all identified witnesses who are named in the investigation will be notified of West Liberty University's expectation of confidentiality/privacy. Subject to the issues addressed in Section 13.1, West Liberty University will make all reasonable efforts to maintain the confidentiality/privacy of parties involved in sexual or gender-based misconduct investigations. Breaches of confidentiality/privacy may result in additional disciplinary action.

Section 14. Federal Timely Warning Obligations.

14.1 Victims of sexual misconduct should be aware that West Liberty University administrators must issue timely warnings to the West Liberty University community for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. No such warning will identify a victim or contain information that could do so unless authorized by the victim.

Section 15. Implementation of Policy.

15.1 This policy will be implemented using applicable West Virginia Higher Education Policy Commission rules and procedures, West Liberty University policies and procedures, and West Liberty University faculty, staff, and student handbooks. In the event that the individual, name, title, or contact information changes for any of the individuals listed in this policy, the Board of Governors Executive Committee of West Liberty may revise such information within this policy without resubmittal of this policy through the rulemaking process (BOG Policy 23).

Approved by the WLSC Board of Governors on Dec. 11, 2006.

Revision approved by the WLU Board of Governors executive committee on Nov. 25, 2014.

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