

**WEST VIRGINIA UNIVERSITY**

**UNIVERSITY GUIDELINES AND PROCEDURES REGARDING COMPLAINTS  
MADE AGAINST EMPLOYEES OR NON-STUDENTS OF DISCRIMINATION,  
HARASSMENT, SEXUAL HARASSMENT, SEXUAL MISCONDUCT, DOMESTIC  
MISCONDUCT, STALKING, AND RETALIATION**

**Section 1: General.**

- 1.1 Purpose: To establish guidelines and procedures for the implementation of West Virginia University Board of Governors Policy 44, Policy Regarding Discrimination, Harassment, Sexual Harassment, Sexual & Domestic Misconduct, Stalking, and Retaliation, the University's Non-Discrimination Policy & Statement, and the Campus Sexual Violence Elimination Act, 20 U.S.C. § 1092, and the Violence Against Women Act of 1994, 42 U.S.C. § 13925, as amended. West Virginia University is committed to creating and fostering a positive learning and working environment based on open communication, mutual respect, and inclusion. Accordingly, West Virginia University prohibits discrimination or harassment 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. The Division of Diversity, Equity and Inclusion, as the President's designee, is charged with furthering the purpose of these guidelines by investigating and resolving complaints of discrimination, harassment, sexual harassment, sexual and domestic misconduct, stalking, and retaliation against employees or non-students.
- 1.2 Authority: Section 4 and 6 of West Virginia University Board of Governors Policy 44, Policy Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking or Retaliation; Section 6 (Powers, Authority and Duties of the President) of Board of Governors Policy 10; 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; and the West Virginia Human Rights Act, W. Va. Code §§ 5-11-1 to - 20; Campus Sexual Violence Elimination Act, 20 U.S.C. § 1092, and the Violence Against Women Act of 1994, 42 U.S.C. § 13925; and the University's Non-Discrimination Policy & Statement.
- 1.3 Scope: These guidelines and procedures apply to all complaints of discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation against employees or non-students at West Virginia University or in or at any program or activity operated by the University, even if not on campus. Complaints against West Virginia University students are governed by West Virginia University Board of Governors Policy 31 and its accompanying guidelines and/or procedures.
- 1.4 Effective Date: October 14, 2013; amended March 7, 2014; amended October 19, 2016.

- 1.5 If you believe you are a victim of discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation, there are resources available to you. For those resources, please see <http://titleix.wvu.edu>.

**Section 2: Definitions.**

- 2.1 The definitions set forth in Section 3 of West Virginia University Board of Governors Policy 44, Policy Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking or Retaliation, are incorporated by reference as if fully set forth herein.<sup>1</sup>

**Section 3: Reporting.**

- 3.1 Any member of the University community who believes he or she has been subject to discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation, or is aware of such conduct involving others, is encouraged to file a complaint immediately in accordance with the guidelines and procedures below. Responsible Employees<sup>2</sup> must make such reports.

- 3.1.1 Complaints should be filed within ninety (90) days following the alleged misconduct or the date on which the Reporter knew or should have known of the alleged misconduct. This time limit may be extended for good cause shown.

---

<sup>1</sup> The definitions set forth in Section 3 of Policy 44 are:

3.1 “Complainant” means, for purposes of this Policy, an individual who is the alleged victim of prohibited conduct 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.

3.2 “Reporter” means, for purposes of this Policy, any individual that makes or files a complaint about prohibited conduct under this Policy. The Reporter may be the Complainant or any other person.

3.3 “Respondent” means, for purposes of this Policy, an individual accused of conduct prohibited by Section 4.

3.4 “Member of the University community,” for purposes of this Policy only, means an individual engaged in any University activity or program, whether on or off campus, or any individual lawfully on University property, including, but not limited to, any person who is a student, staff, faculty member, other University official, or a visitor.

3.5 “Student” means, for purposes of this Policy, an individual subject to the West Virginia University Board of Governors Policy 31, University Student Conduct and Discipline Policy.

3.6 “Consensual relationship” means a mutually acceptable romantic, dating, or sexual relationship between individuals.

<sup>2</sup> Section 5.2.2. of Policy 44 defines a “Responsible Employee” as:

[T]hose employees in a leadership or supervisory position, or who have significant responsibility for the welfare of students or employees. The term includes Deputy Title IX Coordinators; University Police Officers; senior staff members in Residence Life, Student Life, and Athletics; senior administrators in each of the University’s campuses and colleges; resident assistants; faculty; and athletic team coaches and their staff.

- 3.2 Complaints against West Virginia University students will be administered consistent with Policy 31 and its accompanying guidelines and/or procedures, which can be found here:

[http://campuslife.wvu.edu/office\\_of\\_student\\_conduct](http://campuslife.wvu.edu/office_of_student_conduct)

- 3.3 Complaints of discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation should be filed with the following:

- 3.3.1 The Division of Diversity, Equity and Inclusion located at 1085 Van Voorhis Road Suite 250, Morgantown, West Virginia, 26506; 304-293-5600 (phone); 304-293-8279 (fax); [diversity@mail.wvu.edu](mailto:diversity@mail.wvu.edu) (e-mail). Additionally, an online complaint form may be completed here:

<https://wvuequityassurance.wufoo.com/forms/m1d8uf521kt83yo/>

- 3.3.2 Complaints against students at the Main Campus can also be filed with the Office of Student Conduct located at 84 Boreman Hall North, Morgantown, West Virginia, 26506, 304-293-8111 (phone); 304-293-8017 (fax).

- 3.3.3 Complaints against students at the divisional campuses should be filed with the Office of Campus Life at West Virginia University Institute of Technology located at 325 Old Main, Montgomery, West Virginia, 25136; 304-442-3183 (phone); 304-442-3464 (fax) or the Office of Student Conduct at Potomac State College of West Virginia University located at B6 of the Student Union, Keyser, West Virginia, 26726, 304-788-7248 (phone); 304-788-7250 (fax).

- 3.4 Any complaint against an employee or non-student that is received by a WVU department, office, unit, or employee other than the Division of Diversity, Equity and Inclusion shall be referred by that department, office, unit, or employee to the Division of Diversity, Equity and Inclusion as soon as possible.

- 3.4.1 If the matter involves a case of sexual misconduct, dating violence, domestic violence, or stalking, as defined in Policy 44, it is strongly suggested that the University Police Department be notified immediately, in addition to the Division of Diversity, Equity and Inclusion. The University Police Department can be contacted at: 992 Elmer Prince Drive, Morgantown, WV 26506-6563; 304-293-2677 (293-COPS); <http://police.wvu.edu/>.

- 3.4.2 Complaints reported to a pastoral or professional counselor, as defined by 34 C.F.R. § 668.46 (2016), or other individuals prohibited by law from disclosing such complaints, are, subject to applicable law, not required to be reported by those individuals. Those individuals are therefore completely confidential resources to whom an individual can report information.

3.5 Disclosure and Confidential Assistance/Resources.

3.5.1 The University respects the privacy of those reporting discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation and will endeavor to respect requests for confidentiality to the extent allowable by law. However, the University has certain obligations to address those allegations and to prevent their recurrence and, as a result, cannot guarantee confidentiality to a Complainant. Regardless, the University and those individuals involved in the complaint process shall maintain confidentiality to the extent possible, and shall always treat these reports as private and in a sensitive manner.

In determining whether and how to honor an individual's request for confidentiality (or a related request not to proceed with an investigation), particularly when that request could preclude a meaningful investigation or potential discipline of the alleged perpetrator, the Title IX Coordinator or designee will consider a range of factors, including: whether there have been other sexual violence complaints about the same alleged perpetrator; whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence; whether the alleged perpetrator threatened further sexual violence or other violence against the complainant or others; whether the sexual violence was committed by multiple perpetrators; whether the complainant's report or allegation reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group; whether the sexual violence was perpetrated with a weapon; the safety of the broader University community; the age of the complainant subject to the sexual violence; and whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

3.5.2 Notwithstanding Section 3.5.1, a Complainant may seek consultation and other services by contacting any of the following resources:

- **James Goins, Jr., Title IX Coordinator/Director of Equity Assurance**

1085 Van Voorhis Rd, Suite 250

Morgantown, WV 26506

Phone: 304-293-5600; Email: James.Goins@mail.wvu.edu

- **Title IX Education Specialist (Anonymous Resources)**

1085 Van Voorhis Rd, Suite 250

Morgantown, WV 26506

Phone: 304-293-5600

\* Unidentifiable information will be shared for Clery compliance and Title IX prevention.

**WEST VIRGINIA UNIVERSITY MAIN CAMPUS RESOURCES:**

- **WELLWVU (Students)**

Carruth Center for Psychological and Psychiatric Services

Health and Education Building

390 Birch Street  
Morgantown, WV 26506-6422  
Phone: 304-293-4431  
Email: wvucccps@mail.wvu.edu

• **WVU Medicine Student Health (Students)**

390 Birch Street  
Morgantown, WV 26505  
Phone: 304-285-7200  
<http://wvumedicine.org/hospitals-and-institutes/student-health/>

• **WVU Faculty and Staff Assistance Program (Employees)**

1085 Van Voorhis Rd, Suite 218-220  
Morgantown, WV 26506  
Phone: 304-293-5590  
<http://www.hsc.wvu.edu/fsap/>

• **The Rape and Domestic Violence Information Center (RDVIC)**

P.O. Box 4228  
Morgantown, WV 2650  
RDVIC 24-hour crisis hotline 304-292-5100

• **Ruby Memorial Hospital, Emergency Department**

1 Medical Center Drive,  
Morgantown, WV 26505  
Phone: 304-598-4172  
<http://wvuhealthcare.com/hospitals-and-clinics/student-health/>

• **Monongalia General Hospital, Emergency Department**

1200 JD Anderson Drive  
Morgantown, WV 26505  
Phone: 304-598-1460  
[www.mongeneral.com](http://www.mongeneral.com)

**POTOMAC STATE RESOURCES:**

• **Potomac Valley Hospital**

100 Pin Oak Lane  
Keyser, WV 26726  
Phone: 304-597-3500

• **Western Maryland Health System**

12500 Willowbrook Road  
Cumberland, MD 21502  
Phone: 240-964-7000  
[www.wmhs.com](http://www.wmhs.com)

Email [webmaster1@wmhs.com](mailto:webmaster1@wmhs.com)

**WEST VIRGINIA UNIVERSITY OF TECHNOLOGY**  
**AND BECKLEY CAMPUSES:**

- **Montgomery General Hospital**  
401 6<sup>th</sup> Avenue  
Montgomery, WV 25136  
Phone: 304-442-5151  
Email: [info@mghwv.org](mailto:info@mghwv.org)
- **Raleigh General Hospital**  
1710 Harper Road  
Beckley, WV 25801  
Phone: 304-256-4100

3.6 If it appears to the Division of Diversity, Equity and Inclusion that the allegations, on their face, do not raise an issue of a potential violation of BOG Policy 44, then the Division of Diversity, Equity and Inclusion will so advise the involved parties, as appropriate, cease processing the allegations, and/or refer him or her to another University department or unit, as applicable.

**Section 4: Complaint Process.<sup>3</sup>**

4.1 Upon receiving a complaint/allegation from the Complainant/Reporter, the Division of Diversity, Equity and Inclusion will inform the Complainant of his or her resolution options and provide the Complainant with information related to resources. Additionally, the Division of Diversity, Equity and Inclusion will review the complaint to determine whether the allegations fall within the purview of Policy 44. If not, or if it is not reasonable to believe that the allegations establish a Policy 44 violation, the Division of Diversity, Equity and Inclusion will either close the complaint or refer the matter to the appropriate University department or unit.

4.1.1 *Interim Remedial Measures.*

If a complaint is received and it is apparent that action must be taken to stop the alleged discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation or alleviate any issues that arise as a result of the complaint, then, as soon as determined to be necessary, the appropriate WVU departments, offices, units, or employees shall implement interim remedial measures. Such measures shall continue until the investigation is complete or until the measures taken are deemed no longer necessary. Such measures may include, but are not limited to, temporary leave or suspension, other employment arrangements for either the complainant or respondent, issuance of a temporary

---

<sup>3</sup> Prohibited consensual and teacher-student relationships, as described and defined in Section 4.8 and 4.9 of the West Virginia University Board of Governors Policy 44, will also be investigated using this complaint process.

trespass warning, or “no contact” orders whereby the parties may be directed to refrain from contact with one another.

4.1.2 *Right to File a Criminal Complaint.*

If applicable, the Division of Diversity, Equity and Inclusion will also notify the Complainant of the right to file a criminal complaint. However, if a separate law enforcement investigation is initiated, the Division of Diversity, Equity and Inclusion will continue investigating the matter and resolving the complaint. Further, the Division of Diversity, Equity and Inclusion will not wait until a law enforcement investigation is completed before resolving the complaint; unless that circumstances require the Division of Diversity, Equity and Inclusion to temporarily delay its resolution while law enforcement gathers evidence.

4.1.3 *University as Complainant.*

If an alleged victim does not wish to participate in the process, then the University will determine, based on all of the facts and circumstances involved and subject to Section 3.5, whether the investigation will proceed in order to protect the University community. In such a case, the University will act as the Complainant.

4.2 *Notice of Allegations.*

The Division of Diversity, Equity and Inclusion will inform the Respondent, and, when appropriate, University departments, offices, units, or employees, of the allegations. In the notice of allegations, the Division of Diversity, Equity and Inclusion shall notify the Respondent and the appropriate University departments, offices, units, or employees that retaliation is prohibited. The Respondent will also be informed of these guidelines and procedures. A copy of the written notice of allegations will be provided to the Complainant.

4.3 *Investigation.*

The Division of Diversity, Equity and Inclusion shall assign the matter to an investigator to investigate the complaint further if necessary and appropriate. The investigator shall be trained in investigating matters of discrimination, and specifically trained in matters arising under Title IX or the Violence Against Women Act. The investigator may be a member of the Division of Diversity, Equity and Inclusion, another University unit/department, or may be an investigator appointed from outside the University.

The investigator shall have access to all necessary documents and the right to interview witnesses. Members of the University community are obligated to respond and acknowledge reasonable requests that may be made by the investigator and/or the Division of Diversity, Equity and Inclusion.

The Complainant and Respondent shall have an equal and reasonable opportunity to be heard and present relevant witness statements and other evidence in support of or against the written notice of allegations. To that end, the Complainant and Respondent shall provide any additional information, including the names of potential witnesses, within ten (10) working days after receipt of the written notice of allegations.

Upon completion of the investigation, the investigator will report his or her findings to the Title IX Coordinator or designee as appropriate. The Title IX Coordinator or designee may request further or additional investigation.

Once all the findings are received, the Title IX Coordinator or designee will notify the Complainant and Respondent of those findings and they shall have five (5) business days to respond.

#### 4.4 *Findings.*

After the Complainant and Respondent have either responded to the findings or five (5) business days have passed, the Title IX Coordinator or designee will make a finding as to whether the conduct constitutes discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation.

##### 4.4.1 Evidentiary Standard.

To determine whether discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation occurred, the Title IX Coordinator or designee shall use a preponderance of the evidence standard. "Preponderance of the evidence" means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

#### 4.5 *Notice of Outcome.*

A notice of outcome, which will be issued in writing, will specify whether or not discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation occurred, and be issued concurrently to the Complainant, Respondent, and the appropriate WVU departments, offices, units, or employees, if any.

If there is no evidentiary basis for a finding of discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation, the Title IX Coordinator or designee shall indicate this conclusion to the Complainant and Respondent in the written notice of outcome and advise them that the case is closed. If, however, other inappropriate conduct is identified outside the scope set

forth in Section 1.3, the matter will be referred to the appropriate University department or unit.

In addition, the Title IX Coordinator or designee may make recommendations for the resolution of the complaint, monitor the recommendations for implementation, and ensure that appropriate disciplinary action is taken.

#### 4.6 *Corrective Action.*

If there is a finding of discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation, the appropriate departments, offices, units, or employees at the University, in consultation with the Division of Diversity, Equity and Inclusion, will take steps toward immediate corrective action, which may include, but not be limited to suspension, demotion, or termination of an employee; issuance of a trespass warning; termination of a vendor contract; and/or referral to the appropriate law enforcement agency. The purpose of any such corrective action is to 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.

If a corrective action involves any type of adverse employment action, then such action will be taken consistent with Division of Human Resources procedures and applicable due process.

#### 4.7 *Informal Resolution:*

At any time during the process, an informal resolution may be reached in cases of discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, or retaliation through various methods, which may be tailored to the specific situation and allegations. Methods of informal resolution may include, but are not limited to: mediating the situation, training, and other agreeable alternative dispute options. However, if a complaint involves any type of sexual violence, while certain informal resolution may be possible (e.g., the respondent acknowledging the wrongdoing and accepting sanction), informal resolution by mediating the matter is not appropriate.

### **Section 5: Discretion.**

The University shall have sufficient latitude and authority to implement any reasonable measures necessary for the fair and efficient administration of these guidelines and procedures and minor deviations are acceptable as long as such deviations are not found to be materially harmful to a Complainant or Respondent. Further, a Complainant, Respondent, and the University may agree in advance to minor deviations from these guidelines and procedures.