



## **WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS POLICY #32**

### **DISCRIMINATION, HARASSMENT, SEXUAL HARASSMENT, SEXUAL MISCONDUCT, DOMESTIC MISCONDUCT, STALKING, RETALIATION, AND RELATIONSHIPS**

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**Approval Date:**

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**President's Signature: On File**

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#### **SECTION 1: Purpose and Scope**

- 1.1 West Liberty University is committed to fostering a diverse and inclusive culture by promoting diversity, inclusion, equality, and intercultural and intercommunity outreach.
- 1.2 The University does not discriminate on the basis of race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression in the administration of any of its educational programs, activities, or with respect to admission or employment.
- 1.3 This Policy sets forth how Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, Retaliation, and certain relationships will be addressed by the University, including Sexual Harassment prohibited by Title IX.

#### **SECTION 2: Delegation**

- 2.1 The Board of Governors delegates to the President or the President's designee the authority to adopt additional internal anti-discrimination policies and procedures to effectuate the implementation of this Board of Governors Policy or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Policy, including adopting any Title IX grievance procedures required by the federal regulations. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Policy.

#### **SECTION 3: Jurisdiction**

- 3.1 West Liberty University is committed to promoting the goals of fairness and equity in all aspects of the educational enterprise. The University prohibits Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation as defined in this Policy (collectively referred to as "Prohibited Conduct") by or against any Member of the University Community occurring within the University's Jurisdiction.



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- 3.2 There are two types of jurisdiction covered by this Policy: Title IX jurisdiction and General jurisdiction.
- 3.2.1 Title IX Jurisdiction: Formal Complaints of "Sexual Harassment (Quid Pro Quo)", "Sexual Harassment (Hostile Environment)", "Sexual Assault", "Domestic Misconduct", and "Stalking" that occur in a University Education Program or Activity and within the United States will be covered by Title IX jurisdiction. Those instances are referred to as "Title IX Sexual Harassment."
- 3.2.1.1 Title IX jurisdiction does not apply if: (1) the conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined in this policy, (2) the conduct alleged did not occur in a University Education Program or Activity, or (3) the conduct alleged did not occur against an individual in the United States.
- 3.2.1.2 Title IX Prohibited Conduct are subject to the University Title IX Procedures.
- 3.2.2 General Jurisdiction: All other complaints of Prohibited Conduct will be within the University's jurisdiction if the behavior (a) occurs on University premises; (b) occurs off-campus and would unreasonably interfere with the educational or orderly operation of the University community, its mission, or its objectives determined by a reasonable person; or (c) occurs off-campus and in light of all of the facts and circumstances, would endanger the health and safety of the University community.
- 3.2.2.1 General jurisdiction Prohibited Conduct are subject to disciplinary action under University Policies and Procedures and the Student Code of Conduct.

## **SECTION 4: Prohibited Conduct**

### **4.1 Discrimination**

- 4.1.1 "Discrimination" means conduct that is based upon an individual's race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression and excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or



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condition of an individual's employment, education, living environment or participation in a University program or activity. This includes failure and refusal to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities. It does not, however, include programs or activities specifically exempt by law. See, e.g., 20 U.S.C. § 1681(a).

#### **4.2 Harassment**

4.2.1 "Harassment" means conduct that creates a Hostile Environment, as defined below, and is based upon an individual's race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression. Harassment may take various forms, including, but not limited to, name-calling, graphic or written statements (including the use of social media, text messages, e-mail, or other similar forms), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not necessarily have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment also includes Sexual Harassment, which is defined below.

#### **4.3 Sexual Harassment**

4.3.1 "Sexual Harassment" means uninvited and unwelcome verbal or physical conduct on the basis of sex, including sexual orientation and gender identity.

4.3.1.1 Sex based Harassment includes Sexual Harassment and Non-Sexual Harassment based on stereotypical notions of what is female/feminine versus male/masculine or a failure to conform to those gender stereotypes.

4.3.1.2 In determining whether alleged conduct constitutes Sexual Harassment, consideration shall be given to the record as a whole and to the totality of the circumstances, including the nature of sexual behavior and the context in which the alleged incident(s) occurred.



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4.3.1.3 Sexual Harassment may occur between people of the same sex or people of different sexes. Examples of Sexual Harassment may include, but are not limited to, unsolicited, deliberate, or repeated touching, sexual flirtation, advances or propositions which are not welcomed and/or desired; unwelcome jokes, stories, comments, innuendos, or other sexually oriented statements which are specifically designed to embarrass or humiliate through their sexual subject matter content; unwelcome sexual communication such as graphic or degrading comments about one's gender related to personal appearance; unwelcome display of sexually explicit materials, objects, or pictures in an individual's place of work or study, such as viewing material on computers or other electronic devices where others can see. Importantly, these and any other examples in this Policy, are provided only for illustration purposes and all conduct must still meet the applicable definitions in the Policy before rising to the level of prohibited conduct.

#### 4.3.2 Title VII Sexual Harassment

4.3.2.1 Title VII is a federal employment-discrimination statute that prohibits Discrimination and Harassment in employment on the basis of sex. The University is required to address Title VII prohibited acts if the University knew or should have known about the conduct, unless it can show that it took immediate and appropriate corrective action; no Formal Complaint is required.

4.3.2.2 Title VII prohibits acts of Sexual Harassment include, but are not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute Sexual Harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.



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- 4.3.2.2.1 Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is Discrimination on the basis of sex in violation of Title VII.
- 4.3.2.3 Title VII Sexual Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. The victim does not have to be the person harassed but can be anyone affected by the offensive conduct. Unlawful Harassment may occur without economic injury to, or discharge of, the victim. The law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious. The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the WLU, such as a student. Title IX Sexual Harassment in the employment context constitutes Title VII Sexual Harassment.
- 4.3.2.4 Whether Harassment is severe or pervasive enough to be illegal is made on a case-by-case basis. Title VII Sexual Harassment includes all Title IX Sexual Harassment and Sexual Exploitation as defined by this Policy.
- 4.3.3 Title IX Sexual Harassment
  - 4.3.3.1 Title IX Sexual Harassment means conduct on the basis of sex that satisfies one more of the following categories:
    - 4.3.3.1.1 "Quid Pro Quo" Sexual Harassment occurs when a University employee conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
    - 4.3.3.1.2 "Hostile Environment" means unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Programs or Activities.



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4.3.3.1.3 Clery Act violations, including “Sexual Assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “Dating Violence” as defined in 34 U.S.C. 12291 (a)(10), “Domestic Violence” as defined in 34 U.S.C. 12291(a)(8), and “Stalking” as defined in 34 U.S.C. 12291(a)(30).

#### **4.4 Hostile Environment**

4.4.1 “Hostile Environment” means a situation where an individual is subjected to any conduct based on the reasons set forth in Sections 4.2 or 4.3 and that conduct, determined by a reasonable person, is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's programs or activities.

4.4.2 A Hostile Environment can be created by anyone involved in a University program or activity (e.g., administrators, faculty members, students, and even campus guests). Mere offensiveness is not enough to create a Hostile Environment. Although repeated incidents increase the likelihood that Harassment has created a Hostile Environment, a serious incident, even if isolated, can be sufficient to create a Hostile Environment.

4.4.3 In determining whether Harassment has created a Hostile Environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation to the Complainant would have perceived the conduct as sufficiently severe, pervasive, and objectively offensive. Also, the following factors will be considered:

4.4.3.1 The degree to which the conduct affected one or more students' education or individual's employment; the nature, scope, frequency, duration, and location of incident or incidents; the identity, number, and relationships of persons involved; and the nature of Higher Education.

#### **4.5 Sexual Misconduct**

4.5.1 “Sexual Misconduct” means “Sexual Assault” or “Sexual Exploitation,” as defined below. While “Sexual Assault” is included in the definition of “Title IX Sexual Harassment”, “Sexual Exploitation” is not.





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- 4.5.1.1 “Sexual Assault” means an offense that meets the definition of Rape, Fondling, Incest or Statutory Rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without that person’s Consent (including instances where the victim is incapable of giving Consent), and includes each of the following:
- 4.5.1.1.1 “Rape” means (i) sexual intercourse, or (ii) oral or anal sexual intercourse, or (iii) use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, either (A) forcibly and/or against that person’s will, or (B) against the person’s will in instances where the victim is incapable of giving Consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
  - 4.5.1.1.2 “Fondling” means touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or not against the person’s will in instances where the victim is incapable of giving Consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
  - 4.5.1.1.3 “Incest” means nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - 4.5.1.1.4 “Statutory Rape” means nonforcible sexual intercourse with a person who is under the statutory age of Consent. In West Virginia, the age of Consent is sixteen (16).
  - 4.5.1.1.5 “Consent” is defined as agreement, approval, or permission as to some act or purpose that is given knowingly, willingly, and voluntarily by a competent person. Silence, by itself, cannot constitute Consent. Consent to one sexual act does not constitute or



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imply Consent to a different sexual act. Previous Consent cannot imply Consent to future sexual acts. Consent is required regardless of the parties' relationship status or sexual history together.

4.5.1.1.6 A person is not competent and therefore lacks the ability to "Consent" where there is either "Forcible Compulsion" or "Incapacity to Consent."

4.5.1.1.6.1 "Forcible Compulsion" means (i) physical force that overcomes such earnest resistance as might reasonably be expected under the circumstances; (ii) threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to himself or herself or another person or in fear that he or she or another person will be kidnapped; or (iii) threat or intimidation, express or implied, that the aggressor will retaliate or cause damage to the victim's reputation if the victim does not give into the aggressor's sexual advances.

4.5.1.1.6.2 "Incapacity to Consent" means that person is (i) either less than sixteen years old; (ii) mentally incapacitated; (iii) physically unable to resist; or (iv) is so intoxicated as to be incapacitated (i.e., unable to knowingly and intentionally make decisions for him or herself).

4.5.1.1.6.3 Intoxication from alcohol or drug use, alone, does not bar Consent.

4.5.1.1.6.4 Incapacitation negates Consent when the alleged perpetrator knows, or a reasonable person, under the





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circumstances, should know, that the alleged victim is incapacitated.

4.5.1.2 “Sexual Exploitation” means taking sexual advantage of another person without his or her Consent.

4.5.1.2.1 Sexual advantage includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts of another person; allowing third parties to observe private sexual acts; disclosing, causing to be disclosed or threatening to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, or coerce, an image of another which shows the intimate parts of the depicted person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person depicted had a reasonable expectation that the image would not be publicly disclosed; and engaging in voyeurism.

#### **4.6 Domestic Misconduct**

4.6.1 “Domestic Misconduct” means “Domestic Violence” and “Dating Violence” as defined below.

4.6.1.1 “Domestic Violence” means Domestic Violence as defined under the Clery Act and W. Va. state law.

4.6.1.1.1 Under the Clery Act, Domestic Violence means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the alleged victim as a spouse or intimate partner; by a person similarly



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situated to a spouse of the alleged victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by 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.

4.6.1.1.2 Under W. Va. state law, "Domestic Violence" or "Abuse" means the occurrence of one or more of the following acts between Family or Household Members, as defined under W. Va. Code: (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 W. Va. Code; and (5) Holding, confining, detaining or abducting another person against that person's will.

4.6.1.1.2.1 For purposes of this subsection, "Family or Household Members" means persons who: (i) are or were married to each other; (ii) are or were living together as spouses; (iii) are or were sexual or intimate partners; (iv) are or were dating: provided, that a casual acquaintance or ordinary fraternization between persons in a business or social context does not establish a dating relationship; (v) are or were residing together in the same household; (vi) have a child in common regardless of whether they have ever married or lived



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together; or (vi) have the relationships described in W. Va. Code § 48-27-204.

4.6.1.2 “Dating Violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a 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 in the relationship.

4.6.1.2.1 The view of the Complainant shall generally be controlling in determining whether such a relationship existed.

4.6.1.2.2 Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence, for purposes of this Policy, does not include emotional abuse.

#### **4.7 Stalking**

4.7.1. “Stalking” means engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to: (i) fear for his or her safety or the safety of others; or (ii) suffer Substantial Emotional Distress.

4.7.1.1 “Course of Conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

4.7.1.2 A “Reasonable Person,” for purposes of this definition, means a reasonable person under similar circumstances and with similar identities to the Complainant.

4.7.1.3 “Substantial Emotional Distress,” for purposes of this definition, means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.



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#### **4.8 Retaliation**

- 4.8.1 No individual may intimidate, threaten, coerce, or discriminate against any individual either in person, virtually, electronically or through a third-party for the purpose of interfering with any right or privilege secured by Title IX, Title VII, or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.
- 4.8.2 Intimidation, threats, coercion, or Discrimination, including charges against an individual for violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes Retaliation.
- 4.8.3 The exercise of rights protected under the First Amendment does not constitute prohibited Retaliation.

#### **4.9 False Statements**

- 4.9.1 Making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute prohibited Retaliation under this Policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith.

### **SECTION 5: Consensual Relationships**

- 5.1 There are inherent risks in any Consensual Relationship between individuals in unequal or closely related positions. Thus, except as otherwise provided in Section 5.2, any Consensual Relationships in which power differentials are inherent are prohibited, which include, but are not limited to, the following:
  - 5.1.1 Relationships between students or applicants for admission and administrators, Faculty, coaches, athletic trainers, or any other Member of the University Community where a direct power differential exists;
    - 5.1.1.1 Faculty, staff, or other Members of the University Community are prohibited from or attempting to initiate, pursue, or engage in a relationship (consensual or non-consensual) with a student



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whom the individual evaluates, supervises, instructs, advises, or otherwise has authority or control over.

- 5.1.2 Relationships between Members of the University Community holding a direct or indirect supervisory and/or evaluative role over the other person in the relationship.
- 5.2 Notwithstanding the prohibitions in Section 5.1, any Consensual Relationship prohibited in Section 5.1 that exists prior to the creation of a power differential between the individuals involved in the Consensual Relationship shall not violate this Policy if (i) the individuals in the relationship report the existence of the relationship as required in Section 5.3 upon the creation of the power differential and (ii) the individuals consent to the removal or mitigation of any conflict of interest, disruption, or other legitimate occupational or educational interest.
  - 5.2.1 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.
- 5.3 If a relationship develops that falls under Sections 5.1 or 5.2, the student, applicant for admission, or employee involved in the Consensual Relationship must timely report the existence and termination, if any, of such relationship as follows:
  - 5.3.1 Students or applicants for admission shall report to the Vice President of Student Services/Registrar.
  - 5.3.2 Employees shall notify their immediate supervisor AND the Chief Human Resources Officer.
- 5.4 Once a relationship is reported under Section 5.3, the Vice President of Student Services/Registrar, Provost and/or Academic Dean, and the Chief Human Resources Officer, respectively, shall inform the persons involved in the Consensual Relationship of West Liberty University's standards concerning Consensual Relationships, may set parameters while the persons are on campus, and may take other steps as appropriate to remove or mitigate any



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conflict of interest, disruption, or other legitimate occupational or educational interest.

- 5.4.1 However, if no suitable way to eliminate or mitigate the conflict is reasonably feasible, an employee may be separated from employment at the University.
- 5.4.2 Those involved in these types of Consensual Relationships must remain aware that such relationships could lead to circumstances that result in Harassment, Sexual Misconduct, or Domestic Misconduct. Additionally, others may perceive a person involved in the Consensual Relationship as receiving favorable treatment in employment or educational decisions.
- 5.5 Issues may also arise in the educational setting or workplace from Consensual Relationships between students or applicants for admission and other Members of the University Community 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.
- 5.6 Persons who engage in any Consensual Relationship prohibited by Section 5.1 or who engage in any relationship listed in Sections 5.2 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 6: Coordination**

- 6.1 The President or the President's designee shall appoint University employees to serve as the University's Title IX Coordinator, the University's Section 504 and ADA Coordinator and any other coordinators necessary to assist in the implementation of this Policy. The Coordinators shall work directly with the President's Office, Provost's Office, General Counsel's Office, Human Resources, Office of Student Conduct, and University Police Department in implementing an anti-discrimination and Title IX program.
- 6.2 The University shall design and administer a comprehensive anti-discrimination and Title IX program that develops appropriate procedures for the reporting and investigation of complaints regarding allegations of Prohibited Conduct, including specific grievance procedures for complaints covered by Title IX jurisdiction.





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#### **SECTION 7: Reporting**

- 7.1 Any Member of the University Community who has witnessed, been subject to, or is aware of any of the Prohibited Conduct under this Policy is strongly encouraged to report any concerns to the Title IX Coordinator of the Chief Human Resources Officer.
- 7.2 All Responsible Employees **must** report incidents of Title IX Prohibited Conduct to the Title IX Coordinator at:

**Kate Billings, Title IX Coordinator**  
208 University Drive, CUB 104  
West Liberty, WV 26074  
Phone Number: 304.336.8580  
E-mail: [kate.billings@westliberty.edu](mailto:kate.billings@westliberty.edu)

#### **SECTION 8: Procedures for Filing Complaint**

- 8.1 Any Member of the University Community who believes he or she has been subject to any of the Prohibited Conduct may file a complaint, including a Formal Complaint of Title IX Sexual Harassment. Where appropriate, the University Title IX Coordinator may also file a complaint, including a Formal Complaint of Title IX Sexual Harassment, on behalf of a Complainant.
- 8.2 The University shall formulate a procedure to investigate and respond to all complaints regarding alleged misconduct in violation of this Policy.
- 8.3 For any Title IX Sexual Harassment, as referenced above in Section 4.3.3, the University shall adopt grievance procedures that meet the requirements of 34 C.F.R Part 106, specifically 34 C.F.R. §§ 106.44, 106.45.
- 8.4 In all cases, complaints will be handled in such a manner so as to achieve a prompt and equitable resolution. Further, the University will take the appropriate steps to end the misconduct, prevent any further misconduct or Retaliation, remedy the effects of misconduct, and eliminate any Hostile Environment that has been created.
- 8.5 Any investigation resulting from a complaint will be separate from and in addition to any criminal investigation that may result.
- 8.6 If any individual is found to have intentionally or maliciously been dishonest, reckless, or frivolous in reporting allegations of a violation under this Policy, the individual will be subject to appropriate disciplinary action.



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#### **SECTION 9: Confidentiality**

- 9.1 The University respects the privacy of those reporting Prohibited Conduct and will endeavor to respect requests for confidentiality if possible. However, the University has certain legal obligations to address Prohibited Conduct and to prevent its recurrence and, as a result, cannot guarantee confidentiality.
- 9.2 When the University must proceed with an investigation against the wishes of a Complainant, the University will take necessary steps to address any safety and other considerations relevant under the circumstances. In determining whether a Complainant's request for confidentiality can be maintained, the University may consider a range of factors and evaluate the request in the context of its responsibility to provide a safe and nondiscriminatory environment for all Members of the University Community.
- 9.3 Confidential resources are available for Members of the University Community who have been subject to Prohibited Conduct. Specifically, individuals may contact the on-campus mental health counselors, campus health services, or clergy members.

#### **SECTION 10: Violations of Policy**

- 10.1 Any Faculty, Staff, or University volunteer who violates this Policy shall be subject to appropriate disciplinary action, including suspension, termination, or other disciplinary action as may be appropriate.
- 10.2 Any Student who violates this Policy shall be subject to appropriate disciplinary action, including, in accordance with the Student Code of Conduct, suspension, expulsion, or other disciplinary action as may be appropriate.
- 10.3 Other Members of the University Community (excluding Faculty, Staff, Students, and University volunteers which are discussed above) who violate this Policy shall be subject to appropriate corrective action, including, but not limited to, issuance of a no trespass order or cancellation of relationship with the University.
- 10.4 The University encourages Complainants to contact local law enforcement to report incidents of Prohibited Conduct that may also be crimes under criminal statutes. In addition, where appropriate under the circumstances, Prohibited Conduct that constitutes a criminal law violation will be referred to the authorities for prosecution.



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- 10.5 Furthermore, although conduct may not violate this Policy, it may still be prohibited by the University under a different policy, or standard of behavior. Accordingly, the University reserves the right to take any appropriate action.

#### **SECTION 11: Free Expression, Academic Freedom, And Accountability**

- 11.1 Free expression and academic freedom at the University are necessary to enable the institution to reach its goals to engage students in a challenging academic environment; excel in research, creative activity, and innovation in all disciplines; foster diversity and inclusion; advance international activity and global engagement; and enhance the well-being and the quality of life of the people of West Virginia.
- 11.2 Consequently, while this Policy seeks to protect Members of the University Community from Discrimination, Harassment, Sexual and Domestic Misconduct, certain Consensual Relationships, Stalking, and Retaliation, it should be read in conjunction with Board of Governor Policies regarding free expression and academic freedom.

#### **SECTION 12: Definitions**

- 12.1 “Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment (under Title IX) or other Prohibited Conduct by this Policy that is reported to the University or, where appropriate, the University when proceeding on a complaint when the alleged victim is unavailable or unwilling to participate.
- 12.2 “Consensual Relationship” means a mutually acceptable romantic amorous, dating or sexual relationship between individuals.
- 12.3 “Education Program or Activity” includes locations, events, or circumstances over which WLU exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs. Education program or activity also includes any building owned or controlled by an officially recognized student organization.
- 12.4 “Faculty” means the class of individuals who are specifically appointed as such by the President including, but not limited to, faculty with academic rank as well



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as such professional personnel such as librarians, faculty equivalents, adjuncts, and academic professionals.

- 12.5 “Formal Complaint” means a document (including an electronic submission) filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent about conduct within WLU’s Education Program or Activity and requests that the school investigate the allegation of Sexual Harassment.
- 12.6 “Member of University Community” means (i) an individual engaged in any University activity or program, whether on or off campus; (ii) any individual lawfully on University property; (iii) any individual that is a University student, Faculty, Staff, University official, University volunteer, or a University visitor; and (iv) any vendor or contractor, including that vendor’s or contractor’s employees and independent contractors, who are working on campus.
- 12.7 “President” means the President of West Liberty University or the President’s designee.
- 12.8 “Respondent” means an individual or recognized student organization or team reported to be the perpetrator of Prohibited Conduct in an initial report or Formal Complaint.
- 12.9 “Responsible Employee” means those employees in a leadership or supervisory position, or who have significant responsibility for the welfare of students or employees. Specifically, this term includes: Title IX Coordinator; University Police Officers; Senior Administrators in Residence Life, Student Life, and Athletics; University Senior Administrators, including Senior Administrators within each College or School; Resident Assistants; Faculty; and Athletic Team Coaches and their Staff.
- 12.10 “Staff” means any employee, including temporary or part time employees, of the University.
- 12.11 “Student” means any individual subject to the West Liberty University Board of Governors Policy 54, Student Privileges, Rights and Responsibilities.

### **SECTION 13: Authority**



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- 13.1 W. Va. Code §§ 18B-1-6, 18B-2A-4; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681; the West Virginia Human Rights Act, W. Va. Code §§ 5-11-1 to -20; the Campus Sexual Violence Elimination Act, 20 U.S.C. § 1092, and the Violence Against Women Act of 1994, 42 U.S.C. § 13925; 34 C.F.R. Part 106.

#### SECTION 14: Revision History

- 14.1 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. Revision approved by the WLU Board of Governors on June 8, 2016. ***Revision approved by the WLU Board of Governors Executive Committee on September 30, 2020 and Full Board on October 14, 2020 under BOG Policy 23, Section 5, Emergency Circumstances to comply with new regulations effective August 14, 2020.***